GUIDE

Does a school club charge sales tax on the shirts it sells?

California gives student clubs a sales tax exemption, and it is narrower than most advisors expect. Here is what it covers, the two places a club shirt sale usually falls outside it, and who to ask before the first order form goes home.

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Selling club shirts to members, families and alumni is one of the most common ways a club raises money. In California, it is also where a simple plan runs into a tax rule few advisors have read. A student club exemption exists, and a typical custom shirt sale falls outside it.

Is there a sales tax exemption for school clubs?

Yes, and it is narrow. Regulation 1597(e) from the California Department of Tax and Fee Administration (CDTFA) covers youth groups and clubs "sponsored by or affiliated with a qualified educational institution, including but not limited to any student activity group." It names a debating team, swimming team, band and choir as examples. A public school serving kindergarten or grades 1 through 12 counts as a qualified institution. When the exemption applies, the club is treated as the consumer, not the retailer, of what it sells. It adds no sales tax for buyers and needs no seller's permit.

What does a club have to meet?

CDTFA's Tax Guide for Nonprofit Organizations lists three conditions, and a club must meet all of them:

- **The item.** The club sells food products, nonalcoholic beverages, or items made by members of the group.
- **The schedule.** Sales happen on an irregular basis. Storefront sales do not count.

- **The money.** Profits go only toward the group's purposes.

Regulation 1597(e)(1)(C) defines irregular or intermittent sales as sales made at particular events, such as fairs, parades or games, that are not held on a regular schedule.

Where does a club shirt sale fall outside it?

The first problem is the shirt itself. The regulation covers property "created by members of the organization." A shirt printed by a vendor is hard to describe that way, and CDTFA's own guide uses t-shirts as its example of a taxable item. It says that when a youth group sells goods such as t-shirts, wrapping paper or mugs, the group must register for a seller's permit and its sales are taxable, unless it meets the conditions above. Whether student artwork makes a vendor-printed shirt "created by members" is a question the regulation does not answer.

The second problem is the calendar. A shirt kept on sale all year at a school store is a regular sale. The regulation says sales in storefront or mobile retail outlets that ordinarily require local business licenses do not qualify. CDTFA annotation 390.0050 (1992) found that a student snack bar open on a regular basis was making retail sales, while booths at scheduled games were intermittent.

Advice built on logo items is out of date. Regulation 1597(i) once covered member transfers of items bearing a logo or other identifying mark, but only from April 1, 2010, until January 1, 2015.

What changes on each side of the line?

- **If the club qualifies as a consumer,** it pays sales tax to the vendor on its purchase, under Regulation 1597(h). Subsection (g) says it may not give the vendor a resale certificate. It then sells to buyers without adding tax.
- **If the club is the retailer,** a seller's permit has to cover the sale. The club can buy the shirts for resale and owes tax on what it collects from buyers. Build that into the price before the order form goes out, so the margin the club planned on is still there.

Regulation 1597(h) also lists factors that make a nonprofit the seller on its own account, among them soliciting orders in its own name. A club that sends home its own order form and collects the money is in that position.

When does the question go away?

When the club pays for shirts from its account and gives them to members, there is no sale to tax. The club is the consumer of those shirts, and tax is settled on the purchase. This is the same club-paid approach that keeps a shirt from becoming a required pupil fee, covered in can a school club require members to buy the club shirt?

When each buyer orders and pays a vendor directly, the club is not soliciting orders in its own name. Before choosing that route, ask the vendor who the seller is and how tax is handled on those orders.

Who should the advisor ask?

Start with the ASB bookkeeper or the district business office. Ask whether the district or student body already holds a seller's permit that covers club sales, and how club sales get reported. For a sale near the line, request written advice from CDTFA. Under Revenue and Taxation Code section 6596, a taxpayer who reasonably relies on written CDTFA advice, given in response to a written request that fully describes the facts, can be relieved of the tax, interest and penalties that advice led them to miss. These rules apply in California; other states write their own.

How does the answer change the order?

If the club pays and hands shirts out, one order from one account settles it. Impact SpiritWear takes card payment by phone at 800-704-5578 and school checks with the one-page check payment agreement. For a sale to families and alumni, an online school store lets each buyer pick a size and pay online, at a selling price the club sets, with the profit paid to the program. Either way, a designer builds the mockup free when the shirts are printed with Impact SpiritWear, and nothing prints until the advisor approves it. Get your free mockup.

Impact Spiritwear 800-704-5578 impactspiritwear.com

Impact SpiritWear designs custom school spirit shirts for elementary schools, high schools, clubs, classes, bands and fundraisers.