

## REG-1-092, Educational Institutions

092.01 The following educational institutions are exempt from payment of the Nebraska sales and use tax after the institution has applied for and received a Nebraska Exempt Organization Certificate of Exemption from the Nebraska Department of Revenue (Department):

092.01A A Nebraska public elementary or secondary school, or school district;

092.01B A nonprofit Nebraska private elementary or secondary educational institution established under Chapter 79, article 16;

092.01C A Nebraska community college, established under Chapter 85, Article 15;

092.01D A Nebraska educational service unit, established under the Educational Service Units Act, Chapter 79, Article 12;

092.01E A Nebraska learning community established under Chapter 79, Article 21;

092.01F The Nebraska Center for the Education of Children who are Blind or Visually Impaired, established by Neb. Rev. Stat. § 79-11,109;

092.01G The Nebraska State College System, established under Chapter 85, Article 3;

092.01H The University of Nebraska System, established under Chapter 85, Article 1;

092.01I A nonprofit, private, regionally or nationally accredited college or university with its primary campus located in Nebraska that is authorized under the Postsecondary Institution Act, Chapter 85, Article 24; and

092.01J A conference or other organization, if all the members of the conference or organization are exempt from payment of the Nebraska sales and use tax.

092.02 Schools and other educational institutions not listed in Reg-1-092.01 are not exempt, and must pay sales tax or remit use tax on their taxable purchases. These include, but are not limited to:

092.02A Home schools, other Rule 12 and Rule 13 schools, and all other educational institutions not subject to state approval or accreditation; and

092.02B Schools, colleges, or universities located in another state.

092.03 The educational institution seeking exemption from payment of sales and use tax must submit a Nebraska Exemption Application for Sales and Use Tax, Form 4, accompanied by the necessary supporting documentation. In instances where approval or accreditation is a requirement for an educational institution, the Nebraska Department of Education may be contacted to confirm the approval or accreditation. Educational institutions approved for exemption from payment of sales and use tax are issued a Nebraska Exempt Organization Certificate of Exemption. This certificate assigns the educational institution an exemption number (05-XXXXXXX), which must be used when claiming its exemption.

092.04 The educational institution must give its seller a Nebraska Resale or Exempt Sale Certificate, Form 13, as proof of its exempt status. Section B of this certificate, or an approved substitute form, must be completed in accordance with Reg-1-014, Exempt Sale Certificate.

092.05 Only the educational institution that has been issued a Nebraska Exempt Organization Certificate of Exemption may make purchases to be used by and for the purposes of the educational institution without payment of

sales or use tax. Affiliated or subsidiary organizations, including student organizations or parent-teacher-student organizations, cannot make tax exempt purchases using an exempt educational institution's certificate of exemption, even if they are operating in support of or under the guidance of the educational institution.

092.05A The sales and use tax exemption does not extend to a person purchasing property or services to be given or donated to an exempt educational institution. For these purchases to be tax exempt, the person must donate the funds to the educational institution, and the educational institution must make the purchase. Any person who removes property from inventory that was originally purchased sales tax exempt with a resale certificate, and donates the property to an exempt educational institution, must remit use tax on the property donated. (Reg-1-035, Consumption of Untaxed Property)

092.05B An exempt educational institution engaging in a construction or repair project will receive the benefit of its tax exempt status by issuing the contractor a Purchasing Agent Appointment, Form 17, and complying with the provisions of Reg-1-017, Contractors. If the exempt nonprofit educational institution does not issue the contractor a Purchasing Agent Appointment, Form 17, prior to the building materials being annexed to real estate, the exempt nonprofit educational institution may apply to the Department for a refund of any sales or use tax paid by the contractor on building materials annexed to real estate in the project.

092.05C When a private, nonprofit, postsecondary educational institution is engaging in a construction or repair project, it must be regionally or nationally accredited with its primary campus physically located in Nebraska to be exempt from sales and use tax. But, if it was not accredited or located in Nebraska at the time of the purchase, the private, nonprofit, postsecondary educational institution must pay sales tax or remit use tax, and cannot issue either a Purchasing Agent Appointment, Form 17, or a Resale or Exempt Sale Certificate, Form 13, to any contractor relating to purchases of building materials for construction or repair performed before approval or accreditation. When the private, nonprofit, postsecondary educational institution becomes accredited and located in Nebraska upon completion of the project, it may apply for a refund of the sales tax paid or collected, or the use tax remitted by any contractor on building materials necessary to open the facility and qualify for the approval or accreditation.

092.05D A private, nonprofit, postsecondary educational institution required to be accredited and with its primary campus physically located in Nebraska to be exempt from sales and use tax, but that is not accredited or located in Nebraska at the time of the purchase, cannot make tax exempt purchases. When the educational institution becomes accredited and located in Nebraska upon completion of the project, it may apply for a refund of the sales or use tax paid on the equipment, furnishings, or supplies necessary to open the facility and qualify for the license or certification.

092.05E When a private, nonprofit, postsecondary educational institution is required to be accredited to be exempt from sales and use tax, the educational institution may only make tax exempt purchases during the time that any required accreditation is valid.

092.06 An educational institution is required to collect sales tax on sales of property made by the educational institution except for:

092.06A Admissions charged by elementary or secondary schools;

092.06B Admissions charged by school districts, student organizations, or parent-teacher associations to an event or activity held in an elementary or secondary school during the regular school day, or at an approved function of the school;

092.06C Prepared food, soft drinks, and candy, served during the regular school day or at school functions, sold by;

092.06C(1) An elementary or secondary school or school district;

092.06C(2) A student organization or parent-teacher association of an elementary or secondary school; or

092.06C(3) An institution of higher education, public or private, but only if the sale is made at a facility or event that is not open to the public.

092.06D Concession sales of prepared food, soft drinks, and candy by elementary and secondary schools at events including those open to the public;

092.06E Sales by parent-booster clubs, parent-teacher associations, parent-teacher-student associations, or school-operated stores approved by elementary or secondary schools, if the proceeds are used to support school activities or the school itself; or

092.06F Occasional rental of rooms or accommodations regularly used to house students in dormitories or facilities operated by an educational institution established under Chapter 79 or 85 of the Nebraska Revised Statutes.

092.06G For purposes of the exemptions in subsections 092.06A through 092.06F:

092.06G(1) Schools include both public and private elementary and secondary schools; and

092.06G(2) Schools and school districts include organizations of schools and school districts, acting on behalf of its members in carrying out school events, activities, or functions.

092.07 An educational institution making sales of property or services subject to sales tax must apply for a Nebraska Sales Tax Permit using a Nebraska Tax Application, Form 20 and collect sales tax on the gross receipts from these sales.

092.08 Any educational institution may purchase property for resale without paying sales tax if it issues a Nebraska Resale or Exempt Sale Certificate, Form 13, section A, to its seller. This certificate, or an approved substitute form, must be issued in accordance with Reg-1-013, Sale for Resale-Resale Certificate.

092.09 Purchases by employees of the educational institution, or members of parent-booster clubs, parent-teacher associations, or parent-student-teacher associations, using their own funds are subject to sales or use tax, even if the purchases are made on behalf of the educational institution, and even if the educational institution will be reimbursing the employees or members for expenses incurred, including purchases of prepared food and lodging.

*(Neb. Rev. Stat. §§ 77-2704.10, 77-2704.12, 77-2704.15, 77-2704.24 and 77-2704.25. July 3, 2013.)*