

TAXES: FEDERAL EXCISE TAXES

Contents

	<u>Page</u>
I. Introduction	2
II. Exemptions	2
A. University Excise Tax Status	2
B. General Exemptions Relevant to the University	4
C. Scope of University's Specific Exemptions	4
1. Resales Between Exempt Institutions	5
2. Other Resales To University	5
3. Sales to Nonprofit Organizations for the Benefit of the University	5
4. Sales to University Employees	6
III. Procedures to Acquire Excise Tax Exemption	6
A. Registration--Specific Exemptions	6
B. Registration--General Exemptions	6
C. Exemption Certificates	7
IV. Accounting Officer's Responsibilities	7
V. References	7
Appendix: Exemption Certificate	8

TAXES: FEDERAL EXCISE TAXES

I. INTRODUCTION

Federal Excise Taxes are levied generally on manufacturers, producers, importers, and retailers for the privilege of marketing certain commodities. Manufacturers and sellers additionally are charged with the responsibility of collecting excise taxes.

II. EXEMPTIONS

There are two types of excise tax exemptions available to the University, namely: general and specific.

A. UNIVERSITY EXCISE TAX STATUS

By virtue of its status as both a State entity and a nonprofit educational institution, the University enjoys specific exemptions from Retail Excise Tax, Manufacturers Excise Tax (including exemption from gas-guzzling vehicles used for emergency purposes), Communication Services Excise Tax, and Heavy Highway Motor Vehicle Excise Tax. Even where the University is not provided with a specific exemption, there may be some benefit to be derived from a generally applicable exemption¹. For example, the excise tax on gas-guzzling automobiles does not apply to emergency vehicles. The table below describes the various excise taxes which may be relevant to the University and indicates (1) the University's specific exemptions and (2) the general exemptions which may apply to certain excise taxes where the University is not specifically exempt.

¹Unlike the specific exemptions provided to state entities and nonprofit educational institutions, the "general exemption" is tailored for application in specific, factual situations; therefore, it should be applied only after careful consideration of the applicable Internal Revenue Code (IRC) section and/or Treasury Regulations.

*Description of Excise Tax	IRC Section	Specific Exemption IRC Section	General Exemption IRC Section
<u>Retail Excise Taxes</u>			
Diesel Fuels	4041(a)	4041(g)(2),(4)	
Special Motor Fuels	4041(a)	4041(g)(2),(4)	
Noncommercial Aviation Fuels	4041(c)	4041(g)(2),(4)	
Luxury Passenger Autos	4001(a)(1)		4001(d)(1),(2)
Heavy Trucks and Trailers	4051	4221(a)(4),(5)	
<u>Manufacturers Excise Tax</u>			
Gas Guzzlers	4064		4064(b)(1)(B),(C) 48.4064-1(e)
Tire	4071	4221(a)(4),(5)	
Gasoline and Diesel Fuel	4081	4041(g)(2),(4)	
Aviation Fuel	4091	4041(g)(2),(4)	
Coal	4121		4121(c)
Certain Vaccines	4131		4221(a)(2)
Sport Fishing Equipment	4161(a)	4221(a)(4),(5)	
Bows and Arrows	4161(b)	4221(a)(4),(5)	
Firearms	4181	4221(a)(4),(5)	
<u>Facilities and Services</u>			
Communications	4251	4253(i),(j)	
Transportation of Persons by Air	4261		4262(b), 4281 4282
Transportation of Property by Air	4271		4262(b), 4281, 4282
<u>Environmental Taxes</u>			
Petroleum	4611		
Certain chemicals	4661		4662(b)
Certain Imported Substances	4671		4662(b)
Ozone-Depleting Chemicals	4681		4682(d),(g)
<u>Other Excise Taxes</u>			
Policies Issued by Foreign Insurers	4371		4373(1),(2)
Heavy Motor Vehicles	4481	4483(a)	

II. EXEMPTIONS (Cont.)

B. GENERAL EXEMPTIONS RELEVANT TO THE UNIVERSITY

The following general exemptions are applicable to the University in the specific situations or items presented (references are to Internal Revenue Code):

- 1) "Gas guzzler" nonpassenger automobiles--Section 4064(b)(1)(B).
- 2) Ambulances or vehicles used by State or local governments for law enforcement purposes--Section 4064(b)(1)(C).
- 3) Travel which begins or ends outside the continental U.S., i.e., excluding Hawaii and Alaska, or outside a 225-mile zone which extends into Mexico and Canada, or the portion of a domestic flight which is part of uninterrupted international air transportation--Section 4262(b).
- 4) Payments for services furnished to members of affiliated groups, in connection with the transportation by air of persons or property, where the conveyance is not available for hire by persons who are not members of the groups--Section 4282.
- 5) Any policy, indemnity bond, or annuity contract signed by an officer or agent of the insurer in a state within which the insurer is authorized to do business--Section 4373(1). Disclosure statement is required for treaty-based position (6114).
- 6) Any indemnity bond required to be filed by any person to secure payment of a pension, allowance, allotment, relief, or insurance by the United States or to secure a duplicate for, or payment of, any bond, note, certificate of indebtedness, or savings certificate, warrant or check issued by the United States--Section 4373(2).
- 7) Substances used in the production of fertilizers and motor fuels--Section 4662(b).

C. SCOPE OF UNIVERSITY'S SPECIFIC EXEMPTIONS

The University's specific exemptions are conditioned upon (1) the article or service being used exclusively by the University and (2) the article not being resold other than for export or further manufacture, or as indicated below:

1. Resales Between Exempt Institutions

Resales to the University by exempt entities retain the exemption for the University. Federal agencies generally do not qualify as exempt entities. Exempt entities are (1) other States or local governments or nonprofit educational organizations which use the articles exclusively and (2) companies which use the materials for further manufacture or for export or use the articles as supplies in a vessel or aircraft.

2. Other Resales To University

Sales by manufacturers to dealers for resale to the University are not exempt, per se, even when the transactions are planned in advance. Nevertheless, when resales to the University do occur, the manufacturers may be entitled to refund or credit on taxes paid. Overpayments subject to refund or credit have been held to occur when taxable articles have been sold to contractors who have installed them at an exempt institution in fulfillment of contracts or when gasoline has been sold to dealers and distributors who resell to exempt institutions for the latter's exclusive use.

Note: In order to obtain a credit or refund for an article which has been sold to the University prior to receipt of the University's exemption certificate, or resold to the University through a contractor fulfilling existing service contractual obligations, etc., the manufacturer must file Form 720 for a credit or Form 843 for a refund claiming that tax has been paid or has been repaid. The manufacturer should produce a written consent from the University to receive the refund or credit.

3. Sales to Nonprofit Organizations for the Benefit of the University

Sales to nonprofit organizations which utilize the articles exclusively for a traditional governmental function and are controlled and funded by exempt institutions also may be exempt from imposition of excise taxes. (Foundations which operate exclusively for the benefit of State colleges and qualified student organizations have been approved for exemption.)

II. EXEMPTIONS (Cont.)

C. SCOPE OF UNIVERSITY'S SPECIFIC EXEMPTIONS (Cont.)

4. Sales to University Employees

Sales to University employees for their personal use are subject to excise taxes. Sales to University employees where the article is funded from University sources and is used exclusively for the benefit of the University are exempt. For example, automobiles which are purchased with public funds for the official use of University officers are exempt. Payment from an officer's personal funds for the purpose of acquiring such an automobile which was initially purchased tax-free would occasion a taxable sale. Gasoline sold to University employees for use in their personal vehicles are exempt when the cost to the employee is reimbursed. The sale is taxable where reimbursement is on a per diem basis.

If articles purchased tax-free for the exclusive use of the University are, prior to the use by the University, resold under circumstances that do not amount to an exclusive use by the University, the University is required to inform the manufacturer, producer, or importer from whom the articles were purchased that such articles were disposed of in a manner that did not amount to an exclusive use by the University. A willful failure to supply the manufacturer, producer, or importer with this information will subject the University to the penalties provided under IRC Section 7203.

III. PROCEDURES TO ACQUIRE EXCISE TAX EXEMPTION

A. REGISTRATION--SPECIFIC EXEMPTIONS

Registration is optional for the University under the exemptions provided in IRC Sections 4041(g)(2), 4221(a)(4), 4253(i), and 4483(a). Neither registration nor an exemption certificate is required with regards to the exemptions provided under IRC Section 4253(i) and 4483(a). Claiming specific exemptions under the other IRC Sections can be satisfied ordinarily through retention by the dealer of the signed purchase order. (Treasury Regulations 48.4041-11(b) and 48.4221-5(c) describe the evidence required to establish exemptions.)

B. REGISTRATION--GENERAL EXEMPTIONS

Registration for general exemptions is mandatory in most cases, and consultation with the Office of the General Counsel is advised.

C. EXEMPTION CERTIFICATES

Exemption certificates will generally be required from the University for the following transactions: (1) purchases of any liquid fuel for exclusive use by the University--Section 4041(g)(2)--and (2) purchases of articles from a manufacturer for exclusive use by the University--Section 4221(a)(4).

Certain requirements are to be stated in an exemption certificate (See Appendix).

Note: A purchase order containing all required information in an exemption certificate is acceptable in lieu of the certificate.

IV. ACCOUNTING OFFICER'S RESPONSIBILITIES

The accounting officer on each campus is responsible for assuring compliance with all aspects of the Federal Excise Tax law. He/she is responsible for determining, in coordination with the campus Purchasing Department, whether excise tax is to be paid on any given University purchases, and for filing Form 720, Quarterly Federal Excise Tax Return.

**

In carrying out these responsibilities, the accounting officer may have to consult the references given below for further information. Any matters in question should be referred to General Counsel's Office. The Office of the Vice President--Financial Management should be notified of any Federal Excise tax problems that have Universitywide implications.

V. REFERENCES

Chapters 31-40, Internal Revenue Code, Vol. II, Standard Federal Tax Reporter. Chicago, Ill: Commerce Clearing House, 1986.

Chapters 31-40, Title 26, United States Codes Annotated. St. Paul, Minn.: West Publishing Co., 1986.

Part 48, Title 26, Code of Federal Regulations. Washington, D.C.: U.S. Government Printing Office, 1982.

Director D. L. Alter, Memorandum to Accounting Officers on Federal Excise Taxes, August 16, 1993.

Historical note: Original Accounting Manual chapter first published 7/15/86. Revised 12/30/93, 6/30/00, and 6/30/02; analyst--Jane Sterzinger.

APPENDIX: EXEMPTION CERTIFICATE

(Date) _____, 19 ____

I hereby certify that I am _____
(Title of Officer) of _____ (State or
local government) that I am authorized to execute this
certificate; and that: (Check applicable type of certificate):
_____ on the reverse side hereof, (or)
_____ all orders placed by the purchaser for the period
commencing _____ (Date) and ending
_____ (Date) (period not to exceed 12 calendar
quarters), are, or will be, purchased from _____
_____ (Name of manufacturer) for the exclusive
use of _____ (Governmental
unit) of _____ (State or local government).

I understand that the exemption from tax in the case of
sales of articles under this exemption certificate to a State,
etc., is limited to the sale of articles purchased for its
exclusive use. I understand that the fraudulent use of this
certificate for the purpose of securing this exemption will
subject me and all parties making such fraudulent use of this
certificate to a fine of not more than \$10,000, or to
imprisonment for not more than 5 years, or both, together with
costs of prosecution.

(Signature)

(Address)
