

Sales Tax Update

November 2004

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Verify Account Information

If a sales tax permit holder has moved, changed the way the business operates, or had an address change due to the 911 system updates, then the permit holder may need to update his account.

Check the business location information

If the business location has changed or if the address has been updated due to the 911-system expansion, the sales tax permit holder should update their account information with us. It's important that we have an accurate location address with all necessary information such as a suite or apartment number, whether the address is on a street, avenue, parkway, court, or drive, and directional indicators if needed (i.e., North Lamar instead of just Lamar). Since we maintain separate addresses for mailing and business location, we may have updated the mailing address but not the location address unless we're specifically asked to correct it. Sales tax permit holders are required to have an active sales tax permit posted at each permanent location at which they make sales or receive orders. They should verify that the address and local taxing jurisdictions listed on the permit are correct since they can be held liable for collecting the incorrect amount of sales tax.

Check the mailing address

Sales tax permit holders (taxpayer) can use a mailing address different from their business location address. Unlike the business location address, the mailing address can be a post

office box. It's important that we have an accurate mailing address with all necessary information such as a suite or apartment number, whether the address is on a street, avenue, parkway, court, or drive, and directional indicators if needed (i.e., North Lamar instead of just Lamar). The permit holder (taxpayer) remains liable for all taxes due even if returns are not received or filed because we have an incorrect mailing address.

Check the type of business organization

If a sales tax permit holder applied for a sales tax permit as one type of legal entity (sole owner, partnership, corporation, etc.) and then later changed the entity type (by incorporating the business, for example, or forming a partnership), the sales tax permit holder is required to apply for a new sales tax permit. Texas is a "separate legal entity" state: each entity must collect and remit sales tax under the same information as the sales are recorded in the business records. If, for example, Jane Brown applies for a sales tax permit as a sole owner but a few months later forms a limited liability company to conduct her business, she needs to apply for a new sales tax permit. If she is no longer doing business as a sole proprietor, then she has to ask us to close the original account. Simply applying for a permit for a new entity does not let us know that we have to close the account of another entity, even if the owner is the same. Unless Jane tells us to close the inactive account, she has to file returns for both the LLC and the sole proprietorship.

Closing or selling a business

Sales tax permit holders are required to file returns as long as they hold an active sales tax permit, even if they never started or have closed a business. If the permit holder fails to file returns, the law requires the Comptroller to estimate returns and establish a liability for each filing period. If the permit holder closes the business and continues to receive sales tax returns or notices, they should contact us immediately to update the account. Failure to properly notify our office that a business is closed or has been sold can result in estimated sales tax returns and liabilities, penalties, fees, lien filings, and other collection actions. Additionally, the law requires that we impose a \$50 late filer fee on the third late return filed, and/or each subsequent late return. The penalty applies whether or not any tax is owed.

Sales tax permits are non-transferable. If the sales tax permit holder is a sole proprietor and sells the business, the new owners must apply for their own permit. If the permit holder is in a general partnership and there is a change in partners, the taxpayer is required to apply for a new permit and close out the original partnership account. If a corporation or LLC is merged out of existence, the surviving entity must obtain a sales tax permit to cover the activities of the entity that no longer exists.

There are several ways to update account information.

- 1 Online - Go to <http://www.window.state.tx.us/taxinfo/sales/index.html> and select an option from the heading "Web Change." Change the mailing address, add a new business location, change the business location address, or close locations.
- 1 Email - Send us information needed to update the account by emailing us at tax.help@cpa.state.tx.us. Be sure to include the taxpayer number.
- 1 Sales tax return - Provide the information directly on the sales tax return per instructions on the return. Directions on how to make corrections to the business information are included in the instructions on the returns.
- 1 Telephone - Call Tax Assistance at 1-800-252-5555.
- 1 In person - Visit one of our local field offices. A list of local field offices is online at

<http://www.window.state.tx.us/taxinfo/fieldtoll.html>.

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When and How to File the Right Return

By law, all sales tax permit holders are required to file monthly, quarterly, or yearly, depending on the amount of their state sales tax liability during a reporting period. If the tax liability is more than \$1,500 per quarter, file monthly. If the tax liability is less than \$1,500 per quarter but at least \$1,000 a year, file quarterly. If the tax liability is less than \$1,000 per year, file returns annually. Once each year, we review all accounts to confirm filing status.

Sales tax permit holders may report sales by outlet (business location), by tax jurisdiction, or both.

A sales tax permit holder with only one place of business, that doesn't ship or deliver outside the taxing jurisdiction in which their business is located, and that does not prepay taxes, can use the "short form" (01-117) sales and use tax return. The short form can not be used to report sales tax when a permit holder is taking a credit for taxes paid in error, or has given tax refunds based on customs broker certifications. (See "[New Required Information about Credits and Refunds](#)" below.)

A sales tax permit holder with one place of business that doesn't qualify to file the short form must file the Texas Sales and Use Tax Return (01-114.) A sales tax permit holder with more than one place of business is required to file the Texas Sales and Use Tax Return (01-114) and the outlet supplement (01-115.)

In addition to the Texas Sales and Use Tax Return (01-114) and the outlet supplement (01-115), a sales tax permit holder could be required to file a supplement report form that lists Texas cities, counties and/or other jurisdictions that imposed a local sales or use tax if any of the following apply:

- | The permit holder is an out-of-state seller;
- | The permit holder ships items from outside Texas to his customers;
- | The permit holder is a contractor improving realty;
- | The permit holder is an itinerate vendor;
- | The permit holder is an auctioneer; or
- | The permit holder ships or delivers taxable items outside the transit authority in which his business is located.

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New Required Information about Credits and Refunds

Sales tax permit holders who take credit on the sales tax return for taxes paid in error to suppliers, or make sales tax refunds to customers based on the customers' customs broker certifications must also file the Credits and Customs Broker Schedule (01-148.) They may

either file electronically using our WebFile program, or report sales on the Texas Sales and Use Tax Return, 01-114, and complete form 01-148. These taxpayers may not file using the "short form," 01-117. To order the long form, a taxpayer can:

- | download blank sales tax forms online at <http://www.window.state.tx.us/taxinfo/taxforms/01-forms.html>;
- | email us at tax.help@cpa.state.tx.us;
- | call Tax Assistance at 1-800-252-5555; or
- | call our Fax On Demand line at 1-800-531-1441.

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Credits for Tax Paid in Error

A sales tax permit holder can take a credit on the sales tax return for sales taxes paid in error or sales taxes that were erroneously accrued and remitted to the Comptroller's office. An example of sales tax paid in error is if someone mistakenly paid tax when buying exempt manufacturing equipment and was not able to get a refund from the seller. A sales tax permit holder cannot take a credit on a return and also receive a refund from the vendor for the same transaction.

To take the credit, the sales tax permit holder should mark the "Yes" box on item j on form 01-114 and complete lines 1 and 2 on schedule 01-148. On line 1, enter the total amount of credit being taken for sales tax paid in error and on line 2 enter the date of the earliest purchase for which credit is being taken.

The sales tax permit holder should complete line 1, total sales, on form 01-114 with the total amount (not including tax) received from all sales made and services provided during the reporting period, without any deductions. On line 2, taxable sales, enter the total amount of taxable sales (also not including tax) minus the adjustments for the reporting period. Adjusting the amount of taxable sales by the amount of exempt sales, refunds given to customers, and/or the amount of sales tax permit holders' own purchases on which tax was paid in error, correctly reduces the amount of tax due for the period. Special provisions apply for purchases made from vendors located in different local taxing jurisdictions. If a sales tax permit holder does not report sales taxes for the same local jurisdictions from where the purchase was made, then credit cannot be taken on the return, but must be obtained from the vendor.

Additional information on obtaining a credit or a refund of sales taxes paid in error is online at http://www.window.state.tx.us/taxinfo/taxpubs/tx94_156.html, or the taxpayer can contact us and ask for our publication *How to get a Refund or Credit for Sales or Use Tax You Paid in Error*.

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Refunds Due to Customs Broker Export Certifications

Further information about exports and the requirements for issuing refunds is in Rule 3.323, "Imports and Exports." The rule is available online at <http://www.window.state.tx.us/taxinfo/sales/index.html>. You can request a copy of the rule by emailing us at tax.help@cpa.state.tx.us or call us at 1-800-252-5555.

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WebFile - the Easiest Way to Provide Credit and Refund Information

The easiest way to file the return with credit and refund data is with WebFile, our online tax filing system. WebFile is linked from the main Window on State Government page at <http://www.window.state.tx.us/>. Filing the sales tax return with credit and refund data online allows you to file your return easily and promptly without worrying about having the right forms and schedules.

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"No Business Activity" Permit Cancellation

The Comptroller's office routinely cancels the sales tax permits of taxpayers who appear to be no longer in business. The Texas Tax Code allows the Comptroller to cancel permits where there has been no business activity for 12 consecutive months. "No business activity" means sales tax returns that show zero total sales, zero taxable sales, and zero taxable purchases.

Canceling inactive permits reduces administrative costs.

The Comptroller's office will notify you 30 days in advance if your sales tax permit is being cancelled for lack of business activity.

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Online Information

Comptroller tax information is online at <http://www.window.state.tx.us/m23taxes.html>. You can review information such as frequently asked questions, rules, and statutes related to taxes administered by the Comptroller. You can search on specific topics, such as sales tax permit holders, exempt organizations, and hotel exemptions. You can also get a certificate of account status for franchise tax.

Use our online search at <http://window.state.tx.us/taxinfo/local/rateinfo.html> to get sales tax rate information for the different Texas cities. For rate information for locations outside of city limits, use our County, Special Purpose District, and Transit Authority searches.

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STAR (State Tax Automated Research System)

The Comptroller's office has an online research system. You can search STAR for state tax information related to your profession. The online search system is at <http://www.window.state.tx.us/m23taxes.html>.

Use our online search at <http://window.state.tx.us/taxinfo/local/rateinfo.html> to get sales tax rate information for the different Texas cities. For rate information for locations outside of city limits, use our County, Special Purpose District, and Transit Authority searches.

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Selling through Online Auctions

You are required by law to have a sales tax permit if you live in Texas, sell more than two taxable items in a twelve-month period, and ship or deliver those items to customers in Texas. You must also hold a Texas permit if you live outside the state but are engaged in business here. Your sales are subject to Texas sales and use tax in the same way as sales made by any other retail business located here in Texas.

You must collect, report and remit the appropriate Texas state and local sales and use tax on the sales price, including shipping and handling charges, of the taxable items delivered to customers in Texas. The term "taxable items" refers to tangible personal property (taxable goods) and taxable services through which benefits are derived in Texas. For a list of the services taxable in Texas, see our publication [Taxable Services \(96-259\)](#).

You should first complete an application for a sales and use tax permit. Use form AP-157 if you will operate as a sole proprietor or AP-201 if you will incorporate your business, form a limited liability company, or operate with partners. You may go to one of our field offices to complete the application and receive your taxpayer number, or download an application online at <http://www.window.state.tx.us/taxinfo/taxforms/01-forms.html> and mail it to us. Helpful information on starting a new business is online at <http://www.texasonline.com/>.

You do not have to collect sales tax on items you deliver directly to out-of-state locations. To document such a sale, your records must include the proper shipping document. Acceptable shipping documents include a bill of lading, a shipping invoice, or a postal receipt.

The state sales tax rate on taxable items delivered into Texas is 6.25 percent. Local sales and use taxes may be due depending on where you receive orders and where the products are delivered. But no more than 2% local tax should be collected on any one transaction. To determine the proper tax rate for any jurisdiction, use our tax rate search engine.

More information on local sales and use taxes can be found online at <http://www.window.state.tx.us/taxinfo/local/index.html>.

When you buy items that you intend to resell in the regular course of business, you can issue a properly completed Texas resale certificate to your supplier in lieu of paying Texas sales tax. For more information about taxpayers' responsibilities, you can review Rule 3.286.

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About the Update

The *Sales Tax Update* gives you general information concerning your tax responsibilities. Since our update can't cover every situation, please give us a call if you have a question about the Texas sales and use tax. The number is 1-800-252-5555. You can also email us at tax.help@cpa.state.tx.us.

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Sales Tax Update Notification

The *Sales Tax Update* is a quarterly publication. Current and past issues are available online at http://www.window.state.tx.us/taxinfo/taxpubs/st_update.html. If you would like to receive an email to let you know when the latest edition is available, please send us an email to tax.help@cpa.state.tx.us, and we'll add you to the subscriber list. In the subject line of the email, please put *Sales Tax Update*.

Need More Assistance?

Email us at
tax.help@cpa.state.tx.us.

Call us [toll free](#).

Visit one of our [local field offices](#).

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