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Sales and Use Tax Requirements for Non-Profit and Exempt Charitable Organizations

The sales and use tax requirements for non-profit 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 non-profit 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 purchase of tangible personal property, where no tax has been paid (ex-tax), 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 statutes or income tax statutes. However, the current law is sprinkled with several narrow exemptions designed to assist certain kinds of nonprofit groups engaged in certain charitable activities.

Q: Does a non-profit 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 before taxes have been paid.

If the organization holds no more than three fundraising events with taxable sales in a 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 non-profit 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 sales, and can collect the sales tax reimbursement from the non-profit or exempt charitable organization as they do from other entities.

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

Q: If a non-profit 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 the property in California?

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

Q: If a non-profit 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 such an organization to support the sale-for-resale exclusion. Note, however, the California Sales and Use Tax Law sometimes deems the non-profit or exempt charitable organization as the 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' organizations 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.

Q: What if the non-profit 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 of children's new clothing is sold to a nonprofit organization that has exempt status under Section 23701d or 23701f of the Revenue and Taxation Code.

Q: How about a non-profit 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. A similar exemption exists for sales of tangible property by charitable organizations qualifying for the "welfare exemption" and engaged in the relief of poverty and distress, principally as a matter of assisting purchasers in distressed financial condition, if the property is made, prepared, and assembled or manufactured by the organization.

Note also that 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: If a non-profit or exempt charitable organization engages with a fundraising company to raise money for the organization through sales of merchandise, what are the sales tax requirements for the organization?

A: Generally, your organization's members or representatives are considered agents of a fundraising company when they solicit orders, collect payments, and distribute merchandise for the company, and your organization is not required to obtain a seller's permit for those activities. The fundraising 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 fundraising company, your organization purchases items for resale and then sells them 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, non-profit 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](#) or 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](#)
 - [BOE-230 \(7-02\), General Resale Certificate](#)
 - [BOE-400-SPA, CA Seller's Permit Application](#)
- **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, Chairwoman of the Board of Equalization, 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.