

## **INFORMATION BULLETIN #10**

### **SALES TAX**

**APRIL 2012**

**(Replaces Bulletin #10 dated June 2008)**

**DISCLAIMER:** Informational bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

**SUBJECT:** Application of Sales Tax to Nonprofit Organizations

**REFERENCE:** IC 6-2.5-5-21; IC 6-2.5-5-25; IC 6-2.5-5-26; 45 IAC 2.2-5-55; 45 IAC 2.25-56; 45 IAC 2.2-5-57; 45 IAC 2.2-5-58; 45 IAC 2.2-5-59; 45 IAC 2.2-5-60

**DIGEST OF CHANGES:** Apart from technical, nonsubstantive changes, this bulletin has been changed from the previous version to clarify that for purchases by nonprofit organizations to be exempt from sales tax, the transaction must be directly invoiced to the organization and directly paid via the organization's funds.

### **INTRODUCTION**

This bulletin concerns the application of Indiana sales and use tax to nonprofit organizations. This bulletin will discuss when sales tax must be collected by nonprofit organizations and when Indiana sales and use tax must be paid on purchases by nonprofit organizations.

## **REGISTRATION**

When taxable retail sales are made by nonprofit organizations, the organization must register with the Nonprofit Section of the Indiana Department of Revenue and receive a taxpayer identification number.

Indiana nonprofit organizations making tax-exempt qualified purchases, but not making retail sales, also must register with the Nonprofit Section of the Indiana Department of Revenue and receive a taxpayer identification number. A nonprofit organization must register for a sales tax exemption by filing Form NP-20A, available online at <http://www.in.gov/dor/3506.htm>. The taxpayer identification number obtained can be used on sales tax exemption certificates (Form ST-105 or Streamlined Sales Tax Governing Board Form F0003) when making qualified purchases, unless the organization has been classified as a “social” organization by the Internal Revenue Service. Social organizations, including homeowner’s associations, are not allowed to make purchases exempt from Indiana sales and use tax.

## **SALES BY QUALIFIED NONPROFIT ORGANIZATIONS**

Sales of tangible personal property by qualified nonprofit organizations carried on for a total of not more than 30 days in a calendar year and engaged in as a fundraising activity to raise funds to further the qualified nonprofit purposes of the organization are exempt from sales tax. The 30-day rule applies to all such sales by the nonprofit organization. Each day in which selling activities are conducted is a “selling day” for purposes of determining whether a qualified nonprofit organization has conducted sales for more than 30 days during any calendar year. This provision applies to social organizations as well as other qualified organizations.

If an organization conducts sales or fundraising activities during 31 or more days (not necessarily consecutive) in a calendar year, the organization is a retail merchant and must collect sales tax on all sales made during the calendar year. All organizations required to collect sales tax must register with the Department of Revenue and get a Retail Merchant Certificate. They also must register as nonprofit organizations. A single application (Form BT-1) is used to register with the Indiana Department of Revenue for sales tax, innkeepers’ tax, and food and beverage tax. A separate application is required for each business location. The nonrefundable application fee for a Retail Merchant’s Certificate is \$25. Form BT-1 can be completed online at <https://secure.in.gov/apps/dor/bt1/>.

However, when the nonprofit organization sells items, such as periodicals, books, or other property, that are intended primarily to further the educational, cultural, or religious purposes of the organization or for the improvement of the work skills or professional qualifications of the organization’s members, and the sales are not used in carrying out a private or proprietary business, the 30-day restriction does not apply and the items may be sold exempt throughout the year.

## **PURCHASES BY NONPROFIT ORGANIZATIONS**

### **Purchases for Own Use**

To qualify for a sales tax exemption on purchases as a nonprofit organization, the following conditions must be met:

1. The organization must be named or described in IC 6-2.5-5-21.
  - a. This includes nonprofit organizations organized and operated exclusively for one or more of the following purposes:
    - (a) Charitable;
    - (b) Literary;
    - (c) Civic;
    - (d) Religious;
    - (e) Educational;
    - (f) Scientific; or
    - (g) Fraternal.
  - b. Also included are the following specifically named nonprofit organizations:
    - (a) Business leagues;
    - (b) Licensed hospitals;
    - (c) Cemetery associations;
    - (d) Monasteries;
    - (e) Churches;
    - (f) Parochial schools;
    - (g) Convents;
    - (h) Pension trusts; and
    - (i) Labor unions.
2. The organization must not be operated predominantly for social purposes.
3. The article purchased must be used for the same purpose as that for which the organization is being exempted, and the transaction must be invoiced directly to the nonprofit organization and paid directly via the organization's funds.  
**Purchases for the private benefit of any member of the organization, such as meals and lodgings, are not eligible for exemption.**

EXAMPLE: A nonprofit organization is hosting a three-day convention for its members in Indianapolis. The organization rents meeting rooms in a hotel to conduct its educational meetings. The rental of the rooms will be exempt from the sales tax and local innkeepers' tax if applicable.

Sales of meals during a meeting of the organization are taxable because the meals are provided for the convenience of the organization and its members. Such meals are taxable even when served in conjunction with a meeting that is furthering the organization's nonprofit purpose.

At the same convention, the organization reserves and pays for, out of its treasury, the cost of four hotel rooms to be used by its officers for lodging. The lodgings provided for the officers by the organization *are not* exempt from the sales tax or the innkeepers' tax, if applicable. The rental of rooms for its officers or members is a private benefit for the individual and is not for the purpose for which the organization exists.

If a member of the organization purchases a meal or lodging, even if the member is to be reimbursed by the organization, the purchase is not exempt and the member must pay sales tax at the time of purchase. Purchases used for social purposes are never exempt.

NOTE: The fact that an organization is incorporated as a nonprofit corporation or is being exempted from income tax by the Internal Revenue Service does not necessarily mean that purchases made by the nonprofit organization are exempt from sales/use tax.

Organizations, as previously described, that are registered with the Indiana Department of Revenue as nonprofit organizations may purchase exempt from Indiana sales and use tax tangible personal property primarily used in carrying out the nonprofit purpose of the qualified organization. To purchase tax exempt, the organization must complete and provide to the vendor a Form ST-105, or the Streamlined Sales Tax Governing Board Form F0003.

### **Purchases by Non-Indiana Nonprofit Organizations**

Nonprofit organizations not registered with the Indiana Department of Revenue and located in another state may use a properly completed Form ST-105, or Streamlined Sales Tax Governing Board Form F0003, to make purchases exempt from the sales tax.

### **Purchases for Resale**

Tangible personal property purchased for resale by a nonprofit organization is eligible for the sales tax exemption.

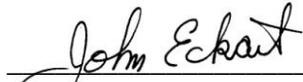
### **Purchases by Social Organizations**

Purchases of tangible personal property to be used by organizations organized and operated predominantly for social purposes are not exempt. If more than 50% of an organization's expenditures is related to social activities, the organization is considered to

be predominantly organized and operated for social purposes. Examples of expenditures related to social activities include

- Food and beverage services;
- Golf courses;
- Swimming pools;
- Dances;
- Parties; and
- Other similar social activities.

This bulletin applies only to the status of nonprofit organizations under the sales tax statute. Nonprofit organizations are subject to the Adjusted Gross Income Tax Act on unrelated business income as defined in Internal Revenue Code Section 513. Homeowners' associations do not qualify for sales tax exempt status under Indiana law.

  
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John Eckart  
Commissioner