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MEMBER, FIRST DISTRICT
STATE BOARD OF EQUALIZATION

Sales and Use Tax Requirements for Nonprofit and Exempt Charitable Organizations

The sales and use tax requirements for nonprofit and exempt charitable organizations engaging in sales, purchases, and fundraising can be confusing. Here are some general rules-of-thumb for when sales and use tax applies to your sales and purchases of tangible personal property and the resources available from the State Board of Equalization (BOE) to assist you in determining your sales and use tax requirements. For a more detailed discussion, see BOE Publication 18 [Nonprofit Organizations](#).

Q: How does the California Sales and Use Tax Law generally work for nonprofit organizations?

A: In California, sales tax applies to the sale of tangible personal property unless the sale is covered by a specific legal exemption or exclusion. Similarly, use tax applies to the ex-tax purchase (i.e., when no tax is paid) of tangible personal property that will be used, consumed, stored, or given away in this state unless the purchase is specifically exempt or excluded from tax. The state use tax is complementary to, and mutually exclusive of, the state sales tax.

The Sales and Use Tax Law provides no general statutory exemption from the sales or use tax merely because the seller or the purchaser is engaged in charitable activities, is a nonprofit organization, or enjoys certain privileges under property tax or income tax statutes. However, the current law is sprinkled with several narrow exemptions designed to assist specific kinds of nonprofit groups engaged in certain types of charitable activities.

Q: Does a nonprofit and exempt charitable organization need to get a seller's permit before making sales?

A: Generally yes. If the organization makes sales of tangible personal property that are subject to sales tax in California, it must obtain a seller's permit. You can obtain an application by visiting or calling one of the BOE local offices, or by downloading an [application](#) from the BOE website. Once completed, you may mail or hand-deliver the completed permit application to the BOE. The application is free, but BOE may require a security deposit to cover any unpaid taxes your organization might owe if it stops operating.

If the organization holds no more than three fundraising events with taxable sales in a given year, it may obtain a temporary seller's permit for each event. For holders of temporary seller's permits, the return and payment of tax are due on the last day of the month following the month in which the event is held. If the organization conducts more than three fundraising events each year, or if its taxable sales activities occur continuously, it should apply for a permanent seller's permit.

Q: If a nonprofit or exempt charitable organization purchases tangible personal property from a retailer registered with BOE, is the purchase exempt from sales tax?

A: Generally no, due to California's lack of a general sales tax exemption for purchases made by these organizations. Therefore, sellers generally owe sales tax on retail sales, and retailers can collect the sales tax reimbursement by agreement from the nonprofit or exempt charitable organization. However,

tangible personal property purchased by a nonprofit or exempt charitable organization for the purpose of resale may not be subject to sales tax under certain circumstances. See BOE Publication 42, [Resale Certificate Tips](#)), Publication 73, [Your California Seller's Permit](#), and Publication 103, [Sales for Resale](#) for requirements relating to resale.

Q: If a nonprofit or exempt charitable organization purchases tangible personal property ex-tax from an out-of-state retailer or other persons not required to hold a seller's permit, is the organization exempt from use tax for its own use, consumption, and storage of such property in California?

A: Generally no, due to California's lack of general use tax exemption for purchases made by these organizations when no use tax is collected at the time of purchase. For example, when a nonprofit or exempt charitable organization purchases supplies and office equipment from an out-of-state retailer for its own use in California, the nonprofit or exempt charitable organization is liable for use tax on the sales price paid for such those supplies and office equipment.

Q: If a nonprofit or exempt charitable organization purchases tangible personal property for resale, is the purchase exempt from sales tax?

A: Generally yes, and sellers can accept a valid resale certificate from a nonprofit or exempt organization to support the sale-for-resale exclusion. Note, however, the California Sales and Use Tax sometimes deems the nonprofit or exempt charitable organization to be a consumer even though the organization is purchasing tangible personal property for resale. As a result, the organization's initial purchase for resale is subject to the sales or tax, but the organization's later resale of such property will be exempt from the sales tax.

For example, the Sales and Use Tax Law deems nonprofit veterans' organization a consumer of U.S.A. flags it sells, where the profits are used solely and exclusively in furtherance of the purposes of the nonprofit organization.

Another example is a newly adopted exception, effective since March 2010, for nonprofit organizations selling certain promotional items to their own members. These nonprofit organizations are consumers when they purchase these items for resale without a mark up. For this and other limited exceptions, the tangible personal property is subject to tax when the nonprofit organization purchases them, but not when they are resold.

Q: What if the nonprofit or exempt charitable organization is purchasing new clothes for free distribution to individuals under the age of 18? Is such a purchase exempt from the sales or use tax?

A: Yes. The Sales and Use Tax Law provides a special sales and use tax exemption in this situation, provided the sale and purchase of children's new clothing are sold to a nonprofit organization that has exempt status under Section 23701d or 23701f of the Revenue and Taxation Code.

Q: How about a nonprofit or exempt charitable organization's sale of tangible personal property to raise funds to further the purpose of the organization? Is the organization required to collect and report sales tax?

A: Generally, yes, but the organization may collect reimbursement for the sales tax they owe from their customers and remit the amounts collected to the BOE. However, there are some special exemptions for sales of certain items by some organizations for certain specific purposes. For example, an exemption exists for sales of used clothing, household items, or other retail items by thrift stores operated for purposes of raising funds to provide medical, hospice, or social services for individuals with HIV or AIDS.

Note, however, the gifting of merchandise for a “true donation” (making a donation without expecting to receive merchandise of equal value in return) is not considered a sale. For example, if a member of your organization donates \$100 and receives a tote bag worth \$5, this is generally not a sale.

Q: How about a nonprofit organization that buys, makes, sells, or donates items to needy individuals to further the purpose of the organization? Is the organization exempt from tax?

A: Yes, there is a narrow sales and use tax exemption for nonprofit organizations engaged in the relief of poverty and distress of those individuals to whom items are sold or donated. Organizations claiming this exemption must have a seller's permit and all sales or donations must occur from a location qualified for the "welfare exemption" from property tax under Section 214 of the California Revenue and Taxation Code. To qualify for the welfare exemption, nonprofit organizations must apply for an Organizational Clearance Certificate (OCC) from the BOE's County-Assessed Property Tax Division.

The narrow exemption applies both to purchases of items for resale or donation. As noted above, true donations are not considered sales and not subject to tax. For tax not to apply under this exemption, either sales or donations must be made to carry out activities to relieve poverty or distress, e.g., discounted sales of merchandise to indigents. The nonprofit organization must also have made, prepared, or assembled the tangible personal property, although property picked up from various locations to be assembled for sale or donation qualifies as "assembly."

If you believe your organization's sales or purchases qualify as exempt from sales and use tax under this limited provision, you should write to the BOE and ask for a review of your eligibility. If BOE determines you qualify for this narrow exemption, you will receive a letter that verifies your exempt status. Requests for eligibility review should be sent to:

Compliance and Technology Section, MIC: 40
Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0040

Q: If a nonprofit or exempt charitable organization engages with a fundraising company to raise money or to purchase merchandise for the organization, what are the sales tax requirements for the organization?

A: Generally, your organization's members or representatives are considered agents of a fundraiser company when they solicit orders, collect payments, and distribute merchandise for the company, and thus your organization is not required to obtain a seller's permit for those activities. The fundraiser company is responsible for reporting the sales and paying any tax due, based on the retail selling price of the merchandise.

However, if, while working with a fundraiser company, your organization buys and sells items directly in the organization's own name for its own account, your organization will be considered a retailer and must obtain seller's permit. An exception exists if your organization is a qualifying PTA, Friends of the Library group, nonprofit parent cooperative nursery school, or qualified youth organization, and the profits from the sales are used exclusively in furtherance of the organization.

Available Resources

- **Obtaining a Seller's Permit:** You must submit an application for a permit. You can obtain an application by visiting or calling one of the BOE local offices, or by downloading application BOE-400-SPA CA [Seller's Permit Application](#) from the BOE website at www.boe.ca.gov.
- **Publications:** The following are free publications that are available at www.boe.ca.gov:
 - Publication 18, [Nonprofit Organizations](#)
 - Publication 42, [Resale Certificate Tips](#)
 - Publication 51, [Guide to Board of Equalization Services](#)
 - Publication 61, [Sales and Use Taxes: Exemptions and Exclusions](#)
 - Publication 71, [Sales and Use Tax Rate](#)
 - Publication 73, [Your California Seller's Permit](#)
 - Publication 103, [Sales for Resale](#)
 - Publication 110, [California Use Tax Basics](#)
 - Publication 149, [Property Tax Welfare Exemption](#)
 - BOE-230 (7-02), [General Resale Certificate](#)
- **For Further Information:** To obtain further information, please call the BOE Information Center at: 1-800-400-7115, or visit www.boe.ca.gov.
- **Free Classes:** Several [local BOE offices](#) offer [basic sales and use tax classes](#).

Betty T. Yee represents the First Equalization District, which is comprised of 21 counties in Northern and Central California. The Board hears and decides income, business, and special tax appeals matters and administers a variety of tax and fee programs.