



## SALES AND USE TAX FOR NONPROFIT ORGANIZATIONS

*This publication explains state and municipal sales and use tax requirements for nonprofit organizations. This publication provides general information. It is not a substitute for tax laws or regulations.*

### NOT ALL NONPROFIT ORGANIZATIONS ARE EXEMPT FROM SALES AND USE TAX

- An organization that is a nonprofit organization exempt from payment of federal income tax is not automatically exempt from sales and use taxes. The nonprofit organization must meet very specific requirements contained in the sales and use tax laws and legislative regulations.
- A nonprofit organization that does not meet these requirements must pay tax on its purchases and collect and remit tax on its sales (unless the purchases or sales are exempt under some other provision of the law).
- The same rule applies to municipal sales and use tax when applicable. For a list of municipalities, effective dates and rates, visit our website at:

<https://tax.wv.gov/Business/SalesAndUseTax/Pages/SalesAndUseTax.aspx>

- All sales are presumed to be taxable. It is the responsibility of both the person making a purchase and the person making a sale to prove that the purchase or sale is for an exempt purpose.
- All purchases of tangible personal property and service are presumed to be taxable unless an exemption applies.
- Nonprofit school support organizations raising revenue for the functions and activities of the school should see [TSD-312](#) or [TSD-312A](#).

### PURCHASES BY CERTAIN NONPROFIT ORGANIZATIONS

- Certain nonprofit organizations purchasing tangible personal property or taxable services to be used or consumed in the organization's nonprofit activities are exempt from sales tax or use tax on those purchases. To qualify for this exemption the organization must meet ALL FOUR of the following conditions:
  - (1) The organization must have a current business registration certificate from the State Tax Department; AND
  - (2) The organization must be exempt from paying federal income tax under § 501(c)(3) or § 501(c)(4) of the Internal Revenue Code; AND
  - (3) The organization must be ONE of the following:
    - A church or a convention or association of churches as defined in section 170 of the Internal Revenue Code of 1986, as amended; OR
    - An elementary or secondary school that maintains a regular faculty and curriculum and has a regularly enrolled body of pupils or students in attendance at the place in this state where its educational activities are regularly carried on; OR
    - An organization that receives more than one-half of its support from any combination of gifts, grants, direct or indirect charitable contributions or membership fees; OR
    - An organization that has no paid employees and its gross income from fund raisers, less reasonable and necessary expenses incurred to raise such gross income (or the tangible personal property or services purchased with such net income) is donated to an organization that is exempt from income taxes under § 501(c)(3) or § 501(c)(4) of the Internal Revenue Code; OR
    - A youth organization, such as the Girl Scouts of the United States of America, the Boy Scouts of America, or the YMCA Indian Guide/Princess Program, and the local affiliates thereof, that is organized and operated exclusively for charitable purposes and has as its primary purpose the nonsectarian character development and citizenship training of its members; AND
  - (4) The items or services purchased by the organization will be used or consumed in the activities for which the organization qualifies for exemption from federal income taxes.

- Some important things to remember about the sales tax exemption for purchases by nonprofit organizations are:
  - This exemption does not apply to purchases of gasoline and special fuels.
  - This exemption does not apply to purchases of items or services used or consumed in generating unrelated business income by the nonprofit organization.
  - To qualify for this exemption, the organization must have a current business registration certificate. To register a business with the Tax Department, complete an “Application for Registration Certificate” ([Form WV/BUS APP](#)).
  - If the nonprofit organization has received a determination from the Internal Revenue Service that the organization qualifies as a § 501(c)(3) or § 501(c)(4) organization and the determination has not been revoked, withdrawn or nullified, the nonprofit organization need not apply to the Tax Commissioner for determination of whether the organization qualifies as a § 501(c)(3) or § 501(c)(4) organization. If the nonprofit organization has not received a determination from the Internal Revenue Service, the organization must receive a prior written ruling from the Tax Commissioner regarding its qualification by filing a copy of its articles of incorporation, bylaws and a sworn statement by an officer of the organization setting forth reasons for qualification.

EXAMPLE 1:

*“The Cure” is an organization that raises funds for medical research. The organization has a current registration certificate from the State Tax Department and has received a written ruling from the Tax Commissioner that it meets the requirements for exemption under section 501(c)(3) of the Internal Revenue Code. All the organization’s support comes from charitable contributions. This organization meets the requirements necessary to make tax exempt purchases and may purchase office supplies and equipment and fund-raising materials tax free by presenting a properly completed exemption certificate to its vendors.*

EXAMPLE 2:

*“Have Mercy Hospital” is a private nonprofit hospital that has a current registration certificate and has been qualified as a 501(c)(3) organization by the Internal Revenue Service. “Have Mercy Hospital” is primarily funded by charges it makes to its patients for providing medical care. Thus, this hospital does not meet the requirements for making tax exempt purchases and must pay sales or use tax on purchases it makes for use in providing medical care.*

EXAMPLE 3:

*In addition to its normal activities a church conducts a community outreach program which provides information and counseling on drug abuse. The church also provides food and clothing to the needy. The church makes no charge for these services. Purchases by the church of office equipment and supplies, drug abuse literature, the services of a drug abuse counselor, food and clothing which will be given free of charge, and any other materials, supplies or equipment (except gasoline or special fuel) which will be directly used or consumed by the church in its normal church activities and in its community outreach program, will be exempt from the sales and use tax.*

EXAMPLE 4:

*The church also operates a day-care center for which it charges a fee of thirty dollars per week per child. The church is not required to collect sales tax from its customers on the fee because there is a specific exemption in the sales tax law for services provided by day-care centers. The church must pay sales or use tax on all its purchases for use in providing the day-care service. If the church uses the supplies, equipment, food or materials which were purchased tax-free for use in its exempt activities in the nonexempt day-care center, it must pay use tax on these items.*

**METHOD OF CLAIMING THE EXEMPTION**

- Nonprofit organizations claiming an exemption from payment of sales or use tax must be registered with the State Tax Department. Registration is accomplished by completing an “Application for Business Registration” ([WV/BUS APP](#)). This form is used for all types of registration. Churches and nonprofit organizations are not considered to be “businesses” or engaged in business or subject to any other tax laws by the mere completion of this form.
- Churches and nonprofit organizations that meet the requirements set forth above may claim the exemption from sales or use tax on their exempt purchases by providing the vendors with a properly completed Certificate of Exemption [[SSTGB Form F0003](#)]. A vendor who, in good faith, accepts a

properly completed tax exemption certificate at the time of the sale is relieved of the responsibility of collecting the sales tax from the customer. Vendors must update their exemption certificate file each year and retain exemption certificates for at least three years. When a church or nonprofit organization uses a tax exemption certificate to make purchases, the burden of proof that the purchase was exempt is on the organization.

- Misuse of the tax exemption certificate is a serious offense and will subject the purchaser to penalties in addition to any tax, interest and additions to tax due on the purchase.

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## **SALES BY CHURCHES AND NONPROFIT ORGANIZATIONS**

- Churches and nonprofit organizations that meet the requirements set forth above for making tax exempt purchases may also make casual and occasional sales for fund raising purposes and not be required to collect the sales tax from purchasers. This exemption from the collection of sales tax is a per se exemption and does not require any special documentation as proof of the exemption.
- For the purpose of this exemption, "casual and occasional sales" means fund-raising events not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions. These fund-raising events are limited to six events which last no more than 84 consecutive hours in any twelve-month period. Any fundraising event which lasts more than 84 hours will be considered as two or more events, depending upon the duration of the event. If an organization holds more than six events it must begin to collect the sales tax on sales made at the seventh event and any others held thereafter.
- Organizations that know at the outset that their fundraisers will exceed the six time/eighty-four-hour limit or organizations that regularly and routinely make repetitive sales in the ordinary course of their activities do not qualify for this exemption and must collect sales tax on all their sales.
- In addition to the exemption for casual and occasional fundraisers by churches and nonprofit organizations, certain other special exemptions may apply. For example, the following special exemptions apply to certain sales of food even though in some cases sales may not meet the "casual and occasional" test:
  1. Sales of food by a nonprofit organization or a governmental agency under a program funded by a state of the United States to low-income elderly persons at or below cost are exempt. No exemption certificate is necessary.
  2. Casual and occasional sales of food by charitable or nonprofit organizations, including volunteer fire departments and rescue squads, are exempt if the purpose is to raise revenues for the functions and activities of the organization, and the revenues are expended for that purpose. No exemption certificate is necessary.
  3. Sales of food by any religious organization at a social or other gathering conducted by it or under its auspices are exempt if the purpose in selling the food is to raise revenues for the functions and activities of the organization and the revenues obtained from selling the food are actually used in carrying out those functions and activities. However, purchases made by such organizations are not exempt as purchases for resale.
  4. Sales of food by little leagues, midget football leagues, youth football or soccer leagues and similar organizations, including scouting groups and church youth groups, are exempt if the purpose in selling the food is to raise revenues for the functions and activities of the organization and the revenues obtained from selling the food are actually used in supporting or carrying out functions and activities of the groups; However, such purchases by those organizations are not exempt as purchases for resale.

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## **ASSISTANCE AND ADDITIONAL INFORMATION**

- For assistance or additional information, you may call a Taxpayer Service Representative at:

**1-800-WVA-TAXS  
(1-800-982-8297)**

Or visit our website at:

[www.tax.wv.gov](http://www.tax.wv.gov)

File and pay taxes online at:

<https://mytaxes.wvtax.gov>

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