



March 24, 2025

Karen M. Romano, Chief Counsel
Pennsylvania State System for Higher Education
2300 Vartan Way, Suite 207
Harrisburg, PA 17110

Re: Pennsylvania State System of Higher Education

Dear Ms. Romano:

The Department of Revenue, Office of Chief Counsel, has received your request for guidance. This guidance applies to the Pennsylvania State System of Higher Education (“PASSHE”) and is limited to the specific facts provided. The Department assumes that the facts provided are accurate for purposes of this guidance and reserves the right to verify their accuracy upon future tax review or audit. The guidance provided is subject to any statutory or regulatory change, court decision providing an interpretation different from the Department’s position, or rescission of this guidance by the Department.

ISSUE:

1. Whether universities overseen by PASSHE are exempt from sales tax as instrumentalities of the Commonwealth?
2. Whether universities overseen by PASSHE are required to provide an exemption number on exemption certificates when seeking sales tax exemption?

CONCLUSION:

As instrumentalities of the Commonwealth, sales of tangible personal property or services to the universities overseen by PASSHE are not subject to sales tax in the Commonwealth. As instrumentalities of the Commonwealth, universities overseen by PASSHE would not have and are not required to provide an exemption number when seeking sales tax exemption on an exemption certificate.

DISCUSSION:

The Tax Reform Code of 1971, as amended, (“The Code”) imposes a tax upon each separate sale at retail or use of tangible personal property (or certain enumerated services) within this Commonwealth in the amount of six percent of the purchase price. See 72 P.S. § 7202. However, sales of tangible personal property or services to the Commonwealth, or its instrumentalities or political subdivisions, are not taxable. See 72 P.S. § 7204(12); 61 Pa. Code § 32.23(a). By its

establishment, PASSHE, as well as the universities overseen by PASSHE, are considered instrumentalities of the Commonwealth. *See* 24 P.S. § 20-2002-A. These universities include the following:

1. Cheyney University;
2. Commonwealth University of Pennsylvania;
3. East Stroudsburg University;
4. Indiana University of Pennsylvania;
5. Kutztown University;
6. Millersville University;
7. Pennsylvania Western University
8. Shippensburg University;
9. Slippery Rock University; and
10. West Chester University.

See 24 P.S. § 20-2002-A(a)(1)-(14). As such, the universities overseen by PASSHE are exempt from sales tax on the sale at retail or use of tangible personal property (or certain enumerated services) within this Commonwealth.

Additionally, the universities overseen by PASSHE, as instrumentalities of the Commonwealth, would not have and are not required to provide an exemption number when providing an exemption certificate.

However, sales to individual employees at the universities overseen by PASSHE remain taxable. *See* 61 Pa. Code § 32.23(a). Transactions are exempt only when the sale is made and invoiced directly to PASSHE or the universities overseen by PASSHE. *See* 61 *id.* Further, the sale to or use of tangible personal property by construction contractors in the construction, reconstruction, remodeling, repair, and maintenance of real estate, including buildings, roads, structures, and bridges for or on behalf of PASSHE or the universities overseen by PASSHE are subject to tax. *See* 61 Pa. Code § 32.23(b).

I hope this guidance sufficiently addresses your questions on behalf of the Taxpayer.

Sincerely,

Nathaniel D. Schmieg

Nathaniel Schmieg
Counsel

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