

## State Regulatory Information

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This section has been prepared to provide general, not specific or all-inclusive, information to Parent Organizations/Booster Clubs regarding state tax regulations. Steps have been documented to aid a Parent Organization/Booster Club in abiding by the regulations; however, these steps are only general guidelines and do **not** ensure that a Parent Organization/Booster Club will remain in compliance with all state tax regulations.

Each Parent Organization/Booster Club should strive to remain in good standing with all state agencies. **Therefore, each Parent Organization/Booster Club is responsible for obtaining its own competent independent counsel on accounting and tax matters related to its specific circumstances.** This counsel may include a Certified Public Accountant (CPA) or an attorney. The cost of these services will be the Parent Organization's/Booster Club's responsibility.

<b>General State Regulatory Information</b>
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Parent Organization/Booster Club officers are solely responsible for ensuring that their Parent Organization/Booster Club is in compliance with all state regulations. Therefore, the District, including any District employee, is not responsible for a Parent Organization/Booster Club not being in good standing with all state agencies. However, the District has provided the following information that includes detailed steps Parent Organizations/Booster Clubs should take to comply with state tax regulations.

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### Obtaining an Employer Identification Number

To sell any taxable items within the State of Texas, a company, organization, or person must apply for a Sales Tax Permit. Before obtaining a Sales Tax Permit, a Parent Organization/Booster Club must **first** obtain an Employer Identification Number (EIN) from the Internal Revenue Service (IRS) to establish its identity as an organization. (*See the Federal Regulatory Information for these instructions.*)

### Obtaining a Texas Sales Tax Permit

Parent Organizations/Booster Clubs should obtain a Texas Sales Tax Permit if you intend to sell goods or taxable services in Texas. The sale of goods **does include** fund-raisers, such as catalog sales, candy sales, and sales of other items. In addition, some Parent Organizations/Booster Clubs sell services that may be taxable.

Parent Organizations/Booster Clubs may obtain a Texas Sales Tax Permit by submitting the completed applications to the Texas State Comptroller's Office.

**Note:** *A blank Texas Application for Sales Tax Permit is included in the Appendix for your convenience.*

A Texas Sales Tax Permit will be issued to the Parent Organization/Booster Club along with a Sales Tax Permit Number. The Texas Sales Tax Permit Number has 11 digits and begins with a 1, 2, or 3. The permit numbers beginning with a "1" are based on an entity's EIN. Those permit numbers beginning with a "2" are based on a person's social security number. The permit numbers beginning with a "3" are assigned by the Texas State Comptroller's Office.

**Parent Organizations/Booster Clubs should not use the District's Sales Tax Permit Number.**

### Qualifying for Exemption from Texas Limited Sales, Excise, and Use Tax

The Texas limited sales, excise, and use tax exemption allows approved organizations an exemption from sales tax when purchasing items to further the organization's exempt purpose. Therefore, this limited exemption allows the approved Parent Organization/Booster Club to make sales tax-exempt purchases of items intended for resale for a fund-raiser. **This exemption process is separate and in addition to applying for federal tax-exemption from the IRS.**

Only those Parent Organizations/Booster Clubs that have obtained tax-exempt status from the IRS may apply for the state exemption from Texas limited sales, excise, and use tax.

**IMPORTANT**

If the IRS considers a Parent Organization/Booster Club a **taxable organization**, the Parent Organization/Booster Club **CANNOT** receive an exemption from the Texas limited sales, excise, and use tax.

Parent Organizations/Booster Clubs may request exemption from the Texas limited sales, excise, and use tax by submitting the following to the Texas State Comptroller's Office:

1. Cover letter with the organization's name, mailing address, and Sales Tax Permit Number. Specifically request an exemption from "sales and use tax." Include the name and daytime phone number of the organization's contact person in case the Texas State Comptroller's Office has any questions.
2. Written statement detailing the nature of the activities conducted or to be conducted.
3. Copy of the bylaws.
4. Copy of the Articles of Incorporation, if the Parent Organization/Booster Club is incorporated.
5. Copy of the Determination Letter from the IRS granting the Parent Organization/Booster Club tax-exempt status.
6. Copy of the Parent Organization's/Booster Club's constitution or any applicable trust agreement.

The Texas State Comptroller's Office may require a Parent Organization/Booster Club to furnish additional information including, but not limited to, documentation showing

1. all services performed by the organization and
2. all income, assets, and liabilities of the organization.

**Note: No fee is required to apply for this exemption. In addition, exemption from franchise tax may be requested within this letter.**

**See Appendix for additional information from Texas State Comptroller's Office.**

The information should be mailed to:

Exempt Organizations  
PO Box 13528  
Austin, TX 78711

**IMPORTANT**

**Do not use “Texas State Comptroller’s Office” in this address, per their instructions, due to the mail routing system. Please use the address as listed above.**

After a review of the information, the Texas State Comptroller’s Office will notify the Parent Organization/ Booster Club in writing if the organization qualifies for the exemption. This review process may take about 2 to 3 weeks.

**IMPORTANT**

If a Parent Organization/Booster Club loses its federal tax-exempt status, the IRS notifies the Texas State Comptroller’s Office. Upon notification, the Texas State Comptroller’s Office will immediately revoke the exemption from the Texas limited sales, excise, and use tax. **Therefore, all subsequent purchases by the Parent Organization/Booster Club would be taxable.** In addition, the Parent Organization/Booster Club must notify its vendors of the loss of exempt status concerning the Texas limited sales, excise, and use tax.

**Parent Organizations/Booster Clubs with the Limited Exemption**

The exemption from the Texas limited sales, excise, and use tax (limited exemption) allows the approved Parent Organizations/Booster Clubs to make tax-exempt purchases of items intended for resale for a fund-raiser. The Parent Organization/Booster Club must present the vendor with a Texas Resale Certificate in order to purchase the items for resale tax-free. In addition, the certificate must state the Parent Organization’s/Booster Club’s Sales Tax Permit Number to be valid. Parent Organizations/Booster Clubs may request the Texas Resale Certificate from the Texas State Comptroller’s Office.

The Parent Organizations/Booster Clubs with the limited exemption are entitled to two (2) “one-day, tax-free” sales or auctions per calendar year. A fund-raiser qualifies for the “one-day, tax-free” sale/auction if all items are to be delivered on one day. Each "one-day" sale/auction may not exceed 24 consecutive hours.

**Remember: You must be granted the limited exemption first to be entitled to the two(2) “one-day, tax free” sales or auctions per calendar year.**

Sales of items such as T-shirts, candles, cups, etc. are subject to sales tax when sold on days other than the two (2) “one-day, tax-free” sale/auction days.

### **Parent Organizations/Booster Clubs with No Exemption**

Parent Organizations/Booster Clubs that are taxable organizations or Parent Organizations/Booster Clubs that have not received approval for the limited exemption from the Texas State Comptroller’s Office must pay sales tax on all applicable purchases and must collect sales taxes on all taxable items sold.

*Parent Organizations/Booster Clubs that do not have an exemption are not entitled to any "one-day, tax-free" sales/auctions.*

### **“Tax-exempt” Organizations**

Some organizations may be extended a "tax-exempt" status by the Texas State Comptroller’s Office. The organizations receiving this status may buy, lease, or rent taxable items without paying sales and use tax if those items are necessary to their function as a tax-exempt organization.

**Historically, the Texas State Comptroller’s Office has not extended "tax-exempt" status to Parent Organizations/Booster Clubs.**

## **Reporting Requirements**

The Texas State Comptroller’s Office requires that Parent Organizations/Booster Clubs file at least one sales tax report per calendar year. The frequency of filing the sales tax report is determined by the Texas State Comptroller’s Office. The amount of anticipated sales tax payments affects the frequency of reporting as follows:

- ◆ If projected yearly sales tax payments are \$1,000 or less, sales tax reports are filed annually.

- ◆ If projected yearly sales tax payments are more than \$1,000, sales tax reports are usually filed quarterly.

Since sales tax payments may vary from year to year, the frequency of reporting can also change. The Texas State Comptroller's Office will generally communicate changes in filing requirements to the Parent Organizations/Booster Clubs in writing. In addition, the Texas State Comptroller's Office will generally mail the required reporting form and information to organizations that have obtained a Sales Tax Permit.

### Franchise Tax

The franchise tax serves as Texas' primary business tax. The tax is levied on corporations, including bank corporations, and limited liability companies that are chartered in Texas for the privilege of doing business in Texas. Non-corporate organizations, such as partnerships, associations, and proprietorships are excluded from the tax. Therefore, if a Parent Organization/Booster Club is incorporated, they are subject to franchise tax.

However, Parent Organizations/Booster Clubs that have received their Determination Letter from the IRS granting 501(c)(3) tax exemption may also request exemption from the Texas franchise tax through the Texas State Comptroller's Office.

Although a nonprofit corporation that is exempt from federal income tax under Internal Revenue Code 501(c)(3) is exempt from franchise tax, the exemption is **not automatically granted**. Parent Organizations/Booster Clubs must write to the Texas State Comptroller's Office requesting franchise tax exemption by submitting the following:

1. Cover letter with the organization's name, mailing address, and Sales Tax Permit Number. Specifically request an exemption from "franchise tax." Include the name and daytime phone number of the organization's contact person in case the Texas State Comptroller's Office has any questions.
2. Written statement detailing the nature of the activities conducted or to be conducted.
3. Copy of the bylaws.
4. Copy of the Articles of Incorporation, if the Parent Organization/Booster Club is incorporated.
5. Copy of the Determination Letter from the IRS granting the Parent Organization/Booster Club tax-exempt status.
6. Copy of the Parent Organization's/Booster Club's constitution or any applicable trust agreement.

The Texas State Comptroller’s Office may require a Parent Organization/Booster Club to furnish additional information including, but not limited to, documentation showing

1. All services performed by the organization and
2. All income, assets, and liabilities of the organization.

**Note:** No fee is required to apply for this exemption. In addition, exemption from sales and use tax can be requested within the same letter.

**See Appendix for additional information from Texas State Comptroller’s Office.**

The information should be mailed to:

Exempt Organizations  
PO Box 13528  
Austin, TX 78711

**IMPORTANT**  
**Do not use “Texas State Comptroller’s Office” in this address, per their instructions, due to the mail routing system. Please use the address as listed above.**

**Change in Address**

If the mailing address for the Parent Organization/Booster Club changes, immediately notify the Texas State Comptroller’s Office. Failure to do so may result in important correspondence being lost. To avoid frequent mailing address changes, the Texas State Comptroller’s Office recommends that each Parent Organization/Booster Club obtain its own post office box (PO Box) or private mailing box (PMB) to be used for official Parent Organization/Booster Club mail. In addition, the post office box address and keys can be given easily to the new officers at the beginning of each new year. The District’s campus mailing address cannot be used by the Parent Organizations/Booster Clubs.

**Further Questions?**

If you have additional questions regarding the information discussed above, you may contact:

**Texas State Comptroller's Office**

Houston Office	713-266-4063
Austin Office	1-800-252-5555 (toll-free)
Exempt Organizations Department	1-800-531-5441 ext. 34142

**Website addresses**

Texas State Comptroller's Office	<a href="http://www.window.state.tx.us">www.window.state.tx.us</a>
Sales Tax Information	<a href="http://www.window.state.tx.us/taxinfo/salestax.html">www.window.state.tx.us/taxinfo/salestax.html</a>