

SALES TAX EXEMPTIONS

The sales tax exemptions authorized by Kansas law fall into three general categories. These are: **entities** who are exempt, specific **items** that are exempt, and **uses** of an item that makes it exempt. This section explains each category with examples and exceptions noted. Additional information about an exemption is part of the certificate designed for it.

EXEMPT ENTITIES

All of the following entities are exempt from sales tax when making a direct purchase of goods. Most, but not all of these entities, are also exempt when making a direct purchase of a taxable service. The Tax-Exempt Entity Exemption Certificate issued by KDOR to the entity states whether its exemption is limited to just goods or whether the exemption extends to services as well. A direct purchase is one that is billed directly to the exempt buyer. A retailer can require payment by check, voucher or warrant of the exempt entity, but it is not mandatory to do so.

- The U.S. Government, its agencies and instrumentalities
- The state of Kansas and *Kansas* political subdivisions: school districts, counties, cities, etc.
- Elementary and secondary schools
- Noncommercial educational television and radio stations
- Nonprofit blood, tissue and organ banks
- Nonprofit educational institutions
- Nonprofit 501(c)(3) historical societies
- Nonprofit hospitals
- Nonprofit 501(c)(3) museums
- Nonprofit 501(c)(3) primary care clinics
- Nonprofit 501(c)(3) religious organizations
- Nonprofit 501(c)(3) zoos
- Nonprofit youth development programs
- Parent-teacher organizations (PTA or PTO)

FOR A COMPLETE LIST OF EXEMPT ENTITIES SEE PAGE 17.

The 501(c)(3) designation refers to the section of the Internal Revenue Code under which a nonprofit entity has been granted an exemption from federal (and state) income tax. Although used to define who qualifies for an exemption, a **nonprofit 501(c)(3) designation does not mean the organization is automatically exempt** from sales tax. Only the entities listed under Kansas sales tax statutes are exempt from paying Kansas sales tax on their direct purchases when the appropriate exemption certificate is completed and provided to the retailer.

Although exempt by law, these entities must still support their exemption with a completed exemption certificate. This booklet contains exemption certificates

that can be used for each of these exempt buyers with examples and common pitfalls to avoid or, Form PR-78SSTA can be used.

There are special rules applicable to exempt entities on purchases for certain construction projects and repair work. See *Project Exemption Certificates* (found herein).



Exception: When the state of Kansas or nonprofit hospital operates a taxable business (such as a public cafeteria or gift shop), or when a political subdivision sells or furnishes utilities, *non-inventory* items purchased for use in these taxable businesses are taxable to the otherwise exempt group.



A city's gas utility must pay sales tax on office equipment, pipe and vehicles used (even partially) by its gas utility. A hospital must pay sales tax on its restaurant equipment, furniture, fixtures and reusable utensils purchased for its public cafeteria.

Credit Cards

Many government agencies are issuing credit cards to employees and agents who travel or make purchases while on official business or on behalf of the agency. When the agency is responsible for payment of credit card charges, purchases made by employees with said credit card are exempt from Kansas sales or use tax as a direct purchase. When someone other than the exempt entity is responsible for payment of the credit card charge, the purchase is not automatically exempt. The appropriate exemption certificate must be obtained.



Exception: The rental of **hotel rooms** by agents or employees of the U.S. Government while on official business are exempt regardless of the method of payment.

Buyers who are **NOT** exempt

A common misconception is that all nonprofit organizations are exempt from sales tax. While a nonprofit status for income tax purposes may be a requirement for a Kansas sales tax exemption, nonprofit organizations that have not been granted a specific sales tax exemption must pay tax on their purchases. Groups and organizations that are **NOT EXEMPT** from paying Kansas sales tax include alumni associations, charitable and benevolent organizations, clubs, labor unions, and professional associations.

CERTIFICATES FOR TAX-EXEMPT ENTITIES

Kansas law requires all sales Tax-Exempt Entities to obtain and utilize only exemption certificates issued by KDOR or the SSTA exemption certificate form PR-78SSTA. These certificates, an example of which is on page 16, contains the exempt entity's NAME, ADDRESS, and TAX EXEMPTION NUMBER issued by

KDOR. Any sales Tax-Exempt Entity that does not have an exemption certificate may apply on-line at KDOR's web site.

The purpose of the tax-exempt exemption certificates is to control fraudulent tax-exempt purchases and to assist retailers, sales people and cashiers in identifying exempt entities and easily determining whether a claim for exemption is valid, based on the exempt entity's status. Unless the seller already has it on file, if one of the entities listed on page 17 requests an exemption and they do not present the KDOR-issued certificate or Form PR-78SSTA (providing the purchaser's Tax-Exempt Identification Number), the seller must deny the request. KDOR asks that you advise the purchaser to contact us for guidance.

Please note that the Tax-Exempt Entity exemption certificate does not apply to farmers, to purchases by the federal government, or to the manufacturing and processing related exemptions, or other use-based exemptions. Also, the Tax-Exempt Identification Number is separate and apart from a Kansas Sales Tax Registration Number, format 004-XXXXXXXXF-0X, required of anyone (including exempt entities) making retail sales of taxable goods, services or admissions in Kansas.

Sales to Exempt Entities not based in Kansas

Many of the exemptions granted under K.S.A. 79-3606 also apply to non-Kansas organizations. While a Kansas-based organization must provide its numbered certificate (or Form PR-78SSTA with the KDOR issued identification number to make an exempt purchase of goods or taxable services in Kansas, many non-Kansas exempt organizations will not have been issued an Exempt Entity ID#. While encouraged to obtain a Kansas Exempt Entity ID# (visit our web site to apply), a non-Kansas exempt entity (such as a school located in another state) making a direct purchase in Kansas will simply need to complete an exemption certificate for the retailer. The Designated or Generic Exemption Certificate, Form ST-28, has been designed for this purpose. Also, the Form PR-78SSTA may be used.

ITEMS EXEMPT FROM SALES TAX

These items are enumerated in the law as exempt from sales tax:

Aircraft sales, parts, and repair services for carriers in interstate or foreign commerce; and repair, replacement & modification parts and service on all aircraft

Broadcasting equipment purchased by over-the-air free access radio and television stations to generate their broadcast signals

Drill bits & explosives used in the exploration of oil & gas

Drugs and pharmaceuticals sold to veterinarians

Farm machinery and equipment

Food sold to groups providing meals to the elderly and homebound, or sold by a nonprofit 501(c)(3) organization under a food distribution program that sells food below cost in exchange for community service

Integrated production machinery and equipment

Materials purchased by a community action group to repair or weatherize low-income housing

Medical supplies and equipment purchased by a nonprofit nursing home

Public health educational materials purchased by a nonprofit corporation for free distribution to the public

Railroad parts, materials, and services for railroad rolling stock used in interstate or foreign commerce

Rolling stock (trucks, buses, tractor-trailers, etc.), repair or replacement parts, and motor fuels purchased by ICC carriers

Warehouse machinery and equipment

Other items not taxed in Kansas include food stamp purchases, Child Nutrition Act (WIC) program purchases, lottery tickets, prescription drugs and insulin, and prosthetic and orthopedic appliances.

Prosthetic and Mobility Enhancing Equipment

A prosthetic or mobility enhancing equipment purchased by the individual for whom it was prescribed in writing by a licensed physician, chiropractor, optometrist, dentist, or podiatrist is not taxed (K.S.A. 79-3606(r)). Exempt devices and mobility enhancing equipment include canes, crutches, eyeglasses, orthodontic braces, prosthetic limbs and braces, wheelchairs, and accessories attached to motor vehicles, such as wheelchair lifts and specialized hand or foot controls. See NOTICE 04-05 for information on hearing aids.

Repair and replacement parts for prosthetic or mobility enhancing equipment are also exempt if you have the original prescription order on file. However, charges for labor services to repair them are taxable.

Sales of prosthetic and mobility enhancing equipment to doctors for their inventory, display or use in the performance of their duties are taxable.

NOTE: This exemption does not apply to hot tubs, whirlpools, motor vehicles, or personal property which when installed becomes a fixture to real property.
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USES THAT ARE EXEMPT

Items may also be exempt from sales tax because of how they are used. Items that are ingredient or component parts or are consumed in the production of property or services that are later sold to the final consumer are exempt. These two exemptions are applicable to many types of businesses.