

Student Extraclassroom Activity Fund Tax Chart Q & A

1-8-2013

General:

1. Student organizations and their activities, both buying and selling, are New York state taxable.
2. If you have to pay sales tax on an item or event in the outside world, you have to pay sales tax as a student organization.
3. The school district is the tax free entity. The student organization is the taxable entity. It is illegal, a violation of NYS tax law, to use the school district's tax free status (the districts NYS tax exemption number) to avoid the payment (or collection) of sales tax.
4. You can read more on student organization taxable status on the SDIAA Message Board. You can post tax questions on the SDIAA Message Board. Website: www.Superintendentofschools.com ,top of right column on the home page "Message Board," registration necessary.

<u>TAXABLE ITEMS</u>	<u>NOT-TAXABLE ITEMS</u>
Vending machine sales Items selling for more than \$0.75 and not on the exempt food list. Candy, soda, soft drinks, fruit juice less than 70% fruit juice	Vending machine sales Items selling for less than \$0.75 and on the exempt food list.
Food prepared or eaten at the point of sale is taxable (like at a restaurant) <ul style="list-style-type: none"> - Spaghetti dinners - Pancake breakfasts - Make a sub - Ice cream social - Hot pizza - Hot coffee, tea, chocolate - Chicken BBQ - Smoothies - Carmel/Candy coated snack foods 	Food in bulk (caned, packaged, frozen) not prepared or eaten at the point of sale is not taxable (like at a supermarket). <ul style="list-style-type: none"> - Frozen pizza - Bulk popcorn [un-popped] - Canned, bottled [bulk], packaged food - Frozen foods
Bake/Cookie sales where items are sold as singles (one cookie) NOTE 1: Home baked items may not be sold, only items from health inspected kitchens. NOTE 2: Bake sales may not be permitted, or not permitted at certain times, under the district's food wellness policy.	Bake/Cookie sales where items are wrapped and sold as take away (at least a doz. cookies) NOTE 1: Home baked items may not be sold, only items from health inspected kitchens. NOTE 2: Bake sales may not be permitted, or not permitted at certain times, under the district's food wellness policy.
Concession stands sales	
	More



<u>TAXABLE ITEMS</u>	<u>NOT-TAXABLE ITEMS</u>
Admissions to prom, dances [band or DJ], movie nights, dinner cruises, variety shows, magic shows, circus etc. Sales from Photo Booth where separate charge is made	Admission to dramatic (play), musical arts performance, or choreographed performance to music (including color guard admissions)
Drama club party Sports banquets Class [Senior Class] banquets	Zoo
Sports camps run by extraclassroom activity or booster organization [if NOT 501.c.3] Exhibition Powder Puff football game	Sports camps run by the school district or booster organization [if 501.c.3] NOTE: Sports camps run by coaches on school property are personal businesses and are illegal.
	Entertainment Books, Coupon Books, Gold Cards, advertising in programs
Plants, trees shrubs Flower sales	
Bookstore sales [both extraclassroom or district run]	Newspapers, magazines
	Haircuts or hair styling
Yearbooks	Yearbook advertising
Specialty catalog sales – AVON, candles, candy, wrapping paper, etc. Sale of “gift baskets”	
Babysitting (child watching) service for parents	
Class rings [all jewelry] Graduation announcements Caps & gowns [that students keep]	Cap & gown rentals
	Gift cards
Walk-a-Thon, Run-a-Thon, Swim-a-Thon as a student organization fund raiser.	Walk-a-Thon, Run-a-Thon, Swim-a-Thon with all funds going to a 501.c.3 (funds to a recognized, registered charitable organization)*
Student crafts or prepared food sold at a Crafts Fair or Arts Festival.	Rental of space and tables to vendors at a Crafts Fair or Arts Festival.
DONATIONS FROM A STUDENT EXTRACLASSROOM ACTIVITY ORGANIZATION	
In the wake of a tragedy it is not uncommon for a student organization to want to make a donation to help an individual or family. The donation from the student extraclassroom activity fund is being made with sales taxed money. The student organization may want to support a separate fund raiser being held by a tax exempt organization (foundation, food kitchen, church, etc.) to avoid the taxes.	
RAFFLES	
NYS Racing and Gaming Law: www.racing.state.ny.us/charitable/Raffle_Information.htm “Only persons eighteen years of age or older shall purchase raffle tickets, sell raffle tickets, or conduct or assist in the conduct of a raffle drawing.”	

* We recommend that the recognized, registered 501.c.3 charitable organization (American Cancer Society, Make-a-Wish, March of Dimes, etc.) register the participants, and collect and handle the funds.

Taxable and Exempt Foods and Beverages Sold at Retail Food Markets and Similar Establishments

The Tax Law exempts from sales and use taxes, food, food products, dietary foods, health supplements and certain beverages (liquid, frozen or solid) sold for human consumption, when sold in the same form and condition, quantities and packaging as is commonly used by **retail food stores** or similar establishments such as bakeries or produce stands. (See page 2 for information regarding eligible food purchases made with food stamps.)

This exemption does not apply to the sale of candy and confections; alcoholic beverages; soft drinks, fruit drinks**, sodas or beverages such as are ordinarily dispensed at soda fountains; nor does it apply to heated or prepared meals (hot or cold sandwiches, self-service salad bars, etc.); or any food or beverages sold for on-premises consumption, even when sold by a retail food store.

Note: Since restaurants, taverns or similar establishments generally sell only prepared meals and beverages, they do not qualify for the exemption stated previously and must therefore collect sales tax on their sales. However, if the establishments provide both restaurant meals and food or beverages that are ordinarily sold by food markets (e.g., bakeries, delicatessens, etc.) they do not have to collect sales tax on the exempt food or beverages sold for off premises consumption. Vendors in this position must keep accurate records of the sales of food or beverages that qualify for exemption. See note under food stamp purchases.

Listed below are some examples of foods and beverages that would be taxable or exempt when sold at retail food markets and similar establishments. Any brand name product shown in italics is included as an example and is not to be construed as an endorsement of the product. This list is intended to be used as a guide for cashiers in the collection of sales tax. Questions about items not included should be referred to the store manager or to the Taxpayer Assistance Bureau.

Exempt Foods and Beverages

Artificial sweeteners	Grain products	Poultry and poultry products
Baby food	Granola Bars	Preservatives
Bakery products	Gravies	Pretzels†
Baking products	Health Bars	<i>Quik</i>
Cereals	Health supplements	Relishes
<i>Chicory</i>	Herbs	Sauces
Chocolate (for baking)	Ice Cream (prepackaged)	Seafoods
<i>Clamato Juice Cocktail</i>	Iced Tea (frozen or canned)	Seasonings
Cocoa	Iced tea mix	<i>Slim Fast</i>
Coffee	Instant breakfast mix	Spices
Coffee creamers	Jelling agents	Starch (for cooking)
Condiments	Leavening agents	<i>Start</i>
Cookies	Liquid diet food	Sugar
Diet substitutes	Marshmallow fluff	Sugar substitutes
Diet supplements	Marshmallows (all sizes)	Syrups
Dressings	Meats and meat products	<i>Tang</i>
Eggs and egg products	Milk and milk products	Tea
Fats	Nonstick cooking sprays	<i>V-8 Juice</i>
Flavoring preparations	Nuts and nut products†	Vegetable juices
Food colors	Oils (cooking, salad)	Vegetable and vegetable products
Frozen desserts	<i>Ovaltine</i>	Vitamins
Fruit juices*	Peanuts†	
Fruit rollups	Popcorn†	
	Potato chips	

Taxable Foods and Beverages

<i>Awake</i>	Cocktail mixes	<i>Kool Aid</i>
Beer	Collins mixer	Lemonade
Bottled water	Cranberry juice cocktail	Licorice
Candy and confectionery	Dietetic candy	Maple sugar candy
Candied apples	French burnt peanuts	<i>Orange crush</i>
Caramels	Fruit drinks**	Pet food and supplies
Carbonated beverages	Fudges	Soft drinks
Carbonated beverages (dietetic)	<i>Gatorade</i>	Soft drinks (dietetic)
Chewing gum	<i>Hi-C</i>	Vichy water
Chocolate (candy)	Ice cubes	<i>Yoo Hoo</i> (assorted flavored soda)
Coated candies††	<i>Jordan Almonds</i>	

* Containing at least 70% natural fruit juice.

† Provided they are not candy- or sugar-coated or sold heated.

** Containing less than 70% natural fruit juice — drinks, ades, punches, fruit nectars.

†† Sugar-, chocolate- or candy-coated nuts, raisins, malted milk balls and similar products.



Quick Reference Guide for Taxable and Exempt Property and Services

Introduction

Sales of tangible personal property are subject to New York sales tax unless they are specifically exempt.

Sales of services are generally exempt from New York sales tax unless they are specifically taxable.

This bulletin describes:

- taxable property and services,
- exempt property and services, and
- exemption documents.

Tangible personal property and services

Whether sales of a particular good or service are taxable may depend on many factors. You should consult our publications and tax bulletins for more detailed explanations of what property and services are subject to sales tax. See the listing below for examples of taxable tangible personal property and services.

The term *tangible personal property* means any kind of physical personal property that has a material existence and is perceptible to the human senses (in other words, something you can see and touch).

Examples of taxable tangible personal property, services, and transactions that are subject to sales tax are:

- tangible personal property:
 - furniture, appliances, and light fixtures;
 - certain clothing and footwear;
 - machinery and equipment, parts, tools, and supplies;
 - computers;
 - prewritten (canned/off-the-shelf/standard) computer software (whether transferred by CD-ROM, Internet download, remote access, etc.);
 - motor vehicles;
 - boats and yachts;
 - fuels (for example, gasoline, diesel fuel, and kero-jet fuel);
 - candy and confections;
 - bottled water;
 - soda and beer;
 - cigarettes and tobacco products;
 - cosmetics and toiletries;
 - jewelry;
 - artistic items such as sketches, paintings, and photographs;
 - animals (for example, dogs, cats, or pet birds);
 - food and supplies for animals;
 - trees, shrubs, and seeds;

- coins and other monetary items, when purchased for purposes other than for use as a medium of exchange;
- building materials; and
- prepaid telephone calling cards.
- restaurant food and drink;
- utility and (intrastate) telecommunication services;
- telephone answering services;
- prepaid telephone calling services;
- mobile telecommunication services;
- certain information services;
- processing, fabricating, printing, or imprinting of tangible personal property for a customer who furnishes the tangible personal property and doesn't plan to resell it;
- maintaining, installing, servicing, and repairing of tangible personal property;
- storing tangible personal property (does not include certain rentals of mini-storage units that constitute the rental of real property - see TSB-M-86(3)S, *Taxable Status of the Rental of Self-Service Mini-Storage Units*);
- maintaining, servicing, and repairing real property;
- certain parking and garaging or storing of motor vehicles;
- interior decorating and design services;
- protective and detective services;
- passenger transportation services with a driver using limousines, black cars, and certain other motor vehicles (not including taxi and bus services - see TSB-M-09(7)S, *Additional Guidance Relating to the Sales Tax on Certain Transportation Services*);
- furnishing or providing entertainment or information by telephony or telegraphy or by telephone or telegraph service, provided, for example, over phone numbers with an 800 or 900 prefix;
- hotel occupancy;
- admission charges to a place of amusement;
- social and athletic club dues; and
- certain portions of cabaret charges.

Services subject only to New York City sales tax are:

- beautician services, barbering, and hair restoring;
- tanning;
- manicure and pedicure;
- electrolysis;
- massage services and services provided by weight control and health salons, gymnasiums, Turkish and sauna baths, and similar establishments;
- written or oral credit rating services; and
- oral credit reporting services not delivered by telephone.

Tax exempt property and services

The chart below lists property and services that are generally exempt from sales tax. It also lists:

- Tax Law sections that provide the exemption;
- department publications, bulletins, and technical memoranda (TSB-Ms) that are relevant to the exemption; and
- exemption documents, if any, that the customer must give to the seller for the sale to be treated as exempt from tax.

Specific exemption	Tax Law section(s)	Publications, TSB-Ms, or Bulletins	Exemption document required
Purchases by vendors of certain property or services that are intended for resale ¹	1101(b)(4) 1105(b), and 1105(c)		<u>ST-120</u>
Certain alternative fuels	1102(a)	<u>TSB-M-06(10)S</u>	<u>ST-121</u>
Building or installing a capital improvement	1105(c)(3)(iii) and 1105(c)(5)	<u>Pub 862</u>	<u>ST-124</u>
Receipts paid to a homeowners' association by its members for parking services	1105(c)(6) and 1212-A(a)(1)	<u>TSB-M-97(12)S</u> <u>TSB-M-01(3)S</u>	none
Laundering, dry cleaning (including carpet, rug, drapery, and upholstery cleaning services), tailoring, weaving, pressing, shoe repairing, and shoe shining	1105(c)(3)(ii)	<u>Pub 750</u> <u>TSB-M-02(4)S</u>	none
Admissions to live circus performances	1105(f)(1) and 1116(d)(2)(B)	<u>TSB-M-97(12)S</u>	none
Certain residential energy sources and services ²	1105-A	<u>Pub 718-R</u>	<u>TP-385</u>
Certain food and drinks	1115(a)(1) and 1115(k)	<u>TB-ST-65</u> <u>TB-ST-140</u> <u>TB-ST-283</u> <u>TB-ST-525</u> <u>TSB-M-86(18)S</u> <u>TSB-M-87(12)S</u>	none
Water delivered through mains or pipes	1115(a)(2)		none
Drugs, medicines, medical equipment and services thereon, and certain medical supplies ³	1115(a)(3) and 1115(g)	<u>Pub 822</u> <u>Pub 840</u>	none
Prosthetic aids and devices and services thereon	1115(a)(4) and 1115(g)	<u>Pub 822</u> <u>Pub 840</u> <u>TSB-M-82(9)S</u> <u>TSB-M-06(5)S</u>	none
Newspapers and qualified periodicals	1115(a)(5)	<u>TB-ST-620</u> <u>TSB-M-79(3)S</u>	none
Property or services used in farming or commercial horse boarding	1115(a)(6) and 1115(c)(2)	<u>TSB-M-00(8)S</u>	<u>ST-125</u>
Sales by funeral homes	1115(a)(7)		none
Commercial vessels	1115(a)(8)	<u>TSB-M-88(10)S</u> <u>TSB-M-96(14)S</u>	<u>ST-121</u>
Commercial aircraft, certain related property, and fuel used therein	1115(a)(9) and 1115(a)(21)	<u>TSB-M-80(4)S</u> <u>TSB-M-09(4)S</u>	<u>ST-121</u>
Property and utilities used in research and development	1115(a)(10) and 1115(b)(ii)	<u>Pub 852</u>	<u>ST-121</u>
U.S. and N.Y. official flags	1115(a)(11)	<u>TSB-M-01(5)S</u>	none
Certain military decorations	1115(a)(11-a)	<u>TSB-M-06(15)S</u>	<u>ST-121</u>

Specific exemption	Tax Law section(s)	Publications, TSB-Ms, or Bulletins	Exemption document required
Production machinery or equipment and utilities	1115(a)(12) and 1115(c)(1)	Pub 852 <u>TSB-M-82(7)S</u> <u>TSB-M-82(8)S</u> <u>TSB-M-82(18)S</u> <u>TSB-M-82(25)S</u> <u>TSB-M-89(19)S</u> <u>TSB-M-00(9)S</u>	<u>ST-121</u>
Certain property used in connection with telecommunications and Internet access	1115(a)(12-a)	<u>TSB-M-00(6)S</u>	<u>ST-121</u>
Certain items sold through coin-operated vending machines	1105(d)(i)(3) and 1115(a)(13),(13-a)	<u>TSB-M-83(33)S</u> <u>TSB-M-97(12)S</u> <u>TSB-M-99(4)S</u>	none
Coin-operated luggage carts	1115(a)(13-b)	<u>TSB-M-97(12)S</u>	none
Certain intra-family sales of motor vehicles	1115(a)(14)		<u>DTF-802</u>
Certain property sold to contractors to be installed in real property owned by exempt entities	1115(a)(15) and (16)	<u>TSB-M-78(10)S</u>	<u>ST-120.1</u>
Certain property sold by a contractor to a person for whom a capital improvement project is being performed	1101(b)(4)(i) and 1115(a)(17)	Pub 862	<u>ST-124</u>
Certain sales conducted from a residence (for example, garage sales)	1115(a)(18)	<u>TB-ST-807</u> <u>TSB-M-80(9)S</u>	None
Packaging materials related to property for sale	1115(a)(19)	Pub 852 <u>TSB-M-82(7)S</u>	<u>ST-121</u>
Milk crates purchased by a dairy farmer or New York State licensed milk distributor	1115(a)(19-a)	<u>TSB-M-06(16)S</u>	<u>ST-121</u>
Shopping papers and related printing services	1115(a)(20) and 1115(i)	<u>TB-ST-620</u> <u>TSB-M-92(5)S</u> <u>TSB-M-96(7)S</u>	<u>ST-121</u>
Certain trucks, tractors, and tractor-trailers	1115(a)(22) and (26)	<u>TSB-M-81(25)S</u> <u>TSB-M-87(16)S</u> <u>TSB-M-87(16.1)S</u>	<u>ST-121.1</u>
Used mobile homes	1115(a)(23)	<u>TSB-M-83(24)S</u> <u>TSB-M-83(24.1)S</u>	none
Certain fishing vessels	1115(a)(24)	<u>TSB-M-85(17)S</u> <u>TSB-M-86(1)S</u>	<u>ST-121</u>
Natural gas used for consumption by owners of a gas well on their property	1115(a)(25)	<u>TSB-M-85(15)S</u>	none
Precious metal bullion sold for investment	1115(a)(27)	<u>TSB-M-89(20)S</u> <u>TSB-M-89(20.1)S</u> <u>TSB-M-95(9)S</u>	none
Customized computer software transferred to a related entity	1115(a)(28)	<u>TSB-M-93(3)S</u>	none
Certain race horses and related training and maintenance services	1115(a)(29) and 1115(m)	<u>TSB-M-80(12)S</u> <u>TSB-M-95(6)S</u>	<u>ST-126</u>

Specific exemption	Tax Law section(s)	Publications, TSB-Ms, or Bulletins	Exemption document required
Clothing and footwear and items used to repair exempt clothing if sold for less than \$110 ⁴	1115(a)(30)	<u>Pub 718-C</u>	none
Copies sold through coin-operated photocopying machines at 50 cents or less	1115(a)(31)	<u>TSB-M-97(12)S</u>	none
Enhanced emissions inspection equipment	1115(a)(31)	<u>TSB-M-97(8)S</u>	<u>ST-121</u>
Certain public transportation vehicles (omnibuses) and related services	1115(a)(32) and 1115(u)	<u>TSB-M-97(12)S</u>	<u>ST-121.1</u>
Wine furnished at a wine tasting	1115(a)(33)	<u>TSB-M-97(12)S</u>	none
College textbooks sold to full-time or part-time college students for their courses	1115(a)(34)	<u>TB-ST-125</u> <u>TSB-M-98(4)S</u>	<u>ST-121.4</u>
Computer system hardware used to develop software and Web sites	1115(a)(35)	<u>TSB-M-98(5)S</u>	<u>ST-121.3</u>
Certain tools and supplies related to gas or oil production	1115(a)(36)	<u>TSB-M-98(13)S</u>	<u>ST-121</u>
Certain Internet data center equipment and related services	1115(a)(37) and 1115(y)	<u>TSB-M-00(7)S</u>	<u>ST-121.5</u>
Certain broadcasting and film production equipment and related services	1115(a)(38),(39) and 1115(aa),(bb)	<u>Pub 28</u> <u>Pub 825</u> <u>TSB-M-00(6)S</u>	<u>ST-121</u>
Pollution abatement equipment	1115(a)(40)		<u>ST-121</u>
Certain marine cargo facility machinery and equipment	1115(a)(41)	<u>TSB-M-05(14)S</u>	<u>ST-121</u>
Certain ferry boats and certain property purchased or used to operate those ferry boats	1115(a)(43)	<u>TSB-M-08(11)S</u>	<u>ST-121</u>
Telephone and telegraph services used in news gathering	1115(b)(i)		none
Utilities and utility services produced by cogeneration facilities operated by cooperative corporations	1115(b)(iii)	<u>TSB-M-06(3)S</u>	<u>ST-121</u>
Certain services on property delivered outside NYS	1115(d)		none
Coin-operated telephone calls for 25 cents or less	1115(e)	<u>TSB-M-98(9)S</u>	none
Veterinary services	1115(f)	<u>Pub 851</u> <u>TSB-M-79(6)S</u>	none
Sales by railroads in reorganization	1115(h)		none
Certain property donated to exempt organizations by the manufacturer of the property	1115(l)	<u>TSB-M-86(11)S</u> <u>TSB-M-87(14)S</u>	none
Qualifying promotional materials and related services	1115(n)	<u>Pub 831</u> <u>TSB-M-92(4)S</u> <u>TSB-M-92(4.1)S</u> <u>TSB-M-97(6)S</u>	<u>ST-121.2</u>

Specific exemption	Tax Law section(s)	Publications, TSB-Ms, or Bulletins	Exemption document required
Services performed on computer software	1115(o)	<u>TSB-M-93(3)S</u>	none
Services performed to a qualifying barge	1115(q)		<u>ST-121</u>
Medical emergency alarm call services	1115(r)	<u>TSB-M-94(3)S</u>	none
Property and services related to guide dogs	1115(s)	<u>TB-ST-245</u> <u>TSB-M-95(10)S</u>	<u>ST-860</u>
Certain coin-operated car wash services	1115(t)	<u>TB-ST-105</u> <u>TSB-M-05(15)S</u>	none
Internet access services	1115(v)	<u>TSB-M-97(1.1)S</u>	none
Certain food and drink sold by a senior citizen housing community to its residents and their guests	1115(w)	<u>TSB-M-01(4)S</u>	none
Property used in connection with certain theater productions	1115(x)	<u>TSB-M-99(4)S</u>	<u>ST-121.9</u>
Property and services related to the maintenance of general aviation aircraft	1115(dd)	<u>TSB-M-04(8)S</u> <u>TSB-M-09(18)S</u>	<u>ST-121</u>
Residential solar energy systems equipment ⁵	1115(ee)	<u>TSB-M-05(11)S</u> <u>Pub 718-S</u>	<u>ST-121</u>
Property used to furnish leased premises in designated areas of lower Manhattan	1115(ee)(1)-(8)	<u>TSB-M-05(12)S</u> <u>TSB-M-09(14)S</u>	<u>ST-121</u>
Gift shop sales at a veterans home	1115(ff)	<u>TSB-M-06(15)S</u>	none
75% of the admission charge to a qualifying place of amusement	1122	<u>TSB-M-04(7)S</u> <u>TSB-M-06(12)S</u>	none
Certain portion of the admission charge to attend a dramatic or musical performance at a roof garden, cabaret, or similar place	1123	<u>TSB-M-06(15)S</u>	none

You should not collect sales tax on exempt sales that do not require an exemption document. However, for sales that require an exemption document, you must collect sales tax unless you receive a properly completed exemption document from the purchaser. You must receive the exemption document within 90 days of the date you delivered the property or rendered the service.

Sales to New York State, its political subdivisions, and to the federal government are also exempt from sales tax. In these cases, you should receive a government purchase order or other suitable documentation, such as Form ST-129, Exemption Certificate - Tax on occupancy of hotel rooms. The general exemption for sales to New York State, its political subdivisions, and to the federal government does not apply to sales of motor fuel or diesel motor fuel that is not used or consumed by the governmental entity (see section 1116(b)(5) of the Tax Law).

See Tax Bulletin, Exemption Certificates for Sales Tax (TB-ST-240).

Note: A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. They are accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin.