



# Legal Minute

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## What Nonprofits Need to Know about Purchasing and Operating a Vehicle for the Organization

### Is a Nonprofit Organization Exempt from Paying Tax on the Purchase of a Motor Vehicle?

#### Sales Taxes

A nonprofit is exempt from paying sales taxes on items purchased, leased, or rented that are related to the purpose of the organization. A nonprofit must provide the seller with a copy of the organization's sales and use tax-exemption certificate.

A company or individual may purchase a vehicle to donate to a nonprofit without paying sales tax by providing to the seller a donor's sales and use tax-exemption certificate (the back of Form 01-339, which can be found at [www.window.state.tx.us/taxinfo/taxforms/01-3392.pdf](http://www.window.state.tx.us/taxinfo/taxforms/01-3392.pdf)).

#### Motor Vehicle Taxes

Motor vehicle taxes are different from sales taxes in that nonprofits are not automatically exempted from paying motor vehicle taxes on the purchase of a motor vehicle. To qualify for an exemption, the organization must be exempted by a specific statute.

There are several instances in which a nonprofit organization's purchase of a motor vehicle may be exempted from motor vehicle taxes. The following categories are exempted by specific statutes:

- motor vehicles that will be modified for the transportation of or operation by orthopedically handicapped persons or a vehicle that is primarily driven by or used for the transportation of or operation by orthopedically handicapped persons;
- motor vehicles designed to carry six or more passengers sold to a church or religious society and used at least 80% of the vehicle's operating time for the purpose of providing transportation to and from church or religious services or meetings (not including vehicles registered as a passenger vehicle for which the primary use is personal or official needs or duties of a minister);
- motor vehicles that will be used as a fire truck or emergency medical services vehicle (as defined by the Health and Safety Code §7773.003) or any other motor vehicle used only for fire-fighting purposes or emergency medical services that is purchased by a volunteer fire department or a nonprofit emergency medical services provider that is exempt under I.R.C. §501(c)(3);
- motor vehicles purchased, used, or rented by a qualified residential child-care facility licensed under Chapter 42 of the Human Resources Code; and
- motor vehicles purchased or used by the American Red Cross, the Boy Scouts of America and the Girl Scouts of the USA.

## What Type of Automobile Insurance Coverage Does a Nonprofit Organization Need?

There are no special provisions for nonprofits seeking automobile insurance. A nonprofit must acquire automobile insurance just like other companies and individuals. Texas law requires all drivers to have auto liability insurance, and if a nonprofit still owes money on a vehicle, the lender will also require collision and comprehensive coverage. Texas law requires minimum coverage of \$20,000 per injured person, up to a total of \$40,000 for everyone hurt in an accident, and \$15,000 for property damage. This basic coverage is called 20/40/15 coverage. However, basic coverage might not be enough if you are held liable for an accident; this means the organization should consider purchasing coverage with higher limits.

Automobile insurance pays for damages, injuries, and other losses specifically covered by the policy. The policy should be read carefully to know exactly what it covers. Special attention should be paid to the exclusions section, which lists the items the policy does not cover. The front page of the policy is called the declarations page. It contains useful information such as the exact name of the insurance company, the policy number, and the amount of each type of coverage and deductible. All of this information can be found on the Texas Department of Insurance's webpage: [www.tdi.state.tx.us.com](http://www.tdi.state.tx.us.com).

Before purchasing a 15-passenger van, a nonprofit should check with an insurance agent to verify whether the organization will be able to obtain insurance coverage. Getting insurance coverage for this type of vehicle could prove difficult; many insurance companies no longer provide coverage for 15-passenger vans because of their high rollover rates.

## What Type of License Should a Vehicle Driver Hold?

All drivers that operate commercial vehicles will need commercial vehicles driver licenses. Commercial vehicles are vehicles designed to carry more than 15 persons, including the driver. In addition to taking the general knowledge test given to all Texas drivers, an operator of a commercial vehicle must take an appropriate skills test and could be required to take an additional knowledge test, if applicable. In addition to having a proper license (a commercial or chauffeur's license), the driver of a 15-passenger van should have training in driving both a fully loaded and unloaded 15-passenger van. For smaller vehicles, a driver should have a chauffeur's license.

## How Can a Nonprofit Keep Track of Its Employees' Driving Records?

When hiring an employee or using a volunteer whose job description includes the transportation of people, a nonprofit should complete a check of the driving records of that individual. The Texas Department of Public Safety provides a form, the DR-1 Form, which allows an entity, including a nonprofit, to check the driving record of an employee or volunteer ([www.txpds.state.tx.us/ftp/forms/dr-1.pdf](http://www.txpds.state.tx.us/ftp/forms/dr-1.pdf)). The forms must be resubmitted when the nonprofit conducts periodic follow-up checks on an employee's driving record. Personnel policies should require mandatory reporting of any motor vehicle accidents or moving violations whether at work or during personal time.

Nonprofits must protect the privacy of the information transmitted in the person's driving record. Texas law provides for the loss of a requesting organization's ability to receive future driving record information from the Texas Department of Public Safety if unauthorized disclosure occurs.

## Conclusion

Before a nonprofit purchases a vehicle, it should consider several things. First, the nonprofit needs to consider liability issues and whether it can provide adequate types and amounts of insurance to cover all risks. Secondly, the nonprofit should determine whether any specific motor vehicle tax exemptions apply. Finally, a nonprofit should insure that drivers are qualified and competent and institute policies and procedures to obtain and protect appropriate information.

For more information, see: [www.texasbar.org](http://www.texasbar.org) Legal Resource Library/Nonprofit Management/Risk Management for a Sample Permission Form and Sample Policy on 15-Passenger Vans.