

Answer Key
Sales and Use Tax – Part I
Sections I & J

1. The local Chamber of Commerce is not a unit of local government as they are not considered a special district as defined in **KRS 65.005**. A special district does include water districts, fire protection, or volunteer fire department districts and similar type operations which are authorized and regulated by statute and which provide government type services.

2. The first step in obtaining an exemption number involves filing of an application, **Revenue Form 51A125**, with the Sales and Use Tax Section of the Department of Revenue. Upon approval, an exemption authorization letter will be issued along with an exemption number.

3. The answer is c. In accordance with **KRS 139.485(3)(k)** and effective 7/1/04, **KRS 139.485(4)**, the term "food" as used in subsection 1 of **KRS 139.485** does not include food sold through vending machines. The only exception to the aforementioned is based on **KRS 139.470(6)**, which says gross receipts from sales of tangible personal property in portions of 50¢ or less through coin operated bulk vending machines are exempt from the sales and use tax.

4. In accordance with **Regulation 103 KAR 27:180, Section 4**, if the owner or operator of vending machines also places upon each machine a statement that the sales tax is included in the price of the property dispensed, he may compute his liability for the tax in the same manner as all other retailers who separately state the tax.

5. The answer is yes. In accordance with **Regulation 103 KAR 27:180, Section 1**, persons who own vending machines which dispense tangible personal property or operators of such machines under a lease or rental agreement must obtain a permit to engage in the business of selling tangible personal property and must report and pay to the Department the tax upon the gross receipts from the sales made through such machines. One permit is sufficient for all machines of one owner or operator.

6. See answer to question 4.

7. The food exemption enacted October 1, 1972 did not include food sold through vending machines. In accordance with **KRS 139.485(3)(k)** and effective 7/1/04, **KRS 139.485(4)**, the term "food" shall not include food sold through vending machines.
8. No. In accordance with **Regulation 103 KAR 30:235, Section 2**, the term "federal government" as used in the regulation means federal agencies, instrumentalities or corporations which are exempt from all state taxation under the federal constitution or statutes. Section 3 states that the exemption applies only to sales made directly to the federal government for use in the government function. In Section 5 of the Regulation, it is pointed out that an exemption may not be claimed by contractors purchasing property to be used in fulfilling contracts with the federal government. In this particular situation, the taxpayer is not an agency of the federal government and is not exempt from sales and use tax on the use of purchases of tangible personal property.
9. The answer is yes. As outlined in **Regulation 103 KAR 30:235**, the sales of utility services to the federal government have been taxed under policy since 1960 while all other sales to the federal government have been exempt. Consequently, the Department ceased taxing the federal government on utility services, effective 30 days following the effective date of the regulation, i.e., 8/6/77.
10. Prior to 7/15/88, the answer is no. In accordance with **KRS 139.470(7)** the governmental exemption is applicable only to sales made to any cabinet, department, bureau, commission, board or any other statutory or constitutional agency of the state and sales to counties, cities or special districts as defined in **KRS 65.005**. Consequently, governmental units outside Kentucky are not afforded the exemption. However, effective 7/15/88, **KRS 139.470** was amended to exempt gross receipts from sales to an out-of-state agency, organization or institution exempt from sales and use tax in its state of residence when that agency, organization or institution gives proof of its tax exempt status to the seller and the seller maintains a file of such proof.
11. State government is still required to collect tax on taxable sales. The exemption is for purchases only.