

S U S A N

C O M B S

Instructions for Completing Texas Sales and Use Tax Permit Application

TEXAS COMPTROLLER *of* PUBLIC ACCOUNTS



GENERAL INSTRUCTIONS Texas Sales and Use Tax Application

Applicants must be at least 18 years of age. Parents/legal guardians may apply for a permit on behalf of a minor.

ENGAGED IN BUSINESS

You are engaged in business if you or your independent salespersons make sales, leases or rentals, or take orders for tangible personal property, or deliver tangible personal property or perform taxable services; or have lease (personal) property, a warehouse or other location in Texas; or benefit from a location in Texas of authorized installations, servicing or repair facilities; or allow a franchisee or licensee to operate under your trade name if they are required to collect Texas tax.

WHO MUST SUBMIT THIS APPLICATION

You must obtain a sales tax permit if:

- you are an individual, partnership, corporation or organization engaged in business in Texas; **AND**
- you are selling tangible personal property or providing taxable services in Texas to customers in Texas; **AND/OR**
- you acquire tangible personal property or taxable services from out-of-state suppliers that do not hold a Texas permit; **OR**
- you are a business service user that provides local exchange access, equivalent local exchange access, wireless telecommunications connections, or intrastate long-distance service, and you are responsible for collecting emergency communications charges and/or surcharges under Texas Health and Safety Code, Chapter 771; **OR**
- you sell prepaid wireless telecommunications services; **OR**
- you collect tax on the retail sale of fireworks (you are required to charge both the sales tax and the fireworks tax); **OR**
- you collect tax on the sale of health spa memberships; **OR**
- you sell, lease or rent off-road, heavy-duty diesel-powered equipment (you are required to charge both the sales tax and the surcharge); **OR**
- you are an out-of-state winery direct shipping wine to consumers in Texas (you are required to obtain an Out-of-State Winery Direct Shipper permit from the Texas Alcoholic Beverage Commission); **OR**
- you sell cigarettes, cigars and/or tobacco products to consumers in Texas (you are required to obtain a cigarette/tobacco retailer's permit—see Form AP-193. Refer to Cigarette/Tobacco Products under Texas Taxes); **OR**
- you are an individual, partnership, corporation or organization who makes sales, leases or rentals of taxable items in Texas but does NOT have a place of business in Texas, **AND** for out-of-state contractors improving real property in Texas with tangible personal property purchased outside of Texas.

Wholesalers and retailers must apply for a sales tax permit. Internet and catalog sellers engaged in business in Texas must be permitted and are responsible for collecting and remitting the applicable state and local taxes on sales delivered to customers in Texas.

DIRECT SALES AND MULTI-LEVEL MARKETING COMPANIES

The state of Texas requires direct sales organizations to collect and remit state and local sales and use taxes on sales made by distributors in Texas. Since the Direct Sales Company is regarded as the retailer, permits are not issued to distributors and direct sales organizations are required to collect sales tax from the independent distributors rather than accept resale certificates.

TAXPAYER SEMINARS

The Texas Comptroller's office offers taxpayer seminars throughout the state each year. New taxpayers are especially encouraged to attend these overviews of tax responsibilities for buyers, sellers and service providers.

Schedule information is available online at www.window.state.tx.us/taxinfo/seminars.html or call us at (800) 252-5555 for assistance in locating the next seminar near you.

OTHER REQUIREMENTS

If the business has or will have employees, contact the Texas Workforce Commission (www.twc.state.tx.us or by phone at (512) 463-2731). For information about federal income taxes, contact the Internal Revenue Service (www.irs.gov or by phone at (800) 829-1040). For information about Social Security, contact the Social Security Administration at www.ssa.gov. For information related to new businesses and Texas permits and licenses, visit www.Texas.gov.

You may also check with your city, tax assessor-collector or local chamber of commerce to determine if there are any local taxes, permits or fees for which you may be responsible.

FOR ASSISTANCE

If you have any questions about the sales tax permit registration process, please contact your nearest Texas State Comptroller's office, or call (800) 252-5555 or (512) 463-4600. Our e-mail address is taxhelp@cpa.state.tx.us, or see our frequently asked questions online at www.window.state.tx.us/taxinfo/sales/questions.html. Representatives are available to assist you with permit questions, by phone, Monday through Friday (except federal holidays), from 7:30 a.m. to 5:30 p.m.

You can also apply for a Texas Sales and Use Tax Permit online at www.window.state.tx.us/taxpermit/.

FEDERAL PRIVACY ACT - Disclosure of your Social Security number is required and authorized under law, for the purpose of tax administration and identification of any individual affected by applicable law, 42 U.S.C. §405(c)(2)(C)(i); Tex. Govt. Code §§403.011 and 403.078. Release of information on this form in response to a public information request will be governed by the Public Information Act, Chapter 552, Government Code, and applicable federal law.

SALES TAX BOND - You may need to post a bond or other security for this permit. You will receive additional instructions if a bond is required.

AMERICANS WITH DISABILITIES ACT - In compliance with the Americans with Disabilities Act, this document may be requested in alternative formats by calling (800) 252-5555.

Under Ch. 559, Government Code, you are entitled to review, request and correct information we have on file about you, with limited exceptions, in accordance with Ch. 552, Government Code. To request information for review or to request error correction, contact us at the address or phone number listed on this form.

Below is a listing of taxes and fees collected by the Comptroller of Public Accounts. If you are responsible for reporting or paying one of the listed taxes or fees, and you **DO NOT HAVE A PERMIT OR AN ACCOUNT WITH US FOR THIS PURPOSE**, please obtain the proper application by calling (800) 252-5555, or by visiting your local Comptroller Enforcement field office. Applications are available online at www.window.state.tx.us/taxinfo/taxforms/00-forms.html.

TAX TYPE(S)

9-1-1 Emergency Service Fee/Equalization Surcharge - If you are a telecommunications utility, a mobile service provider or a business service user that provides local exchange access, equivalent local exchange access, wireless telecommunications connections or intrastate long-distance service, and you are responsible for collecting emergency communications charges and/or surcharges, you must complete **Form AP-201**.

Amusement Tax - If you engage in any business dealing with coin-operated machines OR engage in business to own or operate coin-operated machines exclusively in your own premises or in someone else's place of business, you must complete **Form AP-146** or **Form AP-147**.

Automotive Oil Sales Fee - If you manufacture and sell automotive oil in Texas; or you import or cause automotive oil to be imported into Texas for sale, use or consumption; or you sell more than 25,000 gallons of automotive oil annually and you own a warehouse or distribution center located in Texas, you must complete **Form AP-161**.

Battery Sales Fee - If you sell or offer to sell new or used lead acid batteries, you must complete **Form AP-160**.

Cement Production Tax - If you manufacture or produce cement in Texas, or you import cement into Texas and you distribute or sell cement in intrastate commerce or use the cement in Texas, you must complete **Form AP-171**.

Cigarette, Cigar and/or Tobacco Products Tax - If you wholesale, distribute, store or make retail sales of cigarettes, cigars and/or tobacco products, you must complete **Form AP-175** or **Form AP-193**.

Coastal Protection Fee - If you transfer crude oil and condensate from or to vessels at a marine terminal located in Texas, you must complete **Form AP-159**.

Crude Oil and Natural Gas Production Taxes - If you produce and/or purchase crude oil and/or natural gas, you must complete **Form AP-134**.

Direct Payment Permit - If you annually purchase at least \$800,000 worth of taxable items for your own use and not for resale, you must complete **Form AP-101** to qualify for the permit.

Fireworks Tax - If you collect tax on the retail sale of fireworks, you must complete **Form AP-201**. This is in addition to the sales tax permit. You are required to charge both the sales tax and the fireworks tax.

Franchise Tax - If you are a non-Texas corporation or a non-Texas limited liability company without a certificate of authority, you must complete **Form AP-114**.

Fuels Tax - If you are required to be licensed under Texas Fuels Tax Law for the type and class permit required, you must complete **Form AP-133**.

Gross Receipts Tax - If you provide certain services on oil and gas wells OR are a utility company located in an incorporated city or town having a population of more than 1,000 according to the most recent federal census and intend to do business in Texas, you must complete **Form AP-110**.

Hotel Occupancy Tax - If you provide sleeping accommodations to the public for a cost of \$15 or more per day, you must complete **Form AP-102**.

International Fuel Tax Agreement (IFTA) - If you operate qualified motor vehicles that require you to be licensed under IFTA, you must complete **Form AP-178**.

Manufactured Housing Sales Tax - If you are a manufacturer of manufactured homes or industrialized housing engaged in business in Texas, you must complete **Form AP-118**.

Maquiladora Export Permit - If you are a maquiladora enterprise and wish to make tax-free purchases in Texas for export to Mexico, you must complete **Form AP-153** to receive the permit.

Motor Vehicle Seller-Financed Sales Tax - If you finance sales of motor vehicles and collect Motor Vehicle Sales Tax in periodic payments, you must complete **Form AP-169**.

Motor Vehicle Gross Rental Tax - If you rent motor vehicles in Texas, you must complete **Form AP-143**.

Off-Road, Heavy-Duty Diesel-Powered Equipment Surcharge - If you sell, lease or rent off-road, heavy-duty diesel-powered equipment, you must complete **Form AP-201**. This is in addition to the sales tax permit. You are required to charge both the sales tax and the surcharge.

Petroleum Products Delivery Fee - If you are required to be licensed under Texas Water Code, sec. 26.3574, you must complete **Form AP-154**.

Prepaid Wireless 9-1-1 Emergency Service Fee - If you sell prepaid wireless telecommunications services, regardless of whether the service is purchased in person, by telephone, over the Internet or by any other method, you must complete **Form AP-201**.

Sales and Use Tax - If you engage in business in Texas AND you sell or lease tangible personal property or provide taxable services in Texas to customers in Texas; and/or you acquire tangible personal property or taxable services from out-of-state suppliers that do not hold a Texas Sales or Use Tax permit, you must complete **Form AP-201**.

Sulphur Production Tax - If you own, control, manage, lease or operate a sulphur mine, well or shaft, or produce sulphur by any method, system or manner, you must complete **Form AP-171**.

Texas Customs Broker License - If you have been licensed by the United States Customs Service AND want to issue export certifications, you must complete **Form AP-168**.

SPECIFIC INSTRUCTIONS

ENTITY INFORMATION

- Item 2.** Enter the legal name of the entity applying for the Texas Sales and Use Tax permit. Do not enter a doing business as (DBA) name in this space.
- Item 3.** Federal Employer Identification Numbers (FEIN) for reporting federal income taxes are issued by the Internal Revenue Service (IRS). If you need a FEIN, contact the IRS at (800) 829-1040 or go to their Web page at www.irs.gov.
- Item 5.** If the applicant, partner or organization has registered for reporting any Texas state taxes (franchise, fuels, hotel, etc.) to the Comptroller's office, enter the 11-digit taxpayer number assigned to the account. Leave this field blank if the applicant(s) has not previously registered with the Comptroller's office.
- Item 6.** If the organization or partner has registered for a Texas Identification Number (TIN) as a vendor to the state, enter the 11-digit taxpayer number assigned to the account. Leave this field blank if the applicant(s) has not previously registered with the Comptroller's office.
- Item 7.** File numbers are issued by the Texas Secretary of State (SOS) when the certificate of formation is filed to create the legal entity. Contact the SOS at (512) 463-5555, or go to their Web page, www.sos.state.tx.us, if you need assistance locating this information. Entities that were legally formed in other states or countries may need to obtain an application for registration from the SOS to legally conduct business in Texas. For information on the requirements and how to obtain an application for registration, contact the Secretary of State at (512) 463-5555 or go to their Web page at www.sos.state.tx.us. Entities that are not registered with the SOS should leave this field blank. Limited partnerships and limited liability partnerships must provide a copy of their registration documentation filed with the state where the entity was legally created.
- Item 8.** If the applicant is a corporation that has been involved in a merger within the last seven years, provide documentation of the transaction such as a copy of the merger documents filed with the state of incorporation and/or a copy of the merger agreement.
- Item 9.** A Social Security number (SSN) must be provided for all general partners, principal members/officers, managing directors, managers or trustees. If the general partner is a corporation, limited liability company or partnership, provide the FEIN assigned to the entity by the IRS, if applicable.

SOLE PROPRIETOR INFORMATION

- Item 10.** Enter the legal name of the person applying for the Texas Sales and Use Tax permit. Do not enter a DBA name in this space. Single Member Limited Liability Companies and sole owner corporations should complete Items 1-9, then skip to Item 15.
- Item 11.** Enter the SSN of the person applying for the permit. SSNs are obtained for internal use only by the Comptroller's office and are not made available to the general public. If the applicant does not have a SSN, DO NOT enter a temporary or other number assigned by the IRS for use when filing federal income taxes.
- Item 12.** If the applicant, partner or organization has registered for reporting any Texas state taxes (franchise, fuels, hotel, etc.) to the Comptroller's office, enter the 11-digit taxpayer number assigned to the account. Leave this field blank if the applicant(s) has not previously registered with the Comptroller's office.
- Item 13.** If the organization or partner has registered for a TIN as a vendor to the state, enter the 11-digit taxpayer number assigned to the account. Leave this field blank if the applicant(s) has not previously registered with the Comptroller's office.
- Item 14.** FEINs for reporting federal income taxes are issued by the IRS. If you need a FEIN, contact the IRS at (800) 829-1040 or go to their Web site at www.irs.gov.

GENERAL BUSINESS INFORMATION

- Item 15.** Please enter the address where you would like your sales tax information mailed. Provide a complete mailing address, including building number and suite or apartment number if applicable. Indicate if the address is on a street, court or boulevard and if there is a directional indicator (ex: North, Northeast). Indicate vanity postal city if applicable (ex: Lakeway instead of Austin, Alamo Heights instead of San Antonio, etc. See www.usps.com for correct standardized address.) If the mailing address is located outside of the United States, provide the mailing address used for postal delivery in the country where the information will be sent.
- Item 23.** If you will accept payment by credit card, or if you will accept payments through an online payment processing company (such as PayPal), enter the name of the merchant credit card processor and/or online payment processor and the Merchant Identification Number assigned by the processor.

PLACE OF BUSINESS INFORMATION

PLACE OF BUSINESS OR BUSINESS LOCATION: Any store, office or location where you receive orders for tangible personal property or taxable services or make sales, leases or rentals of tangible personal property or taxable services at least three times or more in a calendar year. (See 34 Tex. Admin. Code, Rule 3.286: Seller's and Purchaser's Responsibilities.)

- Item 24.** Provide the registered doing business as (DBA) name, or the name under which you are otherwise conducting business, and if applicable, the name of the shopping center or building in which the business is located, and the physical address of your business location. Enter the actual location of your business, number and street address. Example: "323 Jones Road." Do not use a P.O. Box or Rural Route number. (If your home is a location where you receive orders, that would be considered a place of business.) You may add meaningful directions (e.g., 2 miles south of FM 1960 on Jones Rd).
- Item 25.** If the place of business is physically located within the boundaries of a city, provide the name of that city. It may be different from the postal city name provided in Item 26. (Example: A business that is within the city limits of Houston may be located in a ZIP code area that uses Friendswood as the postal city name.) You may need to contact the city planning office, or the tax appraisal district, to determine the city where your business is actually located. If the place of business is not located within city limits, check the indicated box.
- Item 26.** Provide the name of the county where this business is physically located. (Example: A business that is outside the city limits of Beaumont may be located in Orange County, not Jefferson County. A business that is located inside the city limits of San Marcos may be in either Hays County or Caldwell County.)

Item 32. Mark the "yes" box if you will be mailing or shipping taxable items to customers or if you will be traveling to customers' locations to provide taxable services. (Example: A company providing landscaping services should check "YES.")

Item 34. Provide the North American Industry Classification System (NAICS) code for your business or check the box that indicates the general type of industry in which the applicant is engaged. The Comptroller's office uses the NAICS, a product of the U.S. Census Bureau, to assign a code that indicates the general type of business operated in Texas.

It is easy to determine the NAICS code associated with your business. The Web address is www.census.gov/epcd/naics07/index.html. Enter one word in the keyword search field that generally describes your business. For example, if you're in the restaurant business, enter "restaurant." The search will return several options. To the right of each listing is the associated six-digit NAICS code. Please select the code that best fits your business.

Explain the type of business operated and/or primary type of products sold. For example: "Bookkeeping for small businesses," "Interior Decorator for homes."

Item 35. List all locations or events in Texas where you will be selling or soliciting business on a temporary or recurring basis; include the dates (if known) when you will be at that location, even if you are selling from a van or cargo truck in a parking lot. (Example: parking lot on the corner of Hollywood and Vine; first weekend of each month).

Item 36. You will be required to report interest earned on sales tax if all the following are true:

- you include installment payments that were received during a reporting period in "TOTAL SALES" on your sales tax return for that period (i.e., you keep your records on a cash basis of accounting); **AND**
- you make retail sales of taxable items on an installment purchase plan or deferred payment plan; **AND**
- you charge interest on the entire balance, including sales tax, on the sale of taxable items made on installment purchases or deferred payment plans; **AND**
- you do your own financing on some accounts on which interest is charged.

Item 37. List all locations (storage unit, warehouse, home office, etc.) that are operated by the company in Texas that do not accept three or more orders per year.

Item 38. If you are a telecommunications utility, a mobile service provider or a business service user that provides local exchange access, equivalent local exchange access, wireless telecommunications connections or intrastate long-distance service, you are responsible for collecting emergency communications charges and/or surcharges.

Item 39. A prepaid wireless 9-1-1 emergency service fee of 2 percent is assessed on the purchase price of each prepaid wireless telecommunications service that is paid for in advance by any method and that allows a caller to access 9-1-1 emergency communications service. The fee is collected by the seller from the consumer at the time of each retail transaction of prepaid wireless telecommunications service.

Items 40-42. In addition to a sales tax permit, you must be permitted by the Texas Department of Insurance to sell fireworks in Texas. Sellers of fireworks must collect sales and use tax and an additional 2 percent fireworks tax. Contact the Texas Department of Insurance (www.tdi.state.tx.us) for additional information about fireworks permits. Additional information about fireworks tax is available online at www.window.state.tx.us/taxinfo/fireworks.

Consignment sales are sales where the consignee pays the distributor only for items that the consignee sells and returns any unsold items to the distributor. The Comptroller regards all distributors who make consignment sales of fireworks to consignees to be the retailers of those fireworks for both sales tax and fireworks tax purposes. Distributors who make consignment sales of fireworks must collect and remit sales tax and fireworks tax on all Texas sales made by their consignees.

These definitions are found in the Occupations Code, Ch. 2154, Regulation of Fireworks and Fireworks Displays.

Manufacturer: A person, firm, corporation or association who makes fireworks.

Distributor: A person who imports fireworks into this state or sells fireworks to a jobber, retailer or other distributor for resale; or a holder of a single public display permit, a multiple display permit or another fireworks permit.

Jobber: A person who purchases fireworks for resale only to retailers.

Retailer: A person who purchases fireworks for resale only to the general public.

Item 43. The sale, lease or rental of off-road heavy-duty (50 horsepower or greater) diesel equipment is subject to sales and use tax and an additional 2 percent surcharge. Information about the off-road, heavy-duty diesel equipment surcharge is available online at www.window.state.tx.us/taxinfo/mtr_veh/mv_offroad.html or contact one of our representatives at (800) 252-5555 or at a local field office.

Item 44. If you sell alcoholic beverages in Texas you must be permitted by the Texas Alcoholic Beverage Commission (TABC) in addition to being permitted for the collection of sales and use tax. Contact TABC at www.tabc.state.tx.us or by phone at (512) 206-3360.

Item 46. Health Spas are defined as any business that offers for sale, or sells, memberships that provide the members instruction in or the use of facilities for a physical exercise program. Health spa operators must register with SOS and include a copy of their certificate of registration when applying for a sales tax permit. (See *Occupations Code* §§702.003, 702.101 and 702.107 for more details.) Examples may include a gym, circuit training and any other fitness facility that sells memberships.

Item 47. If you do **NOT** have a place of business in Texas, list the names and addresses of all representatives, agents, contractors or others representing your business in Texas. Do not complete this section if you have a place of business in this state.

Item 49. Sign and date the application. The completed application can be delivered in person to any of our local offices or mailed to our main office at

Comptroller of Public Accounts
111 E. 17th St.
Austin, TX 78774-0100

You will generally receive your permit approximately four weeks after we have received your completed and signed application. Incomplete applications may delay the process.