VANDERBILT UNIVERSITY

Sales and Business Tax Reporting – Policy

Date Effective
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Responsible Administrator:	Vice Chancellor for Finance and Chief Financial Officer
Responsible Office:	Controller's Office
Policy Contact:	Director of Tax

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1. Policy Statement

This document defines the policies that ensure all sales and business tax filings are properly prepared, reviewed, approved, filed, paid, and confirmed in accordance with the requirements of the Tennessee Department of Revenue ("TNDOR").

All Vanderbilt employees responsible for recording transactions with third parties must be knowledgeable of sales and business tax policies and procedures. In addition, Business Entity Approvers and Financial Unit Managers must possess an appropriate level of Vanderbilt financial knowledge.

2. Scope

This policy applies to all Vanderbilt employees responsible for the financial reporting of transactions involving third parties.

3. Definitions

Exemption Certificate – An exemption certificate grants the purchaser an exemption from paying sales tax on an otherwise taxable purchase. In order for the vendor (i.e. Vanderbilt) to apply this exemption, the vendor must maintain a copy of the exemption certificate on file. If upon audit an exemption certificate cannot be provided, the vendor will be responsible for the payment of uncollected sales tax. Customer exemption certificates must remain on file for seven years from the last applicable transaction.

Non-reportable Transactions – All transactions that are not covered under Tennessee Sales or

Business Tax Laws e.g., tuition, investment earnings. Once these transactions are identified as "Non-reportable" no further consideration is necessary for Sales or Business Tax purposes.

Out of State Exemptions - When goods or services are delivered or performed in a state where Vanderbilt is not required to be registered to collect sales tax, Vanderbilt is not obligated to collect, report and remit sales and business tax. In these instances the end consumer is instead required to remit use tax to the state where the product is consumed. Vanderbilt is currently only registered in the state of Tennessee for sales and business tax purposes.

Reportable Transactions (Gross Sales) – All transactions that are covered under the Tennessee sales or business tax laws e.g., sales of tangible property, parking services. These transactions are required to be reported to the TNDOR and unless an exemption applies, tax must be paid on these transactions. Possible exemptions that may apply include: Customer exemption certificate; Customer resale certificate; Vanderbilt deliveries out of state; and statutory exemptions.

Resale Certificate - A resale certificate grants the purchaser an exemption from paying sales tax on an otherwise taxable purchase because the purchase is intended to be resold. In order for Vanderbilt to apply this exemption, the vendor must maintain a copy of the resale exemption certificate on file. If upon audit the resale certificate cannot be provided, Vanderbilt will be responsible for the uncollected sales tax. Customer resale certificates must be maintained for seven years post tax report submission to the Tax Department.

Sales and Business Tax Reporting Template – This is a standard data gathering template that is required to be submitted by each department in order to report monthly sales activity, thus allowing Vanderbilt to certify to the TNDOR that all sales tax data has been reported.

Statutory Exemptions – Special legal provisions exempting certain transactions from the imposition of sales and business tax e.g., sales of text books and meal plans sold to students living on campus. These transactions must be reported on the applicable tax return and will be subsequently backed out of taxable sales on a schedule of exemptions. These items are exempt regardless of the customer's status.

Supporting Documentation– Supporting documentation consists of source documents, exemption certificates, resale certificates, supportive calculations, and/or other items necessary to substantiate the accuracy and appropriateness of taxable transactions.

Tangible Personal Property - Property that can generally be moved (i.e., it is not attached to buildings or land), touched or felt e.g., furniture, clothing, jewelry, art, writings, or household goods.

Tennessee Business Tax – Business tax is a city and county privilege of doing business tax imposed on Tennessee businesses and is levied on the sale of services and most transactions which are subject to sales tax. Unlike sales tax, business tax is imposed on the business, not on the consumer based on consumption. Failure to comply with Tennessee Business tax laws can have serious consequences. Please see the "Penalties for Non-Compliance – Sales and Business Tax" section at the end of Appendix A.

Tennessee Sales Tax – Sales tax is a consumption tax imposed on the sale, lease and rental of tangible personal property and the sale of certain taxable services, amusements and digital products. The tax is generally levied at the point of sale, collected from the consumer, and passed on to the State of Tennessee. Failure to comply with Tennessee sales tax laws can have serious consequences. Please see the "Penalties for Non-Compliance – Sales and Business Tax" section at the end of Appendix A.

Taxable Services - Certain services are taxable for Tennessee Sales Tax purposes. Examples include parking services. Contact the Tax Department if you have questions regarding revenues from services.

Taxable Transactions (Taxable Sales) – Any "reportable transaction" that does not have an exemption available is a taxable transaction and tax must be remitted to the state on the sale.

4. Policy

a) Each area transacting business with third parties is fully responsible for developing, implementing, and maintaining departmental processes and procedures that support compliance with all applicable sales and business tax reporting rules.

b) All funds required for making payments for sales and business tax related liabilities, penalties and interest are fully the responsibility of the financial unit conducting the reportable activity.

c) Amounts reportable on Vanderbilt's sales and business tax returns must be provided to the tax department using the approved sales and business tax reporting template no later than the end of the 6th working day of each month.

- Requests for extensions of time must be approved by the tax department prior to this deadline.
- Vanderbilt files one consolidated sales tax return, and late departmental submissions could lead to all departments filing late. Any department causing a late filing will be responsible for penalties and interest incurred.
- While use of the standard template is suggested, requests for use of a different submission form will be considered and must be approved by the tax department.
- Templates must be submitted with Business Entity Level approval.

d) The financial unit receiving the revenue, as defined by the COA string used in posting the revenue to the General Ledger, is responsible for recording and reporting the sales and business tax to the Tax Department.

e) Errors contained within the data provided to the Tax Department and errors of omission e.g., unreported transactions, must be communicated to the tax department as soon as administratively practical after the discovery.

f) In the event of an audit, the financial unit will be required to produce their accounting records and will be expected to reconcile the tax return data submitted on the templates to the total departmental income in the general ledger.

- Supporting documents including customer exemption and resale certificates must be maintained by the financial unit for seven years post submission to the Tax Department.
- Retained documents must be supplied to the Tax Department and state auditors upon request.

5. Sales and Business Tax Reporting Responsibility Matrix

Activity	Business Entity	Tax Team
Assume financial responsibility for reporting template submitted for sales and business tax compliance	✓	
Develop, implement and maintain financial unit processes and procedures	✓	
Provide approved sales and business tax reporting template to the Tax Department by 6th working day of the month assuring data reconciles to General Ledger	✓	
Post or reclassify sales tax collections to a monthly reconciled liability account 2020 "Sales Tax Payable"	✓	
Communicate discovered errors to Tax Department in a timely manner	✓	
Retain sales and business tax support documents for seven years and provide upon request	✓	✓
File and process payment requests for sales and business tax returns with the TDOR		✓
Provide and maintain tax guidance based on the Office of General Counsel's tax determinations		✓
Provide and maintain a sales and business tax reporting template		✓
Partner with the Office of General Counsel regarding appropriate course of action upon notice of audit		✓

6. Appendix A: Sales and Business Tax Primer

Sales Tax: An Overview

Tennessee sales tax is a consumption tax imposed by the Tennessee government on the sale, lease, and rental of tangible personal property and the sale of certain services, amusements and certain digital products. The sales tax is levied at the point of sale, collected by Vanderbilt (as the retailer), and passed on to the Tennessee Department of Revenue ("TDOR").

A common misconception because Vanderbilt is a “tax exempt organization” and can purchase tangible personal property and taxable services using a tax exempt certificate is that Vanderbilt therefore is also exempt from charging sales tax when Vanderbilt sells goods and services. This is not true. In reality, when Vanderbilt is the seller of goods and services, Vanderbilt must impose sales tax just like any other vendor (think Target, Kroger, etc.). If the transaction is reportable for sales tax, then Vanderbilt must report the sale on its sales tax return. Further, unless an exemption applies, Vanderbilt must also charge sales tax to the customer and must remit the sales tax to the state of Tennessee on a monthly basis.

For example, suppose Vanderbilt buys office supplies from Target. The sale of office supplies is a reportable transaction and Target must charge sales tax to Vanderbilt unless an exemption exists. Since Vanderbilt does have an exemption certificate, Vanderbilt is not charged sales tax by Target. Behind the scenes, the vendor (Target) is still required to report the gross sale made to Vanderbilt on its sales tax return, but then removes the sale from its taxable transactions by listing the sale to Vanderbilt as a sale to an exempt entity. The vendor must maintain Vanderbilt’s exemption certificate on-file in case of a sales tax audit.

Now suppose Vanderbilt sells a t-shirt to a tourist. The purchase of clothing is subject to sales tax, whether the tourist buys it from Vanderbilt or from Target, so Vanderbilt must charge the tax to the tourist and must pass the tax along to the TDOR.

Also, suppose Vanderbilt sells t-shirts to Vanderbilt University Medical Center (“VUMC”). The purchase of clothing is subject to sales tax and Vanderbilt must charge sales tax on t-shirt sales. However, if VUMC presents its sales tax exemption certificate to Vanderbilt then Vanderbilt cannot charge sales tax to VUMC. Behind the scenes, Vanderbilt is still required to report the gross sale on its sales tax return, but then removes the sale from its taxable transactions by listing the sale to VUMC as a sale to an exempt entity. Vanderbilt must maintain VUMC’s exemption certificate on-file in case of a sales tax audit.

These scenarios are true with every transaction Vanderbilt enters into with a third party. Vanderbilt must determine whether or not the transaction is a reportable transaction subject to sales tax, and whether or not any exemptions exist. If the transaction is reportable and no exemptions exist, then Vanderbilt must charge, report and remit sales tax accordingly. If the transaction is reportable and an exemption exists, then Vanderbilt is not required to collect and remit sales tax, but must report the transaction on its sales tax return as a sale made to an exempt organization.

Sales Tax – General Rules

1. Sales tax is a tax on the consumer imposed by the government and in general, sales, lease and rentals of tangible personal property and certain taxable services are subject to sales tax collection by the seller. The collected sales tax is then passed on to the government through monthly sales tax reporting. As a general guideline, think in terms of what customers would buy in a store like Target. If customers would pay sales tax on the purchase at Target, then Vanderbilt's customers will pay tax at Vanderbilt. The customer cannot save sales tax by buying from Vanderbilt instead of Target.
2. All transactions marked on the “Sales and Business Tax Guidance Matrix” as “Reportable” transactions must be reported on the sales tax return regardless of any exemptions that may apply. The exemptions impact taxes collected, but not the reportable gross sales.
3. Sales tax does not generally apply to rentals of non-residential real property. Real property refers to land and any buildings, structures and equipment permanently attached or affixed to the land or building.
4. Generally, taxable transactions bundled with nontaxable transactions causes the entire transaction to be taxable e.g., renting a room and tangible personal property together on a non-separately stated invoice. To avoid subjecting an entire transaction to sales tax, itemized invoices/receipts should be prepared.

5. Sales of purchased items are treated differently than sales of donated items.

Sales Tax - Reporting Requirements

Vanderbilt must report, remit and confirm sales tax by the 20th day of the month following the month in which the transaction occurs. In order to meet this filing obligation, the Tax Department requires all sales and business tax data gathering templates be provided to the Tax Department by the end of the 6th business day of each month for the previous month. Requests for extensions of time to file the report must be made prior to this deadline and be approved by the Tax Department. Vanderbilt files one consolidated return, and therefore cannot file any returns until all returns are complete. Any unapproved late submission to the Tax Department which results in a state assessed late filing penalty will be the responsibility of that financial unit.

Business Tax: An Overview

Tennessee Business Tax is a "privilege of doing business" tax imposed on entities engaging in the sales of services and in the sales of most items which are reportable for sales tax purposes. There are differences between sales taxable transactions and business taxable transactions and the Tax Department maintains these differences on the "Sales and Business Tax Guidance Matrix". The business tax rates are marginal in comparison to sales tax rates and therefore Vanderbilt pays much less in business tax than it remits in sales tax.

Business Tax – General Rules of Thumb

1. Business tax is a tax on Vanderbilt's operations, and with certain exceptions, all transactions that are taxable for sales tax are subject to business tax. Additionally, while sales tax applies to certain services, business tax generally applies to all services with the exception of mission related educational services.
2. Sales to VUMC have been determined to not be subject to business tax.
3. In general, passive sources of revenue such as commissions, royalties and exclusivity fees are not subject to business tax.

Business Tax Reporting Requirements

Business tax returns are due the 15th day of the fourth month after the end of an entity's fiscal year. In Vanderbilt's case, the tax is reportable and payable by October 15th of each year. However, since Vanderbilt's sales and business tax reporting template provides for taxability information on a monthly basis, generally business tax returns will be filed and paid by August 31.

Penalties for Non-Compliance – Sales and Business Tax

In the state of Tennessee, sales and business tax penalties range from civil to criminal in nature. Civil penalties apply to inadvertent under-reporting errors and typically result in monetary penalties and accrual of interest. For example, a particular department may begin carrying on an activity and they may be unaware that the activity is subject to business tax. A period of time goes by and the department learns that the transaction is subject to business tax. Immediately upon discovering the error, the department takes efforts necessary to correct the inadvertent reporting error. Criminal penalties result from intentional disregard for business or sales tax compliance obligations and occur when business or sales tax is intentionally not remitted to the state.

Per Tennessee Code Section 67-2-121, it is a Class C misdemeanor crime to fail to file a tax return when required, and to violate any tax regulation. Also, per Tennessee Code Section 67-2-121, it is a felony to make a false return with the intent to evade tax. Class E felonies carry 1-6 years in prison and a fine up to $3,000 and Class C misdemeanors carry up to 30 days in jail and a $50 fine.