

# Sales and Use Tax

## Introduction

### Overview

These guidelines outline current California law on sales tax applying to **sales by** the University and sales and use tax applying to **purchases by** the University. The guidelines are highlights of frequent University questions; they are not a full representation of sales and use tax law. California sales and use tax regulations can be found at <http://www.boe.ca.gov/sutax/staxregs.htm>

Topics covered are:

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### Tax Rate

The current tax rate for Santa Clara County is 8.75% of the price of the item(s) sold. This is the combined state, county and city sales and use tax rate of 7.5% plus one 1.25% district taxes in effect for this county.

### Reminder

All sales made to Stanford Hospital and Clinics, Lucile Salter Packard Children's Hospital at Stanford, ASSU and other separate corporate entities are taxable. This includes sales made by schools, service centers, and auxiliaries. When using the Project- Task Award numbers for separate entities or Hospital accounts, appropriate taxes apply.

# 1. Purchases by Stanford Subject to Sales or Use Tax

## Sales and Use Tax Defined

California (state) **sales** tax is the tax imposed upon retailers, engaged in business in California, for the privilege of selling tangible personal property (and some services in conjunction with the sale of such property) at retail to individuals and institutions using that property within California. In Santa Clara County the combined total of state, county, city and district tax is 8.75%. Since the liability for the **sales** tax falls entirely upon the seller, Stanford is not required to self-assess **sales tax** on its purchases. A sale is subject to the combined **sales** tax if the property is in the vendor's possession within California and the district prior to delivery to Stanford or if a title clause provides for transfer of title within the district for property originating out-of-state.

**Use** tax is tax imposed upon the storage, use, or other consumption in California of tangible personal property purchased or leased through a retailer which is not subject to sales tax. Purchases by Stanford, where the property leaves the possession of the seller or title to the property transfers to Stanford at a point out-of-state, are subject to **use** tax, not sales tax. Failure of a vendor to collect the **use** tax does not relieve Stanford of the self-assessment responsibility.

Where property, subject to **use** tax, is purchased for use in Santa Clara County, through a combination of payment of tax to a registered vendor or self-assessment of the tax, Stanford must extinguish its total tax liability at 8.75%. If the property is purchased and used in another county with a lower combined rate, that lower rate applies.

Where property, subject to state, county and city **sales** tax, is purchased outside of Santa Clara County but within California for use in Santa Clara County, Stanford must self-assess use tax up to a total of 8.75% but is not required to self-assess any state, county or city **sales** tax due under the transaction. If the property is purchased and used in another county with a lower combined rate, that lower rate applies.

A purchase remains subject to California **use** tax if it is determined that the property was purchased for use in this state, even if the first functional use was outside of the state. (Note: Out-of-state use exceeding 90 days is accepted as proof of an intent that the property was not purchased for use in California.)

<b>Example:</b> \$100 widget purchased in Siskiyou County for use in Santa Clara County	\$ 100.00
Sales tax @ 7.5% (Siskiyou County rate)	+ 7.50
Total sale price	<u>\$ 107.50</u>
	8.75%
Difference between Santa Clara County rate and Siskiyou County rate	<u>- 7.50%</u>
	<u>1.25%</u>
	\$ 100.00
	x 1.25%
Use tax owed	<u>\$ 1.25</u>

**Tip:** For information on purchases under Federal grants or contracts, see [page 17](#).

## 1. Purchases by Stanford Subject to Sales or Use Tax (continued)

### Determination of Tax Rate

The sales tax rate charged on the purchase price depends on where the product was shipped or sold. If the product was shipped, the destination point determines the tax rate. This remains true even if that product is later used in another location. For example, if we purchase an item and have it delivered to the Stanford campus, we are liable for the Santa Clara County tax rate of 8.75% even if the item is later used in a lower tax area of California.

### Physical Presence

Although most of Stanford's purchases are consumed in Santa Clara County, there are other counties where Stanford has a physical presence and consumes tangible personal property. The counties where Stanford maintains a physical presence are Santa Clara, San Mateo, and Monterey. When Stanford consumes property in these counties, we are liable for correctly accruing and/or paying the sales and use tax rate applicable for those counties. For example, when property is purchased and consumed by Hopkins Marine Station located in Monterey County, we are liable for sales tax paid in the Pacific Grove tax rate of 8.5%.

**Tip:** For purchases by Stanford to be used or consumed out of California, see the information on interstate and foreign commerce on page 9.

Stanford also has a physical presence in the District of Columbia, which has issued to Stanford a certificate of exemption from their sales and use tax. Stanford qualifies for exemption as an educational institution in this case.

### Who Decides Tax Liability?

**Sales Tax** When a department makes a purchase, they are responsible for deciding whether the item is taxable and coding the applicable purchase order or requisition form used correctly.

**Use Tax** Accounts Payable calculates use tax and charges departments.

### Sales and Use Tax Exemptions

The basic rule is that all purchases of tangible personal property are taxable unless specifically exempted. The following list is to help you determine the taxability of your purchases; it is **not** a full representation of sales and use tax law. The numbers in brackets refer to paragraphs in the CCH State Tax Reporter.

### Purchases with Federal Government Funds

In circumstances where the Federal government retains title to the item being purchased, the purchase is exempt from California sales tax. For more information, see page Reg. 1614 at <http://www.boe.ca.gov/sutax/staxregs.htm>.

# 1. Purchases by Stanford Subject to Sales or Use Tax (continued)

**Exempt Items of Tangible Personal Property**

Items of tangible personal property qualifying for exemption from sales and use tax are, in alphabetical order:

<b>Art Works</b>	Original works of art that become a part of the permanent collection of a museum, for display to the public.
<b>Custom Computer Programs</b>	<p>Those prepared to the special order of the customer other than basic operational programs. Included as exempt are services represented by <b>separately</b> stated charges for modification to an existing prewritten program (the exemption applies only to the extent of the modification).</p> <p><b>NOTE:</b> "Canned" or prewritten computer programs held for general or repeated sale or lease are not exempt. However, separately billed computer software delivered through the internet where no tangible property changes hands is exempt. Maintenance contracts for custom programs are generally nontaxable as the party providing the maintenance is typically required to make custom modifications. Maintenance contracts for canned programs are taxable as the vendor typically provides updates or revisions to the program completely replacing the old program.</p>
<b>Direct Mail Advertising</b>	<p>Catalogs, letters, circulars, brochures, and pamphlets that consist substantially of printed sales messages for goods and services are exempt from sales and use tax if the advertising material is:</p> <ol style="list-style-type: none"> <li>1) printed to the special order of the purchaser,</li> <li>2) mailed or delivered by the seller, the seller's agent, or a mailing house, acting as the agent for the purchaser, through the U.S. Postal Service or by common carrier,</li> </ol> <p><b>and</b></p> <ol style="list-style-type: none"> <li>3) delivered to any person other than the purchaser at no cost to that person who becomes the owner of the material.</li> </ol> <p><b>NOTE:</b> If the materials purchased by Stanford are delivered to <b>Stanford</b>, the transaction becomes taxable. The term "printed sales message" <b>does not</b> include campaign literature and other fund-raising materials.</p>

## 1. Purchases by Stanford Subject to Sales or Use Tax (continued)

### Exempt Items of Tangible Personal Property (continued)

**Food Products** In general, food products are exempt. The exemption extends to most of the common food products purchased at retail by consumers but excludes alcoholic or carbonated beverages, dietary supplements and food adjuncts, meals served for consumption in or on the seller's premises, hot prepared foods, and food served at places charging admission.

**NOTE:** Exempt food products also include gum, candy, confectionery, bottled water, and various snack foods.

**NOTE:** An exemption is provided for meals served to students by schools or student organizations (this does not include sales through vending machines or in places that charge admission).

## 1. Purchases by Stanford Subject to Sales or Use Tax (continued)

**Exempt Items of Tangible Personal Property (continued)**

<b>Periodicals</b>	<p><b>NOTE:</b> Periodicals issued at least four, but not more than 60 times per year, <b>sold by subscription</b> and delivered by mail or common carrier are exempt from sales and use tax. Periodicals purchased by means other than subscription continue to be taxable.</p> <p>For purposes of this exemption, the term "periodical" is defined as any publication issued at regular intervals of no fewer than 4 or more than 60 times each year that covers topics of interest to the general public or an identifiable group and that demonstrates continuity of literary character and similarity in subject matter, style and format.</p>
<b>Prescription Medicines</b>	<p>Medicines are exempt if:</p> <ol style="list-style-type: none"> <li>1) prescribed for treatment of human beings and dispensed on prescription by a registered pharmacist;</li> <li>2) furnished by or sold to a licensed physician and surgeon, podiatrist, or dentist for patient treatment;</li> <li>3) furnished by a health facility pursuant to the order of a licensed physician or,</li> <li>4) furnished by a medical facility or clinic operated by this state or any political subdivision or municipal corporation.</li> </ol>
<b>Resale Items</b>	<p>Property purchased for subsequent sale by Stanford and property purchased that will become a component part of such property is exempt. However, sales tax must be collected on the price of the property when it is sold. If the property is used before it is resold, the purchaser becomes liable for use tax.</p>
<b>Telephone Lines</b>	<p>Telephone and telegraph lines, electrical transmission and distribution lines, and the poles, towers, or conduit by which they are supported or in which they are contained, are exempt when sold in place.</p>

## 1. Purchases by Stanford Subject to Sales or Use Tax (continued)

### Exemption Repealed

<b>Newspapers and Periodicals</b>	<b>NOTE:</b>	The general exemption for newspapers and periodicals was repealed effective July 15, 1991. Note: Materials which are physically incorporated into newspapers and periodicals (e.g., paper and ink) may be purchased for resale if the publication is resold
	<b>NOTE:</b>	Effective October 1, 1991, the sales and use tax exemption has been restored for newspapers and periodicals distributed free of charge. Certain newspapers and periodicals published or purchased by qualified nonprofit and tax-exempt organizations <b>may</b> also be exempt.

### Exempt Service Charges

<b>Labor</b>	<b>Installation</b>	Labor or service charges for installing or applying a product that is sold are not taxable.
	<b>Repair</b>	Labor charges to repair a product to perform its original function are not taxable.
	<b>NOTE:</b>	Materials used in the repair process are subject to tax (payable by repairer or customer). If the retail value of parts and materials used is over 10% of the total charge, the invoice should be itemized to state separately the charges for labor and parts. If not itemized, the state sales tax auditor has the authority to determine the value of the parts and materials.
	<b>NOTE:</b>	Improving or changing a product's function constitutes fabrication which is taxable.
<b>Service</b>		The sale of services where no tangible personal property is transferred, or where the transfer of property is incidental, is exempt.
<b>Transportation Charges</b>		Separately stated charges for transportation of property from the retailer <b>directly</b> to Stanford are not subject to tax if the property is transported by common carrier and the amount charged is the cost of the transportation.

## 1. Purchases by Stanford Subject to Sales or Use Tax (continued)

<b>Purchases from Governments</b>	<b>U.S. Govt</b>	Property purchased from the U.S. Government, or any agency or instrumentality thereof, is exempt except when property has been declared "surplus property."
	<b>State Govts</b>	Purchases from state governmental entities, other than California state and local government entities, are exempt.
	<b>Foreign Govts</b>	Purchases from foreign governments are not subject to sales or use tax. (Purchases from foreign companies are treated the same as those from U.S. companies.)
<b>Special Exemption Situations</b>	<b>Interstate and Foreign Commerce</b>	Goods to be used outside of California are nontaxable if the goods purchased are required to be shipped, and are shipped to an out-of-state destination. Delivery must be made by the retailer's own facilities or by a common or contract carrier, a customs broker or forwarding agent. If the goods purchased by Stanford are delivered in California, the transaction becomes taxable even if the goods are intended for out-of-state use and are actually transported outside the state later.  <b>NOTE:</b> The above applies to purchases subject to sales tax only.
	<b>Occasional Sales</b>	Purchases from persons not engaged in a business requiring a seller's permit are exempt. A person is not considered engaged in business if no more than two sales for substantial amounts are made within a twelve month period or if a person does not make substantial amounts of small sales. Please contact Disbursements to obtain appropriate forms to document a tax-exempt occasional sale.

### **Purchases from Another County**

Accounting is complicated for purchases across county lines, since rates in other counties vary from 7.5% to 10%. The total cost of the product per the invoice may be less than the amount charged on the monthly expenditure statement because Accounts Payable has applied a use tax to make up the difference.



## 1. Purchases by Stanford Subject to Sales or Use Tax (continued)

### Questions

Contact the following offices for answers to questions on these subjects:

<b>Goods and Services</b>	<a href="#">Financial Support Center</a> or 1-650-723-2772
<b>Equipment</b> (US Gov't or SU Title & Ownership)	<a href="#">Property Management Office</a> or 1- 650-723-2291
<b>University Policy</b>	<a href="#">Tax Director</a> or 1-650-725-1732

## 2. Sales by Stanford Subject to Sales Tax

### Overview

Stanford is required by law to pay sales tax measured by its gross receipts from the sale of taxable property in the state. By contract or agreement, every effort should be made to cause the purchaser to be bound contractually to reimburse Stanford for this tax cost.

### Calculation When Price Excludes Tax

When the tax is not included in the price of the product being sold, compute the 8.75% tax by multiplying the total amount received from the sale by 0.0875

<b>Example:</b>	List price of class notes (excl. tax) is \$5.00	\$ 5.00
		<u>x 0.0875</u>
	Sales tax (@ 8.75%)	<u>\$ 0.44</u>
		\$ 5.00
		<u>+ 0.44</u>
	Total price charged	<u>\$ 5.44</u>

### Calculation When Price Includes Tax

When the tax is included in the price of the product being sold, you can figure just the price of the product by dividing the total amount received from the sale by one plus the applicable tax rate. By subtracting this figure from the total amount, you can calculate the tax paid.

<b>Example:</b>	Dept. charges \$5.00 for class notes	\$ 5.00
	Divide by one plus tax rate	<u>1.0875</u>
	Portion of \$5.00 that is dept. income	<u>\$ 4.60</u>
		\$ 5.00
		<u>- 4.60</u>
	Portion of \$5.00 that is sales tax (@8.625%)	<u>\$ 0.40</u>

**NOTE:** If the applicable tax rate is 7.5%, you would divide the total amount by 1.075.

An alternative method to compute the tax when it is included in the price of the product being sold, is to multiply the amount received from the sale by a factor. The factor is calculated by dividing the applicable tax rate by one plus the tax rate. For example, if the tax rate is 8.75%, the factor would be  $.0875/1.0875 = 0.08046$ .

<b>Example:</b>	Dept. charges \$5.00 for class notes	\$ 5.00
		<u>x 0.08046</u>
	Portion of \$5.00 that is sales tax (@ 8.75%)	<u>\$ 0.40</u>
		\$ 5.00
		<u>- 0.40</u>
	Portion of \$5.00 that is dept. income	<u>\$ 4.60</u>

## 2. Sales by Stanford Subject to Sales Tax (continued)

### Reporting Procedure

When you send the sale proceeds to the Cashier for deposit in your Project Task Award (PTA) indicate what kind of items were sold, and the amount of tax included in your deposit. The Cashier deposits the tax money in the appropriate activity/account and credits the balance of your deposit to the PTA you have designated. If the sale is nontaxable, indicate the reason on the transmittal and do not include sales tax. The Controller's Office handles the preparation of all necessary sales tax returns.

### Determination of Tax Rate

The tax rate charged on the sales price depends on where the product was shipped or sold. If the product was shipped by the University, the destination point determines the tax rate. If the product was not shipped, the location where it was sold is its destination. The location where the product was sold, or shipped to, also determines the activity/account to which the sales tax should be remitted. The correlations are shown in the following chart:

County	Rate	Project - Fund - Object - Org
Santa Clara	8.75%	1056607-AABAA-22140-ZZZZ
San Mateo	9%	1056607-AABAA-22150-ZZZZ
Monterey (Pacific Grove)	8.5%	1056607-AABAA-22160-ZZZZ
All other California	7.5%	1056607-AABAA-22170-ZZZZ

### Physical Presence

When making a sale in a county where Stanford has a physical presence (Santa Clara, San Mateo, and Monterey counties) we need to collect the sum of the statewide base rate of 7.5%, plus any district taxes in effect (1.25% more in Santa Clara county and 1.5% more in San Mateo county). The current tax rates for counties where we maintain a physical presence are shown in the above chart.

In counties where we have no physical presence, we need only collect the current base rate of 7.5%. The law does not require us to collect district taxes where we have no physical presence. Stanford also has a physical presence in the District of Columbia, which has issued to Stanford a certificate of exemption from their sales and use tax on sales by Stanford. Stanford qualifies for exemption as an educational institution in both cases.

## 2. Sales by Stanford Subject to Sales Tax (continued)

### Stanford Policy

Two important University policies regarding sales by Stanford are:

- Use of University property for personal purposes or personal gain is prohibited. (See [Admin Guide Policy 2.4.5](#))
- It is Stanford policy not to engage in unrelated business activities, defined roughly as income-generating activities which are unrelated in a programmatic sense to the University's missions of teaching and research. (See [Admin Guide Policy 1.5.3](#))

### Purchasers Exempt from Paying Sales Tax

All purchasers, including the State of California and its local agencies, are taxable, except for:

<b>Outside California</b>	<p>Property sold for use solely outside this state is exempt from sales tax if, pursuant to the contract of sale, it is required to be shipped and is shipped to a point outside this state by Stanford by means of facilities operated by Stanford, or delivery by Stanford to a carrier, customs broker or forwarding agent, whether hired by the purchaser or not, for shipment to such out-of-state point.</p> <p><b>NOTE:</b> The state will require evidence of shipment of the property out-of-state. Such evidence is ideally a bill of lading from the carrier showing an out-of-state destination.</p> <p><b>NOTE:</b> Tax applies to all sales of property <b>delivered</b> to a buyer or his representative or agent <b>in California</b> whether or not the articles are intended for out-of-state use and whether or not the property is actually transported outside the state later.</p>
<b>U.S. Govt</b>	<p>Sales to the United States or its incorporated agencies and instrumentalities are exempt. (Written notification from companies functioning as agents of the U.S. Government is required, should they claim to be exempt.)</p>

## 2. Sales by Stanford Subject to Sales Tax (continued)

### Purchasers Exempt from Paying Sales Tax (continued)

<b>Purchases for Resale</b>	<p>The purchaser must have a resale certificate indicating the general character of the item to be purchased. Any document, such as a letter or purchase order, provided by the purchaser in a timely manner will be regarded as a resale certificate if it contains the signature of the purchaser or its agent or employee, the date, the purchaser's name and address, their seller's permit number or a statement why a permit is unnecessary and a statement that the property is purchased for resale. The certificate or other evidence should be kept as documentation as it relieves Stanford from sales tax liability.</p> <p><b>NOTE:</b> Purchase orders containing both taxable and exempt items must identify each.</p>
<b>Inter-Dept. Transfers</b>	<p>Purchases (transfers) by one University department from another are exempt from sales tax.</p> <p><b>NOTE:</b> Sales to the Stanford Hospital &amp; Clinics, Lucile Salter Packard Children's Hospital at Stanford, ASSU, and other separate corporate entities are taxable.</p>
<b>State Govts</b>	<p>For sales to state government entities, other than California state and local government entities, follow the rules for Purchasers Outside California on page 13.</p>
<b>Foreign Govts</b>	<p>For sales to foreign governments, follow the rules for Purchasers Outside California on page 13. If the purchase is made by a foreign consular officer, employee, or by a member of their families, see "Foreign Consuls" below.</p> <p><b>NOTE:</b> Purchases made on behalf of an individual (for example, an embassy paying a student's book bill) would be subject to tax.</p>
<b>Foreign Consuls</b>	<p>Foreign consular officers, employees, or members of their families holding a Tax Exemption Card issued by the U.S. Department of State are exempt from sales tax. The Tax Exemption Card specifies the extent of the exemption.</p> <p>Invoices or other written evidence of sale must be retained to support any exemptions. The invoices should show the name of the purchaser, the name of the mission, the tax exemption number, the expiration date of the Tax Exemption Card, and the minimum level of exemption specified on the Tax Exemption Card.</p>

## 2. Sales by Stanford Subject to Sales Tax (continued)

**Merchandise  
Exempt from  
Sales Tax**

Sales of the following kinds of merchandise are not taxable:

<b>Photocopies</b>	Photocopies (or any other tangible personal property) sold through vending machines at a price of \$0.15 or less. (Sales using a scan card are taxable.)
<b>Yearbooks</b>	Yearbooks sold by Stanford to students. [60-427]
<b>Meals</b>	<p>Stanford-produced meals sold to Stanford students or their guests for whom the student pays. The exemption does not apply when the food products are sold for consumption within a place to which admission is charged or to sales of food products through vending machines. Separate purchase of carbonated beverages by students is not exempt from tax. Sale of alcoholic beverages is always subject to tax.</p> <p><b>NOTE:</b> Cold “to go” foods, and things such as coffee and donuts “to go” are exempt.</p>
<b>Used Property Transfer</b>	<p>The transfer of used University property to the Surplus Property Sales Office is not a sale. The Surplus Property Sales Office is responsible for collecting any applicable tax from the outside purchaser when the property is sold.</p> <p><b>POLICY</b> The sale of tangible University property is more fully covered in <a href="#">Admin Guide Policy 5.2.4</a>, Surplus Property Sales.</p> <p>Property sold between departments is a transfer of funds. See Property Management Manual.</p>
<b>Custom Computer Programs</b>	Custom computer programs prepared to the special order of the customer other than basic operational programs. Also exempt are services represented by <b>separately</b> stated charges for modification and the transmission of software solely through the internet to an existing prewritten program (the exemption applies only to the extent of the modification).
<b>Periodicals Sold By Subscription</b>	<p><b>NOTE:</b> As of November 1, 1992, periodicals issued at least 4 times and no more than 60 times that are <b>sold by subscription</b> and delivered by mail or common carrier are exempt from sales and use tax. Periodicals purchased by means other than subscription continue to be taxable.</p> <p><b>NOTE:</b> The general exemption for newspapers and periodicals was repealed effective July 15, 1991. Note: Materials which are physically incorporated into newspapers and periodicals (e.g., paper and ink) may be purchased for resale if the publication is resold.</p>

## 2. Sales by Stanford Subject to Sales Tax (continued)

<p><b>Free Newspapers and Periodicals</b></p>	<p>Effective October 1, 1991, the sales and use tax exemption has been restored for newspapers and periodicals distributed free of charge. Certain newspapers and periodicals published or purchased by qualified nonprofit and tax-exempt organizations <b>may</b> also be exempt. Contact the Tax Director at 5-1732 for specific details.</p>
<p><b>Admission</b></p>	<p>Admission charges for plays, concerts, movies, sports events, golf courses, etc., where no food or meals are served or, if served, are charged for and taxed separately.</p>

### Taxable Sales

The following sales **are** taxable (unless sold for resale):

- Sales to the Stanford Hospital & Clinics, Lucile Salter Packard Children's Hospital at Stanford, ASSU and other separate corporate entities.
- Books, syllabi, publications, newspapers and periodicals. (The blanket exemption for newspapers and periodicals was repealed effective July 15, 1991. See page 15 & 16 for exception).
- "Canned" or prewritten computer programs.
- Sale of used equipment or supplies. (only allowed through Surplus Sales to entities outside the University)
- Motion pictures and videotapes.
- Photographs.
- Phonograph records.
- Photocopies (or any other tangible personal property) sold through vending machines at a price greater than \$0.15.

### Records Required

According to the State Board of Equalization, taxpayers should maintain records showing gross receipts from all sales of taxable and nontaxable personal property, all exemptions claimed, and the total purchase price of all property purchased for sale, consumption, or lease in the state. When you make an exempt sale, it is important to remember that the burden of proving that a sale is exempt is upon Stanford. Documentation should be kept that clearly indicates the reason why the transaction was exempt from sales tax. This documentation should include the resale certificate if applicable.

### Record Retention

Per state regulation, all tax records must be kept for a minimum of four years and must be available for examination. However, given the fact that most three year audit periods remain open longer than a year to allow time to respond to the State Board of Equalization (SBE) audit findings, a retention period of not less than six years is suggested. In situations where we are in dispute with the SBE and may need records kept longer, the Controller's Office will notify you.

## 2. Sales by Stanford Subject to Sales Tax (continued)

### Questions

Contact the following offices for answers to questions on these subjects:

<b>University Policy</b>	<a href="#">Tax Director</a> or 1-650-725-1732
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### 3. Sales and Use Tax on Purchases by Stanford with Federal Government Funds

#### Overview

This guideline outlines current California law and University procedures with respect to sales and use tax applying to purchases by Stanford under a United States government grant, contract, or cooperative agreement. It also applies to subcontracts with nongovernment entities where the prime contract/grant is federally funded. It sets forth the strict requirements for sales tax exemption on certain qualifying purchases where the federal government takes title at the time of purchase.

**NOTE:** Before you read this guideline, read sections 1 and 2, which explain the basic requirements of sales and use tax application.

#### Relation of Title Vesting to Tax Exemption

If, by terms of the contract, grant, cooperative agreement or subcontract, title to property being purchased specifically vests in the federal government before its first use, the purchase is exempt from sales and use tax. This is so even if title later passes to Stanford.

In all situations, the specific vesting terms of the agreement will govern. Within the same agreement certain categories of property may be taxable and other property nontaxable. The agreement may also set dollar thresholds above which title vests with the government, and below which title vests with Stanford.

**Example:** A title vesting clause could read: "The Federal Government will take title to all equipment above \$5,000 in value." In this case, only purchases of equipment of \$5,000 or more would be exempt from sales tax. No other purchases of equipment, materials or supplies would qualify for this exemption in the sales tax law.

**Exception:** When giving prior approval for an equipment purchase not included in the original award, an agency may request that title vest in the government, even when it is under the vesting threshold for the award or where the title vesting clause in the award grants title to Stanford. See Procedure for Specifically Vested Items on page 20.

#### Govt. Contract Clause

When Stanford is the prime contractor on a Department of Defense cost-reimbursement contract, the Federal Acquisition Regulations (FAR) clause that governs title vesting is most often FAR 52-245-5, Alternate I. In this clause, effective January 1986, Stanford takes title to equipment and materials costing less than \$5,000, provided the contracting officer's approval is obtained. The government takes title to tangible personal property costing \$5,000 or more provided the cost is allowable under the grant or contract.

**NOTE:** Special provisions may modify the general terms and conditions to title. If you have questions, call the Property Management Office or your OSR representative.

### 3. Sales and Use Tax on Purchases by Stanford with Federal Government Funds (continued)

**Federal Govt. Subcontract Clause**

When Stanford is a subcontractor on a government prime contract with a for-profit organization, the title vesting clause FAR 52-245-5 without Alternate I is often incorporated. On these subcontracts the government takes title to all equipment and materials.

**Federal Govt. Grants**

It is rare for a government grant to have a clause where the government directly retains title to either equipment or materials, unless they have been furnished by the government to Stanford.

**Tax Payable When Title Vests with Other Than Govt.**

If title to tangible personal property (equipment, materials and supplies) vests in Stanford University or a nongovernment sponsor at the time of purchase, the purchase is taxable.

**Responsibility for Determining Taxability**

Departments are responsible for accurately entering taxability information on purchase requisitions.

**NOTE:** If some items are taxable and some nontaxable, **put them on separate requisitions.**

**Vesting Information in Project Documents**

- The contract, grant, cooperative agreement or subcontract includes information on how title to equipment and expendables is to vest.
- Recently issued award notices include vesting information. However, the award itself is the more accurate source.

**NEED HELP?** Contact the [Office of Sponsored Research](#) or [Property Management Office](#) for help in finding title clauses.

### 3. Sales and Use Tax on Purchases by Stanford with Federal Government Funds (continued)

**Procedure for Tax-Exempt Fabrication Projects**

If title to a fabrication project is to vest in the government, the department must use the following procedure to ensure that tax is not charged:

Step	Action
1	Before purchasing fabrication components, obtain a fabrication number from the Property Management Office.
2	Enter the fabrication number on all purchase requisitions for components.
3	Enter Exempt-Non-SU in the Tax Code Field on the online requisition
4	Use Expenditure Type 55095 on all purchase requisitions for components.

**Procedure for Specifically Vested Items**

Title to a specific item of equipment may vest in the federal government in the following situations:

- The award specifies that title to a certain item vests in the federal government.
- When giving prior approval for a purchase not included in the original award, the agency requests that title should vest in the government. Agencies such as NASA or JPL may require prior approval even if the property is already budgeted.

For both of these situations, use the following procedure to ensure that tax is not charged:

Step	Action
1	Enter N in the Tax Acct. field on the online requisition.
2	Enter vesting information in the Remarks section of the purchase requisition.
3	If prior approval was needed, ensure the department financial contact has obtained and filed the approval in the contract file.

### 3. Sales and Use Tax on Purchases by Stanford With Federal Government Funds (continued)

**Questions**

Contact the following offices for answers to questions on these subjects:

<b>Tax Status of Specific Agreements</b>	<a href="#">Office of Sponsored Research</a> or 1-650-725-1733
<b>Title Clause in Fabrication Projects</b>	<a href="#">Property Management Office</a> or 1-650-723-2294
<b>University Policy</b>	<a href="#">Tax Director</a> or 1-650-725-1732