



**Georgia Department of Revenue
Informational Bulletin SUT 2013-03-28
Fundraising Activities Conducted by Nonprofit Entities**

- 1) **The purpose of this informational bulletin is to provide guidance to nonprofit organizations when making purchases and sales as part of a fundraising activity. This bulletin will also provide guidance to dealers of tangible personal property when making fundraising-related sales to nonprofit organizations.**

- 2) **Effective:** March 28, 2013

- 3) **Supersedes:** All previous documents and any oral directives in conflict herewith.

- 4) **Authority:**
 - a) O.C.G.A §§ 48-8-3, 48-8-30.

 - b) Ga. Comp. R. & Regs. r. 560-12-1-.08; 560-12-2-.01; 560-12-2-.07; 560-12-2-.13; 560-12-2-.19; 560-12-2-.22; 560-12-2-.23; 560-12-2-.51; 560-12-2-.74; 560-12-2-.79; 560-12-2-.83; 560-12-2-.90; 560-12-2-.100; 560-12-2-.104.

- 5) **Scope: An informational bulletin is intended to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of law to a specific set of facts or a general category of taxpayers. An informational bulletin does not have the force or effect of law, and is not binding on the public. It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.**

- 6) **Issues:**
 - a) **How are sales and use taxes applied to purchases made by nonprofit entities?**
 - b) **How are sales and use taxes applied to sales made by nonprofit entities?**
 - c) **How are sales and use taxes applied to items gifted or donated to a nonprofit?**
 - d) **How are sales and use taxes applied to items gifted or donated by a nonprofit?**
 - e) **How are sales and use taxes applied to items sold by a church, qualifying nonprofit child caring institution, nonprofit parent teacher organization or association, nonprofit private or public school (grades K-12), nonprofit entity raising funds for a public library, or member councils for the Boy Scouts of the U.S.A. or Girl Scouts of the U.S.A.?**

- 7) **Discussion of Issues:**
 - a) As a general rule, Georgia law does not provide a sales or use tax exemption to purchases made by nonprofit organizations (including churches, parent teacher organizations, charitable organizations, and

civic organizations). These organizations are required to pay tax on all purchases of tangible personal property made for the organization's own use.

Examples:

1) A church purchases office supplies for use by the church. The church owes sales and use tax on the purchase price of the office supplies.

2) A nonprofit parent teacher organization purchases band instruments. The nonprofit parent teacher organization owes sales and use tax on the purchase price of the band instruments. The tax is due even if the organization will donate the items to a school or to a student.

- b) Except as discussed below in paragraph 7e, when nonprofit organizations engage in selling tangible personal property at retail, they are required to comply with all provisions of the law relating to collection and remittance of sales tax. Thus, nonprofit organizations are generally required to charge tax on their sales at the rate in effect where the customer takes receipt of the item being sold and remit the tax to the State.

Tax collected by an unregistered nonprofit is remitted using Form FS-32 Miscellaneous Event. The nonprofit may take a credit for any sales tax previously paid on tangible personal property subsequently resold by subtracting the tax paid from the tax collected and remitting the difference. Tax collected by a registered nonprofit is remitted using the Form ST-3 Sales and Use Tax return. Registered nonprofits may purchase exempt for resale by providing the dealer with a properly completed Form ST-5 Sales Tax Certificate of Exemption.

Examples:

1) A nonprofit organization sells plants to support its charitable work. The nonprofit organization is *not* registered for Georgia sales and use tax purposes. The organization must collect and remit Georgia sales tax on all of its retail sales of plants made in this state. The nonprofit may take a credit for any sales tax previously paid by the nonprofit on plants that were subsequently resold by subtracting the tax it paid on the plants at the time of purchase from the tax it collected on the retail sale of the plants and remitting the difference. The nonprofit will remit the tax collected using Form FS-32 Miscellaneous Event. Some exceptions apply – see paragraph 7e.

2) A nonprofit organization sells artwork to support its charitable work. The nonprofit organization is registered for Georgia sales and use tax purposes. The nonprofit organization may purchase artwork exempt for resale by providing the dealer with a properly completed Form ST-5 Certificate of Exemption. The organization must collect and remit Georgia sales tax on all of its retail sales of artwork made in this state. The nonprofit will remit the tax collected using the Form ST-3 Sales and Use Tax return. Some exceptions apply – see paragraph 7e.

- c) In general, when a nonprofit is given tangible personal property by a donor, the nonprofit will not owe any sales or use tax on the donated property received. The donor is responsible for sales and use tax on the purchase price or cost price of the property donated to the nonprofit. Should the nonprofit entity then sell the donated property, the nonprofit must collect tax on the sale. (See paragraph 7e for specific exceptions.)

Example:

A local business donates books to a nonprofit. The nonprofit does not owe sales or use tax on the books received as a gift. The business making the donation is responsible for sales and use tax on the purchase price or cost price of the books. If the business paid sales tax on the books at the time of the purchase, no additional tax is due at the time of donation. Should the nonprofit then sell the donated books, the nonprofit must collect tax on the sales price of the books.

- d) In general, when a nonprofit gives tangible personal property in appreciation of a donation to the organization, the nonprofit is the end user of the tangible personal property given and liable for sales and use tax on the purchase price or cost price of the gift. For audit purposes, the nonprofit must maintain sufficient documentation to readily identify the transaction as a donation and not a sale, i.e., recorded as “donation income” rather than “sales income”, etc. and the nonprofit must maintain documentation to support the nonprofit’s payment of sales or use tax on the tangible personal property or taxable admissions given by the nonprofit to the donor.

Examples:

- 1) A nonprofit fraternity hosts a dinner and dance. A member may attend for a minimum donation of \$500. The fraternity will not collect sales and use tax on the \$500 donation. However, the fraternity owes sales and use tax on all tangible personal property and taxable services purchased for the dinner and dance. The nonprofit fraternity must maintain proof of its payment of sales and use tax on all tangible personal property and taxable services purchased for the dinner and dance.
- 2) A nonprofit holds a raffle. Raffle tickets are made available for a minimum donation of \$10. The nonprofit will not collect sales and use tax on the \$10 donation. However, the nonprofit owes sales and use tax on all tangible personal property and taxable services purchased for the raffle. The organization must maintain proof of its payment of sales and use tax on all tangible personal property and taxable services purchased for the raffle.
- e) Churches do not collect sales tax on their fundraising sales when they make sales for 30 or fewer days in any one calendar year and the funds raised will be used for relief to the aged, church related youth activities, religious instruction or worship, or the construction or repair of church buildings or facilities and the profits will not benefit any private person. Similarly, qualifying nonprofit child caring institutions do not collect sales tax on their fundraising sales when they make sales for 30 or fewer days in any one calendar year.

Sales made by a nonprofit parent teacher organization or association are exempt from sales and use tax. Sales made by a nonprofit private or public school (grades K-12) are exempt from sales and use tax when the net proceeds will be used solely for the benefit of the school making the sale or the school’s students. Sales made by a nonprofit entity raising funds for a public library are exempt from sales and use tax. Sales and use tax does not apply to the sale or use of food and beverage made in connection with fundraising activities by member councils of the Boy Scouts of the U.S.A. or Girl Scouts of the U.S.A.

A church, qualifying nonprofit child caring institution, nonprofit parent teacher organization or association, nonprofit private or public school (grades K-12), nonprofit entity raising funds for a public library, or member councils of the Boy Scouts of the U.S.A. or Girl Scouts of the U.S.A. may make purchases exempt for resale by providing the dealer with a properly completed ST-5 Certificate of Exemption.

Sales and use tax returns may be obtained from the Department's website, www.etax.dor.ga.gov.

FOR MORE INFORMATION

**For more information on this subject, contact the Taxpayer Services Division at
1-877-423-6711,
from 8:00 am to 4:30 pm EST, Monday through Friday, excluding holidays.
Persons with hearing or speech impairments may call our TDD number at 404-417-4302.
For forms and other information, visit our website (www.etax.dor.ga.gov).**
