



California State  
Board of Equalization

**APPLICATION OF SALES  
AND USE TAX BY THE  
HOSPITALITY INDUSTRY  
ON NONPROFIT AND  
EXEMPT CHARITABLE  
ORGANIZATIONS**

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## Frequently Asked Questions

The hospitality industry, which includes hotels and restaurants, often encounters questions about its application of sales and use tax when its customers are nonprofit or exempt charitable organizations. Here are some questions frequently asked by customers who are nonprofit or exempt charitable organizations, responses to them, and available resources for more information.

### **Q How does the California sales and use tax work?**

**A** 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 taxable merchandise that will be used, consumed, stored, or given away in this state unless the purchase is exempt or excluded from tax. The use tax, imposed at the same rate as the sales tax, is complementary to, and mutually exclusive of, the sales tax.

### **Q Is there any blanket sales and use tax exemption for nonprofit charitable or religious organizations like ours that have a 501(c)(3) exemption letter from the Internal Revenue Service or exemption status from the Franchise Tax Board under Revenue and Taxation Code sections 23701(d) or 23701(f)?**

**A** No. Although many nonprofit charitable and religious organizations are exempt from federal and state income tax, there is no similar blanket exemption from California sales and use tax. In other words, nonprofit charitable and religious organizations in general are treated just like any other California sellers and buyers for sales and use tax purposes.

### **Q Are there any specific sales and use tax exemptions for nonprofit charitable or religious organizations that may apply to my organization?**

**A** Yes. However, these specific sales and use tax exemptions are very limited, are available dependent on what type of nonprofit or exempt charitable organization your organization is, what is being sold, and who is making the sale, and mostly apply when the nonprofit or exempt charitable organization is the seller of tangible personal property rather than the purchaser or consumer.

For example, a specific sales and use tax exemption is available for a nonprofit or exempt charitable organization that provides meals for low-income elderly persons or delivers meals to homebound elderly or disabled persons. Specific sales and use tax exemptions are also available for nonprofit and exempt charitable organizations whose primary activity is to relieve poverty and distress (such as emergency shelters). For example, sales of meals by an emergency shelter at a reduced price to families in need are exempt from tax. Additionally, purchases by the emergency shelter of clothing, personal supplies, and other articles that are donated to families in the shelter are exempt from tax.

### **Q Can my organization use a sales tax exemption certificate from another state for sales tax exemption in California?**

**A** No. California does not recognize sales tax exemption certificates issued by other states as a basis for providing a nonprofit charitable or religious organization with a California-specific

sales and use tax exemption.

### **Q My organization's board of directors' annual meeting will occur at Hotel ABC next month. Is Hotel ABC's provision of banquet food and meeting space for my organization's meeting subject to sales tax?**

**A** Yes. The charge for the use of a hotel or restaurant premise in connection with the furnishing or serving of meals, food, or drinks is subject to tax along with the charges for the meals, food, or drinks – regardless of whether the charge is separately stated on the invoice.

For example, if Hotel ABC charges your organization a \$100 fee for the use of a meeting room and another \$200 for the food and drinks it served in the meeting room, the entire \$300 is subject to tax.

### **Q Do any of the specific sales and use tax exemptions available to certain types of nonprofit and exempt charitable organizations and/or to certain types of activities by these organizations apply to such hotel/restaurant room and banquet food charges?**

**A** No. There is no specific sales and use tax exemption available to nonprofit and exempt charitable organizations for room rental and banquet food charges by hotels and restaurants.

### **Q Where can my organization obtain more information about specific sales and use tax exemptions that may apply to my organization or its activities?**

**A** The State Board of Equalization (BOE) has a number of resources, including publications and online assistance, available to assist nonprofit and exempt charitable organizations with better understanding California’s sales and use tax laws, as follows:

Visit the BOE’s website at [www.boe.ca.gov](http://www.boe.ca.gov) for

- [Publication 18](#), *Nonprofit Organizations*
- [Publication 61](#), *Sales and Use Taxes: Exemptions and Exclusions*
- [Online Seminars](#)
- Locate a [BOE field office](#) near you

**Get tax advice in writing.** For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if we determine that we gave you incorrect written advice regarding the transaction and that you reasonably relied on that advice in failing to pay the proper amount of tax. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction. Please visit our website at [www.boe.ca.gov/info/email.html](http://www.boe.ca.gov/info/email.html) to email your request. You may also send your request in a letter to: Audit and Information Section, MIC:44, State Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-0044.

*Note:* This publication summarizes the law and applicable regulations in effect when the publication was written, as noted on the cover. However, changes to the law or regulations may have occurred since that time. If there is a conflict between the text in this publication and the law or regulation, the law or regulation is controlling.



Compliments of

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