

## **#50 NONPROFIT GROUPS & CHURCHES**

### **An Educational Guide to Sales Tax in the State of Idaho**

This brochure is intended to help nonprofit groups and churches understand the sales tax laws that apply to them. This information is based on the sales tax laws and rules in effect on September 1, 2006.

#### **Are all nonprofit organizations exempt from sales tax?**

No. Most religious, charitable, and nonprofit organizations are required to pay sales tax on goods they buy for their own use and collect tax when selling goods. There are a few exceptions, which are listed later. Many organizations believe that, because they qualify for “tax exempt” status with the Internal Revenue Service, they are also exempt from sales tax obligations. However, this is not true. The IRS exemption applies only to income tax.

#### **Which nonprofit organizations are exempt from paying tax on all of their purchases?**

Only the following are exempt:

- Hospitals (This exemption doesn’t include nursing homes, doctors’ offices, most clinics, or out-patient alcohol/drug treatment facilities.) Any for-profit facility must pay sales tax.
- Specifically-named health-related entities and their local and regional chapters. They are:
  - American Cancer Society
  - American Diabetes Association
  - American Heart Association
  - Arthritis Foundation
  - Children’s Home Society of Idaho (also known as the Warm Springs Counseling and Training Institute)
  - Easter Seals
  - Idaho Community Action Agencies
  - Idaho Cystic Fibrosis Foundation
  - Idaho Diabetes Youth Programs
  - Idaho Epilepsy League
  - Idaho Lung Association
  - Idaho Primary Care Association and its Community Health Centers
  - Idaho Ronald McDonald House
  - Idaho Women’s and Children’s Alliance
  - March of Dimes
  - Mental Health Association
  - Muscular Dystrophy Foundation
  - National Multiple Sclerosis Society
  - Rocky Mountain Kidney Association
  - Special Olympics Idaho
  - The Arc
  - United Cerebral Palsy
- The American Red Cross

- Volunteer fire departments
- Licensed emergency medical service agencies
- Qualifying senior citizen centers
- Family Services Alliance of Southeast Idaho
- Centers for independent living. This exemption is for nonresidential centers that are run by disabled persons and provide independent living programs to people with a variety of disabilities.
- Public, charter, and nonprofit schools (This exemption doesn't include specialty schools, such as those that teach business, dance, drama, music, cosmetology, or gymnastics. Also, organizations affiliated with a school, such as parent/teacher and alumni groups, are not included.)
- Blind Services Foundation, Inc.
- Canal companies
- Forest protective associations
- The Idaho Foodbank Warehouse, Inc.
- Museums
- Children's free dental service clinics
- Survivors of Domestic Violence & Sexual Assault, Inc.

NOTE: Even though these nonprofit organizations are exempt from paying sales tax when buying goods, they are *not* exempt from collecting tax on sales they make and paying the tax to the state.

## How do these exempt organizations make tax-free purchases?

To claim their exemption, qualified organizations must give their vendor a completed form ST-101, Sales Tax Resale or Exemption Certificate. Once this form is on file with the vendor, it covers all of a customer's exempt purchases.

## Is clothing or food taxable when it's bought to donate to the needy?

Yes, with one exception. If the main function of your nonprofit organization is to give away clothing or food to the needy, it can buy the clothing or food (and items used to grow, store, preserve, or serve the food) exempt from sales tax. Other purchases are taxable.

*Example:* A nonprofit organization that mainly gives away clothing buys coats and bed sheets from a department store to give to the needy. No tax is due on the clothing, but the store must charge the nonprofit organization sales tax on the bed sheets.

## If my organization isn't on the list of exempt buyers, can we apply to the Tax Commission to become exempt?

No. Only the Idaho Legislature can grant an exemption from the sales tax. The Idaho State Tax Commission doesn't have the authority to grant an exemption that isn't in the sales tax law.

## If my organization isn't exempt, what purchases are taxable?

Generally, you must pay sales tax on everything you buy that's taxable under Idaho law.

*Examples include:*

- Supplies and equipment to be used by the organization
- Goods you buy to donate
- Items you buy to be raffled
- Prizes you buy to give away at carnivals or other events

## What if we plan to resell what we buy?

If you act as a seller, you must comply with the same rules that apply to all sellers in Idaho. To collect sales tax and pay it to the state, you must get a seller's permit from the Tax Commission. There are two types of seller's permits: permanent and temporary. You should get a permanent seller's permit if you make sales regularly. You normally will be required to file monthly tax returns. However, if you owe less than \$600 tax per quarter, you can ask to file your returns quarterly, semi-annually, or annually. If you close your business for a few months each year, you can also ask for a seasonal permit, so you don't have to file a return during those months.

You can apply for a permanent seller's permit online at **business.idaho.gov** or complete the Idaho Business Registration form (available on our Web site at **tax.idaho.gov** or at any of our offices) and submit it to the Tax Commission. If you don't make regular sales, you can pay the state the tax you collect by getting a temporary seller's permit. This permit is valid only for a specific event and is very easy to get. Just call your nearest Tax Commission office. Be sure to get your permit *before* making any sales.

If you are selling at a sponsored event such as a swap meet, flea market, gun show, or fair, you may be able to get a temporary permit from the promoter by completing Form ST-124, Idaho Sales Tax Declaration, Promoter-Sponsored Event. This will save you time. Or, you can contact the Tax Commission for your temporary permit.

## What kinds of sales should we tax?

- Sales of:
  - Any tangible personal property (candy, food, meals, drinks, T-shirts, calendars, etc.)
  - Subscriptions to magazines, newsletters, etc.
  - Printed material (maps, posters, pictures, books, etc.)
  - Items from concession stands
  - Souvenirs
  - Promotional items (club logo patches, buttons, pins, etc.)
  - Auctioned items
  - Goods sold at rummage sales and yard sales (There is an exemption for home yard sales held by private individuals, but it doesn't apply to yard sales held by organizations.)
- Fees for using a facility for a recreational purpose (renting a clubhouse for a dance, renting a gym for a basketball game, etc.)
- Admission charges and ticket sales (athletic events, dances, dinners, plays, displays, movies, carnivals, banquets, concerts, fund-raising events, etc.) See the next question.
- Receipts from vending machines (Special rules apply. Read Brochure #13—Vending Machines & Amusement Devices.)
- Lease or rental of tangible personal property
- Fixed admission fees and merchandise prices referred to as “donations”

## Are all admission charges taxable?

No. Organizations that have nonprofit status under Internal Revenue Code Section 501(c)(3) or Section 527 are exempt from collecting sales tax on admission to events that meet the following criteria:

- The event is not primarily commercial or for recreation.
- The value of the entertainment is minimal compared to the admissions charge.
- The nonprofit organization paid sales tax when it made purchases for the event.

## If we post a sign at the door saying “suggested donation of \$2,” is the donation taxable?

Yes. If you put a price on what you are selling, even if you call it a donation, it becomes taxable. Only if the sign says something like “donations accepted” with no amount mentioned, and people may attend without paying, can it truly be considered a donation and not subject to tax.

## Do special rules apply to auctioned items?

Yes. If you follow the proper procedures, the auctioned item is only subject to tax on its fair market value. *For example*, if you sell a cake for \$100 and you could buy it at the store for \$10, tax applies only to the \$10 if you keep the proper records.

Post a sign by each of your auction items indicating its suggested market value. *For example*, the cake could display a sign saying “suggested retail value: \$10.” If you give the buyer an invoice, write “cake: \$10; tax \$.60 (if the tax rate is 6%); donation \$89.40.” Post the sale to your records in the same way.

If you don’t follow these procedures, you must charge tax on the full \$100.

NOTE: Donated services (such as bookkeeping or lawn mowing) are not taxable auction items.

## What kinds of transactions aren’t taxable?

- Association dues
- Charges for advertising space in publications
- Sales of raffle tickets
- Cash received as a “donation” (a free will offering)
- Car washes
- Competitor entry fees for races, tournaments, fishing derbies, rodeos, etc. (but any portion of the fee that is for the use of a recreational facility or equipment rental is taxable)
- Literature, audiocassettes, videotapes, CDs, etc., that are both published *and* sold by a 501(c)(3) nonprofit organization
- Fees charged for lessons or instruction
- Registration fees to attend conferences, speeches, seminars, etc. (but any portion of the fee that is for meals, dancing, or recreation is taxable)
- Fees for using a facility for nonrecreational purposes such as educational or religious programs
- Sales of animals by any 4-H or FFA club at a fair or the Western Idaho Spring Lamb Sale
- Meals sold to senior citizens through programs under Title III-C of the Older Americans Act
- Lodging sales by the Ronald McDonald House

## Do we have to charge sales tax on fees for attending a recreational camp?

Yes. However, if you are a religious organization, you don’t have to charge sales tax on the fee to attend a recreational camp if you meet the criteria for incidental sales listed in #2 of the following question. Incidental sales that are tax exempt for religious organizations include camp sales of items such as snacks or T-shirts.

## Are churches exempt from paying sales tax?

No. Like most other nonprofit organizations, churches and religious organizations must pay sales tax on the goods they buy for their own use and collect sales tax on their sales.

However, there are two exemptions that are unique to religious organizations:

1. Meals sold by a church to its members at a church function are exempt from tax. The food used to prepare the meal can be purchased tax free by giving the grocer form ST-101. However, for the exemption to apply, the meal can't be available to anyone other than church members.
2. Incidental sales by religious organizations are exempt from the sales tax. To be considered "incidental," a sale must meet the following criteria:
  - Sales tax must have been paid when the goods were purchased, or the goods must be a gift or donation to the organization.
  - Proceeds from the sale must be used exclusively for church programs, including religious worship, education, and recreation.
  - The sale can't be available to the general public in the open market in regular competition with similar businesses in the community.

*Example:* A church holds a community spaghetti feed once a year to raise money for its religious education program. If the church paid tax on the ingredients or the ingredients were donated, sales tax does not have to be collected on the price of the meal since the church isn't in regular competition with other enterprises in the community. If the church has a gift shop, thrift store, concession stand, or fair booth, this exemption doesn't apply. These are commercial enterprises that compete with other businesses selling similar goods.

## What should we do when we buy items to resell?

If you have a permanent seller's permit, you can buy resale items tax free by completing a form ST-101 for the vendor's records. If you don't have a seller's permit, you can either:

- Get a temporary seller's permit before you buy the goods, and give the vendor a form ST-101 so you can buy the items tax free, or
- Buy the goods before you get the permit and pay tax to the vendor. Then when you receive the temporary seller's permit, sell the items and collect tax on the sales price. You can subtract the tax you paid the vendor on the items you resold from the tax you owe the state when you complete your sales tax return.

## If our sales price includes the sales tax, how do we determine the tax we owe?

You should bill the tax separately. However, if you don't, you can use the following formula to determine the amount of tax you owe:

If the tax rate is 6%:  
Total \$ collected ÷ 1.06\* = Taxable sales  
Taxable sales × .06 = Sales tax collected  
(\*If the tax rate is 5%, use 1.05, etc.)

*Example:* A nonprofit group's concession sales total \$500. Tax was included in the sales price. If the tax rate is 6%, the sales tax collected is \$28.30.

$\$500 \div 1.06 = \$471.70$   
 $\$471.70 \times 6\% = \$28.30$

# USE TAX

## What is use tax?

Use tax is a tax on goods that you put to use or store in Idaho. If you haven't paid sales tax on these goods, you owe use tax (unless the items are held for resale or an Idaho exemption applies). The use tax rate is the same as the sales tax rate. Here's how it works:

When you go to a local computer store and buy a computer, you pay sales tax on your purchase. However, if you order a computer on the Internet, the retailer may not collect Idaho sales tax on your purchase. In this case, you owe use tax when you receive your computer.

To learn more about use tax, read Brochure #2–Use Tax.

## For more information, read:

Brochure #2	Use Tax
Brochure #4	Retailers
Brochure #13	Vending Machines & Amusement Devices
Brochure #16	Food, Drink & Lodging
Brochure #17	Recreation & Admissions
Rule 85	Sales to and Purchases by Nonprofit Organizations
Rule 86	Sales and Purchases by Religious Organizations
Rule 89	Boy Scout, Girl Scout and 4-H Groups

### For more information, contact:

- Idaho State Tax Commission: In the Boise area, 334-7660; Toll free, (800) 972-7660
- Hearing impaired: TDD (800) 377-3529
- **tax.idaho.gov**

This information was prepared by the Idaho State Tax Commission. It does not provide comprehensive explanations of Idaho tax laws or rules. Specific questions should be addressed to the Tax Commission.