



# ADMINISTRATIVE PROCEDURE

## SALES TAX

5137

Procedure No.

May 1, 2000

Date

- I. **PURPOSE:** To provide direction to school principals for the collection and remittance of sales tax liabilities resulting from the sale of goods and merchandise through the school stores and fund raising activities.
- II. **POLICY:** In accordance with Title 03, Comptroller of the Treasury, Subtitle 06, Sales and Use Tax, Code of Maryland Regulations, sales of goods made through the school store or other fund raising activities are subject to the State of Maryland sales and use tax. Schools are responsible for the collection and remittance of such taxes to the Comptroller of the Treasury when they conduct the actual sales. To the extent that is reasonable and viable, schools should consider fund raising events in which the supplier of the goods sold handles the sale and pays the particular school a commission. When schools contract vendors for the conduct of fund raising events or operations of vending machines in exchange for commissions or concession fees, contracts with these vendors should be structured so that the vendors are responsible for collecting and remitting the sales taxes associated with the respective sales.
- III. **PROCEDURES:**
- A. **Tax Rate:** Unless specifically excluded or exempt from a general Maryland sales and use tax, all sales by school stores and fund raising activities are subject to a 5% sales tax.
- B. **Tax Calculation and Taxability:**
1. Individual sales totaling less than 20 cents are not subject to sales tax.
  2. The sales tax amount must be listed separately from the sales price.
  3. **Vending machines gross receipts are also subject to the 5% sales tax.** If the machines are controlled and operated by the school (i.e., the machines are stocked and monies removed by school personnel), collection and remittance of the tax is the responsibility of the school. However, when the vending machines are owned and operated by a commercial vendor or distributor who pays the school a commission in exchange for allowing the installation of the machines within the school premises, the responsibility of collecting and remitting the sales tax falls on the vendor. When vending machines are stocked with candy, as well as, snack foods, the tax liability should be determined only on the candy sales. However, if there is no easy or reliable way to make that determination, the amount of tax liability attributable to candy sales must be estimated.
  4. The sales tax applies before any prompt payment discounts, manufacturer's rebates, commission or core charges, as well as, to all services necessary to complete a sale; e.g., assembly, fabrication, alteration, engraving, monogramming, customization, etc.



## ADMINISTRATIVE PROCEDURE

### SALES TAX

5137

Procedure No.

May 1, 2000

Date

5. **Soft drinks, candy, and confectionery are subject to sales tax.** Examples of **other items subject to sales tax are: yearbooks, scholastic books, weekly readers, gym suits, keys, summer packets, wrapping paper, greeting cards, bake sale items (regardless of whether acquired by purchase or donation), items sold at the school store, and items sold by clubs/organizations and fund raisers.**
6. **Unprepared food sales** (such as pizza kits, cookie mixes, fresh fruits, etc., including food concessionaires), as well as, snack food items (i.e., pretzels, chips, and pork rinds) sold to elementary and secondary schools **are not exempt.** Additional examples of items exempt from sales tax include: **tickets for athletic events and school dances (although food and beverage sold during the events are subject to tax), food sold in school cafeteria as part of the Food and Nutrition Services program, fees charged for the use of school facilities (rental fees), parking permit fees, book fines, and flags of the United States and Maryland.**

C. Mechanism for the Collection and Reporting of Sales Tax:

1. Each location engaged in sales subject to sales tax must apply for separate sales and use tax licenses with the Comptroller of the Treasury.
2. Application for sales and use tax licenses is accomplished by completing the Combined Registration Application (see attachment).
  - a. A **Federal Employer Identification Number (FEIN)** is required when applying for a sales and use tax number.
  - b. To avoid the need to obtain a separate FEIN for each location, item 1.a., Section A of the application will reflect the FEIN for the Board of Education; 52-6000992 (note that the social security number of the agent responsible for the taxes is also required). Item 2 will reflect the legal name of the Board of Education, i.e., Board of Education of Prince George's County, and item 3 will reflect the name of the particular school or location for which the number is being requested.
  - c. Follow the entries in the attached sample to complete the remainder of the application.
3. The frequency for filing sales tax returns and remitting the collected amounts may be monthly, quarterly, or less frequent based on the anticipated volume of taxable sales to be made, as assigned by the State Comptroller of the Treasury. The return and remittance must always be filed by the 21<sup>st</sup> day of the month following the end of the assigned reporting period; even when there are no sales to report.



## ADMINISTRATIVE PROCEDURE

### SALES TAX

5137

Procedure No.

May 1, 2000

Date

4. A taxpayer who has been assigned a filing basis which is less than four times a year, shall file a supplemental return for any month other than the month or months for which scheduled returns are due, in which taxes for the month exceed \$100. This return which is due by the 21<sup>st</sup> of the month as stated above, shall also include any unreported taxes accrued since the taxpayer's most recently filed return.
  5. **Timely returns can earn discounts of up to .012 up to \$4,200 of tax liability, or .006 for liability amounts over \$4,200 plus \$25.20. Late filings result in assessment of interest and penalties.**
  6. Returns must be filed using pre-coded forms provided by the Comptroller of the Treasury. Photocopies or computer-printed forms are not acceptable. The Comptroller will mail the appropriate returns well in advance of the due dates. However, failure to receive the necessary forms does not change the obligation to file. In such cases, registrants shall request additional forms from the Comptroller of the Treasury or file a signed schedule providing the information normally required on the schedule providing the information normally required on the return together with the taxes due, on or before the due date. The schedule should indicate that it is being filed in lieu of a return form not received.
  7. The account number assigned by the Comptroller of the Treasury must be used on all correspondence regarding the sales and use tax account, as well as on remittances.
- D. Record Keeping:
1. Records must distinguish between taxable and non-taxable sales and purchases. Records must be kept for **five** years and made available for inspection by the Comptroller of the Treasury.
  2. **Examples of records required** to be maintained include: **original invoices, bills of lading, receipts for purchases, purchase orders, cash register tapes, sales slips, release certificates, documentation for exempt sales, mailing or shipping documentation for out-of-state deliveries.**
  3. Failure to keep records or maintenance of inadequate records may result in assessments based on surveys of similar businesses, projection from available records, or any other reasonable basis.
- IV. **RELATED PROCEDURES:** Board of Education Policy 5135, School-Based Fund Raising and Administrative Procedure 5135.1, Fund Raising.



## ADMINISTRATIVE PROCEDURE

### SALES TAX

5137

Procedure No.

May 1, 2000

Date

- V. **MAINTENANCE AND UPDATE OF THESE PROCEDURES:** The Office of the Associate Superintendent for Budget and Finance will be responsible for updating this procedure as needed.
- VI. **CANCELLATIONS AND SUPERSEDURES:** None. This is a new Administrative Procedure.
- VII. **EFFECTIVE DATE:** May 1, 2000.

Approved by:  
Iris T. Metts  
Superintendent of Schools

Attachment: Combined Registration Application

Distribution: Lists 1, 2, 3, 4, 5, 6, 10, and 11