

## **165.0000 CHARITABLE ORGANIZATIONS—Regulation 1570**

*See also Nonprofit Organizations.*

**165.0003 Assembling Goods into a Kit.** When toothbrushes, tooth paste, clothing, and some medications are assembled into a package by a charitable organization and given to donees when they arrive at the organization's facilities, such items would be a donation for purposes of section 6375. On the other hand, if it is a communal situation (e.g., the bar of soap in the bathroom or a bottle of dish soap in the kitchen that someone can use to clean his or her own dishes), the organization is not donating such items for purposes of section 6375 but rather is otherwise consuming such items in performing its services. 6/25/97.

**165.0005 Auction Proceeds Going to a Nonprofit Charitable Organization.** There is no general exemption from sales tax for gross receipts derived from auction held for the benefit of a non profit charitable organization. This is the case even though the program lists the normal retail value of the items and the auctioneer tells the audience that the proceeds will go to the non profit charitable organization. 9/9/93.

**165.0010 Churches.** There are no sales or use tax exemptions for retail sales by or to churches which arise solely from their nonprofit status or because they are exempt from income tax under the Internal Revenue Code. 1/26/95.

**165.0014 Churches and Religious Organizations.** Sales and use taxes may legally be imposed upon churches and religious organizations. Thus, where churches and religious organizations purchase tangible personal property from out-of-state sellers for use in this state, the churches and religious organizations are required to pay use tax. The use tax is an excise tax and not a property tax, and therefore, the provisions of Article XIII of the State Constitution have no application with respect to it. (*Douglas Aircraft Co. Inc. v. Johnson*, 13 Cal.2d 545.) 7/22/80.

**165.0020 Convention Fees and Charges—Luncheons and Dinner Banquets—Registration Fees and Hotel Room Charges.** Sales tax is applicable to the gross receipts from the sales of meals, including luncheons and dinner banquets, by a charitable organization at a convention. Also taxable are the organization's gross receipts from the sales of merchandise at a gift shop. Tax is not applicable to registration fees or hotel room charges, although county or city taxes might be applicable. 8/5/64.

**165.0030 Fundraisers.** A nonprofit foundation which raises funds for worthy charities is not engaged in the relief of poverty or distress, and does not make sales principally as a matter of assistance to the purchasers or donees in distressed principal condition. Accordingly it does not qualify for the exemption for sales under Regulation 1570 and its sales of tangible personal property at fundraisers are subject to tax. 9/9/93.

**165.0040 Gifts of Religious Literature.** Where a charitable organization distributes without charge religious literature, and is not subject to sales tax as a seller, sales of such literature to the charitable organization are subject to sales tax unless exempt as newspapers or periodicals. (Effective July 15, 1991, the sale of

newspapers and periodicals, including sales by third party retailers, is subject to tax unless otherwise exempt.) 4/1/53.

**165.0066 Humane Society.** A humane society operates a thrift store which sells used donated clothing. The store has a paid store manager but the rest of the clerks work on a volunteer basis. All profits go to the society to assist in the cost of spaying and neutering animals adopted for pets from the society as well as to pay entirely for those people who could not otherwise afford to have the animals spayed or neutered. Other society activities include destroying stray or unwanted animals, picking up dead and injured animals as well as live animals and birds. The above humane society is not a charitable organization under Regulation 1570 since it has not met any of the conditions set forth in the regulation for the following reasons:

(1) Welfare exemption from property taxation. Property used in instances involving thrift shops qualifies for this exemption if the thrift shop sells property which has been processed in some manner by handicapped persons who are being rehabilitated by a rehabilitation program conducted by the society or the persons being rehabilitated are employed in the operation of the thrift shop. Neither of these conditions are met in this instance. Therefore, the humane society does not qualify for the welfare exemption from property taxation provided by Revenue and Taxation Code section 214.

(2) Engaged in the relief of poverty and distress. The activities of the humane society are not the type of activities which can be classified as the relief of poverty or distress.

(3) Sales must be made principally as a matter of assistance of purchasers in distressed financial condition. Sales made by the thrift shop are not made primarily as a matter of assistance to those in poverty and distress but as a fund raising activity of the humane society. The net income from the thrift shop sales is not reinvested in the operation of the thrift shop but is instead used to fund the society's operations. Because of the type of merchandise it sells, the thrift shop might have the incidental effect of assisting purchasers in a distressed financial condition; however, the sales are not made principally for this purpose. Thus, the thrift shop activities do not fulfill this condition.

(4) The property sold must have been made, prepared, assembled or manufactured by the organization. To fulfill this condition, the property sold by the charitable organization must be gathered together and prepared for sale in the thrift shop. The humane society does not meet this condition.

Since the humane society's thrift shop has not met all of the conditions set forth in Regulation 1570, the sales by the thrift shop are not exempt from tax. 9/1/78.

**165.0070 Industry Associations.** Generally, industry associations do not qualify as charitable organizations under Regulation 1570 and are not exempt from tax. Even if they make donations of property to needy persons, they are not primarily engaged in the relief of poverty and distress as required by Regulation 1570. 6/14/94.

[165.0090](#) **Meals for Employees.** A charitable organization, which operated a sheltered workshop for disabled persons the sales of the products of which were exempt under section 6375, also operated a cafeteria for its disabled employees. The incomes of the employees were below the poverty level, and the purpose of operating the cafeteria was to offer meals at a price they could afford to insure that they ate one good meal a day. The organization subsidized the cafeteria in the amount of 50 percent of the cost of the meals. Employees could purchase a full luncheon for 50¢, and their individual purchases ranged from 35¢ to 75¢. Sales by the cafeteria were exempt from the sales and use tax. 7/29/70.

[165.0095](#) **Meals Served at Low Income Housing.** On site sales of meals to tenants by an organization formed to provide affordable housing to low and moderate income persons are not taxable where the organization meets the requirements of Regulation 1570. The welfare organization property tax exemption applying to 80.1% of the units constitutes substantial compliance with the requirement that the organization must qualify for the “welfare exemption” from property taxation. 11/20/89.

[165.0096](#) **Nonprofit Thrift Stores-Section 6363.3.** Section 6363.3 provides an exemption for sales by thrift stores operated by a nonprofit organization if the purposes of that thrift store is to obtain revenue for the funding of medical and social services to chronically ill individuals, and at least 75 percent of those net revenues are actually expended for the purpose of providing medical and social services to the chronically ill. Chronically ill under section 6363.3 means individuals with a chronic, life-threatening illness, as defined in subdivision (c) of section 1568.01 of the Health and Safety code which provides: “Chronic, life-threatening illness means HIV disease or AIDS.”

Thus, in order to qualify for the exemption set forth in section 6363.3, the nonprofit organization must be one that provides medical and social services to individuals with HIV disease or AIDS. Although cancer is certainly a life-threatening disease, a nonprofit organization providing services to the public and individuals with cancer does not qualify for the exemption. 3/25/97.

[165.0096.800](#) **Paper Goods Used in Serving Meals.** When a charitable organization serves meals to donees on site, the organization uses dishware and napkins to serve the meals. It is not regarded as donating such items even if they are disposable paper products. Instead, the organization consumes such items to provide its services, which include the providing of the food facilities. Under such circumstances, tax applies to the purchase price of such items by the charitable organization, whether the items are permanent or disposable. On the other hand, when disposable dishware and napkins are included as part of a “to go” container that is removed from the premises, the organization is regarded as donating all items included in that “to go” container, including both the food items and the disposable dishware. Under such circumstances, the section 6375 exemption would be applicable to all items included as part of the “to go” meal. 6/25/97.

[165.0097](#) **Philanthropic Organization.** Philanthropic organizations whose primary activity is fundraising would not qualify for the “welfare exemption” and therefore are not charitable organizations pursuant to Regulation 1570. 5/30/90.

**165.0098 PTA Equivalent Organization.** An organization which operates a second hand store to raise funds to assist students with financial aid does not qualify for the exemption provided in section 6375. The sales are not made as a matter of assistance to the purchasers. Such an organization may, however, qualify for the special tax treatment afforded Parent Teacher Associations and equivalent organizations under section 6370.

To qualify as a PTA equivalent organization, an entity must be a separate and distinct legal entity from the school to which it is related. It must generally follow the objectives and policies contained in Article II and III of the California State PTA Model Bylaws, but need not have identical objectives or provide all of the services contained in the Articles. However, at the very least, it should be a nonprofit organization which includes parents and whose objectives include some coordinated promotion of educational programs or projects among parents, students, school authorities, and the general public. 10/24/88.

**165.0100 Residences for Senior Citizens.** When determining whether meals served by residences for senior citizens qualify for the charitable organization exemption, reference should be made to the financial status of the residents. Persons whose income is near the poverty level are in distressed financial condition. Providing meals at significantly reduced prices so as to be of real assistance to the purchasers is a form of relief to such persons.

1. Incomes of \$225–\$275 are equivocal. They may not be poverty level incomes but the persons can be in distressed financial condition depending on the other circumstances.

2. Incomes in excess of \$275 per month will be considered to be above the poverty level and the person will be presumed not to be in distressed financial condition.

3. Incomes below \$225 per month will be presumed to be below the poverty level. At least 51 percent of the persons served must be in distressed financial condition and a substantial portion of that percentage must be in poverty. If 66 percent of those served are in that class, the presumption will be that the meals provided at significantly reduced prices qualify for the exemption if the welfare exemption has been granted and the meals are prepared by the organization. Between 51 percent and 66 percent other factors will be considered. 6/9/69; 11/20/89.

**165.0133 Sacramento Valley Teen Challenge's Thrift Store.** Since this organization meets all of the conditions set forth in subsection (a) of Regulation 1570, sales from its thrift stores are exempt from sales tax. Even though all of a charitable organization's sales qualify as exempt under section 6375, the organization must hold a seller's permit. 10/16/96.

**165.0138 Sales by and to Churches.** There are no sales tax exemptions for churches arising from their nonprofit status or because they are exempt from income tax. 2/11/94.

**165.0148 Sales by Nonexempt Organization.** Sales of medical identification cards by a corporation which is not exempt from taxes under section 23701 of the Revenue and Taxation Code are not exempt from sales tax. 8/4/94.

[165.0160](#) **Thrift Shop.** Sales made by operators of a thrift shop were subject to sales tax where the operators failed to apply for or were unable to obtain the property tax “welfare exemption” for the thrift shop. The thrift shop would not qualify for that exemption if the net income derived from its sales was devoted to a disconnected charitable purpose; to purchase medical supplies and equipment for a medical center. 6/25/71.

[165.0600](#) **Welfare Exemption from Property Taxation.** One of the conditions to be fulfilled to be a charitable organization under Regulation 1570 is that the organization must qualify for the “welfare exemption” from property taxation provided by section 214 of the Revenue and Taxation Code. A thrift store operation can only qualify for the exemption from property taxation when there is rehabilitation taking place on the premises. Rehabilitation means an on-going program of taking disadvantaged persons and employing them in the whole process of the operation with a view toward a goal of establishing that person in society at large. The fact that the funds from a thrift store operation generate revenue for a disconnected charity is not sufficient to qualify for the sales tax exemption. 8/26/80.

[165.0601](#) **“Welfare Exemption” from Property Taxation.** The fact that a charitable organization owns no taxable property on which it could claim “welfare exemption” does not bar the organization from otherwise qualifying for the sales and use tax exemption provided by Regulation 1570. However, the organization must be one which would qualify for the exemption if it did own property. 5/30/90.

## CHILDREN

*Care of, see Hospitals, Institutions and Homes for the Care of Persons.*

## CIRCULATING LIBRARIES

*See Miscellaneous Service Enterprises.*

## CLAIMS FOR REFUND

*See Remedies of Taxpayers.*

## CLASSIFICATION OF PROPERTY

*See Buildings and Other Property Affixed to Realty; Tangible and Intangible Property.*

## CLEANERS

*See Miscellaneous Service Enterprises.*

## CLUBS

*Social, see Taxable Sales of Food Products.*