

Texas Sales Tax Frequently Asked Questions

Obtaining a Sales Tax Permit

1. Who is required to hold a Texas sales and use tax permit?
2. What is tangible personal property?
3. What is engaged in business?
4. How do I get a sales tax permit number?
5. Is there a fee charged for a sales tax permit?
6. If my business doesn't have a federal identification number yet, can I still apply for a sales tax permit?
7. Do I need more than one permit?
8. Can I use the sales tax permit number from my old business or from an existing business that I purchased?
9. If the ownership of my business changes, is a new permit needed?
10. If I am no longer in business, can I keep my seller's permit?
11. Should I tell the Comptroller's office if I change my business address or mailing address?
12. Am I required to register to pay other taxes?
13. Are my business records subject to audit?
14. Once I have obtained a sales tax permit, what are my obligations as a permit holder?

1. Who is required to hold a Texas sales and use tax permit?

You must obtain a Texas sales and use tax permit if you are engaged in business in Texas and you:

- sell tangible personal property in Texas;
- lease tangible personal property in Texas; or
- sell taxable services in Texas.

Please see Rule 3.286 and publication 96-259 Taxable Services for more information.

The requirement to obtain a Texas sales and use tax permit applies to individuals as well as corporations, firms, partnerships, and all other legal entities.

2. What is tangible personal property?

The statutory definition for "tangible personal property" is "personal property that can be seen, weighed, measured, felt, or touched or that is perceptible to the senses." See Sec. 151.009.

3. What is engaged in business?

A person or a retailer is engaged in business in Texas if any of the following criteria are met:

- (A) maintains, occupies, or uses an office, place of distribution, sales or sample room, warehouse or storage place, or other place of business;
- (B) has any representative, agent, salesperson, canvasser, or solicitor who operates in this state under the authority of the seller to sell, deliver, or take orders for any taxable items;
- (C) promotes a flea market, trade day, or other event that involves sales of taxable items;
- (D) uses independent salespersons in direct sales of taxable items;
- (E) derives receipts from a rental or lease of tangible personal property that is located in this state;
- (F) allows a franchisee or licensee to operate under its trade name if the franchisee or licensee is required to collect Texas sales or use tax; or
- (G) conducts business in this state through employees, agents, or independent contractors.

See Rule 3.286.

4. How do I get a permit?

Apply for a sales tax permit using our Texas Online Sales Tax Registration System. An application can also be downloaded from our Tax Forms Online page. You can also obtain an application by calling (800) 252-5555 or by visiting one of our enforcement field offices.

5. Is there a fee charged for a Texas sales and use tax permit?

There is no fee for the Texas Sales and Use tax permit. However, based on your application, you could be required to post a security bond. For more information on security bonds, please refer to Rule 3.327 or contact your local enforcement field office.

6. If my business doesn't have a federal identification number yet, can I still apply for the sales and use tax permit?

Yes. If a business applies for a sales tax permit prior to obtaining a federal employer's identification number, we will issue a permit under a temporary number. When the federal employer's identification number is provided to the Comptroller's office, we will then issue a new permit, based on the federal number.

7. Do I need more than one permit?

Each seller must have a tax permit for each active place of business. A place of business is an established outlet, office, or location that the seller, or the seller's agent, or employee operates for the purpose of receipt of orders for taxable items. A warehouse, storage yard, or

manufacturing plant is not a "place of business of the seller" for tax permit requirement purposes unless the seller receives three or more orders in a calendar year at the warehouse, storage yard, or manufacturing plant. If you have multiple places of business you will receive separate permits for each business location displaying the same taxpayer identification number, but with separate outlet or sequence numbers.

8. Can I use the sales tax permit number from my old business or from an existing business that I purchased?

No. A permit is valid only for the person to whom it was issued and only for the business at the address shown on the permit. It cannot be transferred from one owner to another. See *Buying, Selling, or Discontinuing a Business*

9. If the ownership of my business changes, is a new permit needed?

Yes. The new owner must obtain a permit if there are any changes in ownership of your business. Incorporating a business or forming a partnership or limited liability company is considered a change of ownership and must be reported. For example, if you operate a business as a sole proprietor, but decide to incorporate, the corporation will have to obtain a new permit for the business, even though you may operate the business as an officer of the corporation.

10. If I am no longer in business, can I keep my sales tax permit?

Your permit is valid only as long as you are actively engaged in business as a seller. If you are no longer conducting business, you should return your permit to the Comptroller for cancellation. Likewise, the Comptroller may cancel your permit if it finds that you are no longer engaged in business as a seller.

11. Should I notify the Comptroller's office if I change my business address or mailing address?

Yes. We need to update our records to ensure that your tax returns are mailed to the correct address. You can make the changes in these ways:

- Use "webchange"
- Use the address change block on your Texas sales and use tax return.
- Email us at tax.help@cpa.state.tx.us.

12. Am I required to register to pay other taxes?

When you apply for a sales and use tax permit, we may be able to inform you of other taxes, licenses, or fees that your business might be responsible for, but you have the obligation to determine what taxes, licenses, or fees (federal, state or local) your business is responsible for reporting and/or paying.

13. Are my business records subject to audit?

Yes. Your records may be audited to determine whether you have paid the correct amount of tax. The audit may determine that you owe tax, that you are entitled to a refund, or that you have paid the correct amount. In general, you may be audited in four years intervals; thus, you are required to keep records for a minimum of four years. See *Keeping Records*.

14. Once I have obtained a Texas sales and use tax permit, what are my obligations as a permit holder?

As a permit holder, you are required to

- Post your permit at your place of business;
- Collect sales tax on all taxable sales;
- Pay sales and use tax on all taxable purchases;
- Timely report and pay sales and use taxes; and
- Keep adequate records.

Texas Sales Tax Frequently Asked Questions

Reporting and Remittance

1. What is a sales and use tax return?
2. When do I file the tax return form?
3. If I cannot file my return or pay the tax on time, can I request an extension?
4. What happens if I file a late tax return or my tax payment is overdue?
5. If I don't owe taxes, do I still file a return?
6. How do I pay the taxes that are due?
7. What happens if I do not file a tax return?
8. What are prepayment discounts?
9. What are vendor's discounts?
10. If a customer pays after the tax reporting period, or pays in installments, when is the tax due?
11. What if I made a mistake on my return and need to make changes?

1. What is a sales and use tax return?

A sales and use tax return is a form used by a Texas sales and use tax permit holder to report the collection and remittance of sales and use taxes to the Comptroller's office. Returns can be downloaded from our Tax Forms Online page or file online using Webfile.

2. When do I file the tax return form?

When you obtain your Texas sales and use tax permit, you will be instructed to file your tax return on a monthly, quarterly, or yearly basis (the determination is based on the volume of sales expected for your business). This filing requirement will be adjusted based on the amount of taxes that you actually collect.

Most businesses will file monthly returns, but depending on how much tax your business collects, you might qualify to file quarterly or yearly returns.

Monthly: Taxpayers who collect \$500 or more in state sales or use tax in a month must file monthly. Monthly sales and use tax returns are due on or before the 20th day of the month following the month in which the taxes were collected. For example, the July return must be filed on or before August 20th.

Quarterly: Taxpayers who collect less than \$500 state sales and use tax per month (or less than \$1500 per calendar quarter) may file quarterly. Quarterly sales and use tax returns are due on or before the 20th day of the month after the end of the quarter in which the taxes were collected. For example, the first quarter covers January, February, and March, and the return must be filed on or before April 20th.

Yearly: Taxpayers who collect less than \$1,000 in state sales and use tax per year may file yearly. Yearly sales and use tax returns are due on or before January 20th.

If the due date falls on a Saturday, Sunday, or legal holiday the next business day is the due date. We send preprinted tax returns to almost all businesses that hold a Texas sales and use tax permit. Preprinted monthly tax returns are mailed the first week of the following month. For example, the July return will be mailed the first week of August. Preprinted quarterly tax returns are mailed the first week of the month following the end of the quarter. For example, the first quarter return will be mailed the first week of April.

We will not send preprinted tax returns to a business if the post office has notified us that the mailing address is undeliverable, or if you are required by state law to file your tax returns electronically. Texas law requires every taxpayer or licensee who paid a total of \$100,000 or more in a payment category during the preceding state fiscal year (September 1 through August 31) to pay by EFT. Preprinted yearly returns are mailed in November prior to the due date in January.

If the business does not receive a preprinted form, it is the taxpayer's responsibility to file a tax return and remit taxes on time. To receive a blank return, a taxpayer can download a blank return at our Tax Forms Online. call us at (800) 252-1389, or visit the nearest enforcement field office. Some sales tax forms are also available via Fax on Demand. You can request a fax when you call (800) 252-5555.

3. If I cannot file my return or pay the tax on time, can I request an extension?

No, unless a disaster has been declared in your area or the Comptroller specifically grants an extension. See Rule 3.1 in General Rules for more details. The Comptroller rarely approves an extension unless there's been a natural disaster declared by the Texas Governor or the President of the United States.

4. What happens if I file a late tax return or my tax payment is overdue?

If you file a late return and/or make a late tax payment, you are liable for interest and penalty charges. If you file a sales tax return after the due date, the discount is not allowed. Taxpayers are required to file sales tax returns by the due date. For reports due before Oct. 1, 2011, a \$50 late filing fee was assessed if you filed more than two returns with a postmark date later than the due date. If you file a report originally due on or after Oct. 1, 2011, with a postmark after the due date the \$50 late filing fee will be assessed. The penalty will be assessed regardless of whether you subsequently file the report or whether any taxes or fees were due for the period covered by the late-filed report. The \$50 penalty is due in addition to any other penalties assessed for the reporting period.

If the tax liability is paid 1-30 days late, there is a 5% (.05) penalty applied to the amount of sales tax paid after due date. If the tax liability is paid 31-60 days late, there is a 10% (.10) penalty applied to the amount of sales tax due. If the payment is over 60 days late, the penalty is 10% of the amount of sales tax due plus interest. Calculate interest at the rate published online. Additionally, delinquent taxpayers may be referred to an outside collection agency which subjects them to a collection fee. If you pay your full tax liability on time but do not file your return on time, you may still be liable for a penalty for filing a late return as noted above.

If you fail to file a sales tax return timely, you may receive a Notice of Tax/Fee Due that estimates the amount of sales tax due for the

filing period. This is an estimate only. The estimated figure will be replaced with the actual amount of tax due once a return is filed. A return must be filed even if you had no sales. If you do not file and pay your sales tax on or before 20 days after we issued this estimate, you are also liable for an additional 10% penalty on the outstanding tax. So you could be assessed a twenty (20) percent penalty on the tax due plus any applicable collection fees and interest.

5. If I don't owe taxes, do I still file a return?

Yes. You must file a tax return even if you have no sales for the reporting period or if all your sales are nontaxable.

6. How do I pay the taxes that are due?

For most taxpayers, there are several payment choices. You can:

- Pay by check or money order through the mail or at any enforcement field offices. Make your payment payable to the Texas Comptroller of Public Accounts
- Pay by electronic fundtransfer
- Pay through webfile with a credit card or bank draft.

Texas law requires every taxpayer who paid a total of \$100,000 or more in sales and use taxes during the preceding state fiscal year (September 1 - August 31) to pay by EFT. The Comptroller will annually review the payments made during the previous fiscal year to determine who meets this criterion. We will inform these taxpayers at least 60 days prior to the effective date that they must remit payment(s) by EFT.

Reminder: Regardless of how you pay, you must make your payments on time and file a timely return.

7. What happens if I do not file a tax return?

If you fail to file a required sales tax report, the Comptroller's office will send you an estimated billing, with instructions to file a report providing your actual sales data for the estimated period. Please be aware that failure to file or pay a sales tax report may result in collection actions, including, but not limited to, additional late filing penalties, liens, and criminal charges.

8. What are prepayment discounts?

Prepayments may be made by taxpayers who file monthly or quarterly returns. Prepayers are entitled to an additional 1.25% (one and one quarter percent) discount. The amount of the prepayment must be a reasonable estimate of the state and local tax liability for the entire reporting period. "Reasonable estimate" means at least 90% of the total amount due or an amount equal to the actual net tax liability due and paid for the same reporting period of the immediately preceding year. See Rule 3.286 "Seller's and Purchaser's Responsibilities" for additional information.

9. What are vendor's discounts?

Taxpayers who file their returns on or before the due date are entitled to a .5% (one half of one percent) discount. Instructions on calculating the timely filing discount are included on the Texas sales and use tax returns.

10. If a customer pays after the tax reporting period, or pays in installments, when is the tax due?

If a retailer is on the accrual basis of accounting, tax is due based on the date the sale takes place. A retailer on the cash basis of accounting will report a sale when payment is received from the customer. See Rule 3.302.

If you report and pay tax on a credit sale and later find you cannot collect payment for it, you may be able to take a "bad debt" deduction on your sales and use tax return. See Rule 3.302.

11. What if I made a mistake on my return and need to make changes?

Make a copy of the original return you filed or download a blank form from our website.

Write "amended return" on the top of the form.

If you're using a copy of your original return, cross out the amounts that are wrong and write in the correct amount. If you're using a blank form, enter the amounts as they should have appeared on the original return.

Sign and date the return.

If the amended return shows you overpaid your taxes, attach a letter requesting a credit and let us know how you would like to receive your refund. We can either send you a check for the overpaid amount or let you take a credit on a future return.

If the amended return shows you underpaid your taxes, please send the additional tax due plus any penalties and interest that may apply. Mail the signed and dated amended return to:

Comptroller Of Public Accounts
111 E. 17th Street
Austin Texas 78774-0100