



## NONPROFITS AND SALES TAX: A GUIDE TO EXEMPTIONS IN CONNECTICUT, NEW JERSEY AND NEW YORK

Connecticut, New Jersey, and New York each provide exemptions for certain nonprofit organizations from the payment and collection of sales tax on the purchase and sale of goods and services. This article is a guide to the requirements in each of these states to qualify for a sales tax exemption for purchases and sales, and the circumstances in which the exemption will apply.

For a detailed explanation of sales tax exemptions in Connecticut, New Jersey and New York, and for access to all forms referred to in this article, please see the links to the relevant state agency's website provided at the end of this article.

### CONNECTICUT

#### Which nonprofit organizations qualify for a sales tax exemption?

In Connecticut, organizations that are exempt from federal income tax under Section 501(c)(3) or (13) of the Internal Revenue Code qualify for a sales tax exemption. Qualified organizations<sup>1</sup> also include entities that hold a valid Connecticut exemption permit (an "E Number Permit") issued prior to July 1, 1995.<sup>2</sup>

#### Tax-Exempt Purchases

Purchases of Goods or Taxable Services. A qualified organization may purchase supplies, services and equipment without paying Connecticut sales and use taxes if the purchases are made by the organization, are exclusively for the purposes for which the organization was established, and are paid for with organization funds. No prior approval from the Department of Revenue Services (the "DRS") is required to receive tax exemption for these types of purchases, but the following requirements apply:

- To claim the exemption, the organization must give the retailer at the time of purchase a completed CERT-119 (*Certificate for Purchases of Tangible Personal Property and Services by Qualifying Exempt Organizations*) with a copy of its IRS determination letter regarding its federal tax-exempt status attached. Additional documentation is required for organizations that have received federal tax-exempt status under a group determination letter.

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<sup>1</sup> In this article, organizations in each of Connecticut, New Jersey, and New York that qualify for the relevant state sales tax exemption are referred to as "qualified organizations."

<sup>2</sup> As of July 1, 1995, the Department of Revenue Services no longer issues E Number Permits and instead relies on an organization's federal tax-exempt status to determine whether the organization qualifies for sales tax exemption.

- Purchases must be paid for by a check drawn on the organization's checking account or by a credit card issued in the organization's name. Cash may be used only for purchases of \$10 or less.
- Organizations that, prior to July 1, 1995, were issued an E Number Permit must attach to their CERT-119 a copy of their E Number Permit instead of an IRS determination letter.
- Qualified organizations may issue a blanket CERT-119 to retailers to cover purchases (other than meals and lodging) made within one year. Note, however, that a blanket CERT-119 may not be used for cash purchases; a separate CERT-119 must always be presented for any cash purchase.

Purchases of Meals or Lodging. Qualified organizations need prior approval from the DRS to claim a sales tax exemption for purchases of meals or lodging. A sales tax exemption will be available only if the organization purchases meals or lodging with its own funds and will not charge or be reimbursed in whole or in part by those attending the event. To request an exemption, organizations must submit three weeks in advance a completed CERT-112 (*Certificate for Exempt Qualifying Purchases of Meals or Lodging by an Exempt Organization or Qualifying Governmental Agency*). Policy Statement 2006(3) contains guidance and specific requirements regarding this exemption.

Prior approval is not needed, however, when a qualified organization will purchase meals to be resold (either by selling tickets or collecting reimbursement from those attending the event) at one of a maximum of five fundraising or social events of a day's duration per year. In this case, the organization can use CERT-119 and follow the directions in Special Notice 98(11).

### **Tax-Exempt Sales**

Like any business, nonprofit organizations generally must collect sales tax on all sales of taxable goods and services, but there are exceptions.

In Connecticut, sales at retail establishments operated by nonprofit organizations, such as gift shops or thrift stores, or items given away or used as raffle prizes, are not exempt from sales and use tax. However, nonprofit organizations that operate retail establishments are not prohibited from using the special exemption from the collection of sales and use tax at their individual fundraising and social events, as described below.

Special Exception for Fundraising and Social Events. Nonprofit organizations may sell tangible personal property, including meals, at up to five social or fundraising events of a day's duration per calendar year without charging sales and use taxes. The five-day limit applies even if the events are held on consecutive days, and even if the events are considered a single fundraising event.

Exemption for Certain Sales by Public Libraries and Library Organizations. In Connecticut, sales of tangible personal property by public libraries and sales of books by library organizations are not taxable under the sales tax law, regardless of whether the purchaser or seller would qualify for an exemption from state sales tax.

For a complete list of sales that are not taxable in Connecticut, including sales of clothing and footwear with a value of less than \$50, newspapers, and certain food items, see Section 12-412 of the Connecticut General Statutes and Publication IP 2006(11) ("Getting Started in Business"), links to which are provided at the end of this article.

## NEW JERSEY

### Which nonprofit organizations qualify for a sales tax exemption?

In New Jersey, organizations that are exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code are eligible for sales tax exemption.<sup>3</sup>

#### Tax-Exempt Purchases

Qualified organizations that wish to obtain a state sales tax exemption must file Form REG-1E (*Application for Exempt Organization Certificate*) with the New Jersey Division of Taxation. The organization must include with its application a copy of its (i) Articles of Incorporation or other organizational document (charter, trust agreement, or constitution), (ii) bylaws, and (iii) IRS determination letter recognizing its federal tax-exempt status. Once approved, the organization will receive only one Exempt Organization Certificate. The original must be kept in the organization's files and photocopies must be provided to retailers when purchasing merchandise or services.

An organization may use its Exempt Organization Certificate for all purchases (except energy) that are directly related to the organization's purposes, including goods and equipment, services, meals, admissions and hotel or motel occupancies. The organization must make payment using organization funds. If the person making the purchase pays with personal funds, the exemption from sales tax does not apply, even if the person will receive reimbursement from the organization.

#### Tax-Exempt Sales

Like any business, nonprofit organizations generally must collect sales tax on all sales of taxable goods and services. However, a qualified organization is not required to collect sales tax if it makes only occasional fundraising sales, the sales events are relatively short in duration, and all of the proceeds go to the exempt organization. By way of example, a qualified organization would not have to collect sales tax if:

- it has an annual book and greeting card sale, lasting a few weeks;
- several times a year, it sells gift merchandise, plants or crafts for one or two days; or
- it operates a seasonal hot dog and refreshment stand, open only while little league games are being played.

In contrast, except for certain "thrift store sales" described below, if a qualified organization has a gift shop or café that is open, for example, on weekends or some other regular time throughout the year, it must collect sales tax on items it sells.

Note, however, that tax does not need to be collected on those items that, in general, are not taxable in New Jersey, such as newspapers, magazines, clothing, and certain footwear. For a list of all non-taxable items in New Jersey, see the New Jersey Sales Tax Guide, a link to which is included at the end of this article.

Exception for Thrift Store Sales. Qualified organizations are allowed to operate a thrift store without collecting sales tax on sales if:

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<sup>3</sup> Non-501(c)(3) organizations that qualify for sales tax exemption in New Jersey include volunteer fire companies; rescue, ambulance, first aid, or emergency companies; veterans' organizations; and PTOs/PTAs of an elementary or secondary school. Fraternal organizations, social clubs, and civic, business, labor, and condo/homeowner associations do not qualify for exemption.

- the sale is of donated merchandise;
- at least 75% of the store's merchandise is donated; and
- at least 75% of the work to operate the store is performed by volunteers.

However, sales tax must still be collected on any taxable sale of merchandise in the store that has not been donated.

Exception for Admission Charges. Exempt organizations also are not required to collect sales tax on charges for admission to events, provided that all proceeds from admissions are for the exclusive benefit of the organization conducting the event and do not personally benefit any individual member of the organization. This exception does not apply, however, to admissions to carnivals, rodeos, or circuses in which any professional performer or operator participates for compensation.

## **NEW YORK**

### **Which nonprofit organizations qualify for a sales tax exemption?**

In New York, exemption from sales and use tax may be granted to any entity organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, testing for public safety, fostering national or international amateur sports competition, or preventing cruelty to children or animals. These are the same types of organizations that may qualify for federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code. However, an organization does not need to have received 501(c)(3) tax-exempt status to qualify for an exemption from New York sales and use tax.

To qualify for the exemption, an entity must be "formally organized," which means it must be governed by a certificate of incorporation or similar document and bylaws. New York's sales tax law contains specific requirements for provisions that must be included in the organizational documents of any entity seeking a sales tax exemption. A detailed description of these provisions can be found in the Department of Taxation and Finance's Publication 843, a link to which is included at the end of this article.

### **Tax-Exempt Purchases**

To claim exemption from sales tax, a qualified organization must file Form ST-119.2 (*Application for an Exempt Organization Certificate*), with a copy of its organizational documents and other required information attached, with the Sales Tax Exempt Organizations Unit of the Department of Taxation and Finance. An organization that has received a federal income tax exemption under Section 501(c)(3) of the Internal Revenue Code needs to provide only a copy of its determination letter from the IRS and not copies of its organizational documents or other information.

Once approved, an organization will receive an Exempt Organization Certificate. After receiving a certificate, all of the organization's taxable purchases, including purchases of tangible personal property and services, food and drink, payment of admission charges, and rent paid for hotel occupancy, are exempt from sales tax, as long as the following requirements are met:

- To make purchases exempt from sales tax, an organization must provide vendors with a completed Form ST-119.1.
- The organization must be the direct purchaser, occupant or patron of record (which includes an employee or agent authorized to make purchases on the organization's behalf).

- Payment must be made directly by the organization or from its funds directly to the vendor.
- Payment must be made using cash, a check, or a debit or credit card of the organization. Personal checks may not be used, even if the person making payment will later be reimbursed by the organization.
- Purchases made for personal use and not for the organization do not qualify for sales tax exemption.

### **Tax-Exempt Sales**

Except in certain circumstances, a nonprofit organization must collect sales tax on its taxable sales of goods and services. A discussion of the more significant exceptions to the requirement of qualified organizations to collect sales tax is set forth below. Please consult Publication 843 for a more detailed discussion of these exceptions.

Note also that, as in Connecticut and New Jersey, certain items are generally not subject to sales and use tax. For a list of items that are exempt generally from sales and use tax in New York (including newspapers, magazines, certain foods, and clothing and footwear with a value of less than \$110), see Publication 750, a link to which is provided at the end of this article.

Sales of Tangible Personal Property Through a “Temporary” Shop or Store. A qualified organization does not need to collect sales tax for sales made at a temporary shop or store, which is any place or establishment where goods are sold without any regularity, frequency, or continuity, and where there is no other person on the same premises who is required to collect sales tax. Examples of a temporary shop or store include booths or stands operated by a qualified organization at a flea market, craft fair, antique show, or similar premises, where there are no other vendors on the premises who are required to collect sales tax. Publication 843 contains hypothetical situations that further explain this exemption. Note that sales from a thrift store are not exempt from tax, since thrift stores are operated with a degree of regularity, frequency or continuity.

Sales of Food or Drink in a “Temporary” Restaurant, Tavern, or Other Establishment. Similarly, a qualified organization does not need to collect sales tax for sales of food or drink at a temporary restaurant, tavern, or other establishment, which is a place where food or drink is sold without any regularity, frequency, or continuity, and where there is no other person on the same premises required to collect sales tax. Examples of a temporary restaurant, tavern, or other establishment include concession stands and food trucks operated by a qualified organization at a county fair, church bazaar, or similar place. Publication 843 contains hypothetical situations that further explain this exemption.

Certain Fundraising Sales. Fundraising sales, such as door-to-door solicitations or catalog sales, are exempt from sales tax if the organization holds title to the product at the time it is sold. If a qualified organization merely solicits sales on behalf of a vendor, rather than purchasing the items itself for resale, sales tax will apply. The same rules apply to fundraising sales made by telephone, email, or online. Also, to the extent such sales are made with a degree of regularity, frequency, and continuity, sales tax will apply.

Admission Charges. Generally, any admission charged by a nonprofit organization is exempt from sales tax if all the proceeds inure exclusively to the benefit of the organization. However, admissions to the following events are subject to tax:

- athletic games or exhibitions (other than those that exclusively benefit an elementary or secondary school); and

- carnivals or rodeos in which a professional performer or operator will receive compensation.

Auction Sales. Auction sales, whether they are live or by telephone, email, or online, are not subject to sales tax as long as the auction is not held with a degree of regularity, frequency and continuity. Auctions sales by an organization are not generally considered to be made with a degree of regularity, frequency, or continuity if the organization conducts no more than two auction events during a calendar year.

Other. Publication 843 contains additional provisions relating to sales by qualified organizations of hotel occupancy, leases of personal property, sales of utility services, and sales of services to real property, all of which generally are subject to sales tax.

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### Useful Links and Websites

#### CONNECTICUT

Connecticut Department of Revenue Services: <http://www.ct.gov/drs/site/default.asp>

Information about the Connecticut Exemption Process:  
<http://www.ct.gov/drs/cwp/view.asp?a=1514&q=268642>

Links to CERT-119, CERT-112, Policy Statements, and Special Notices:  
<http://www.ct.gov/drs/cwp/view.asp?a=1541&q=270818&drsPNavCtr=|49976|#49977>

Publication IP 2006(11): Getting Started in Business (includes an overview of sales and use taxes in Connecticut): <http://www.ct.gov/drs/lib/drs/publications/pubsip/2006/ip06-11.pdf>

#### NEW JERSEY

New Jersey Department of Revenue, Division of Taxation, Sales and Use Tax:  
<http://www.state.nj.us/treasury/taxation/su.shtml>

New Jersey Sales Tax Guide: <http://www.state.nj.us/treasury/taxation/pdf/pubs/sales/su4.pdf>

Form REG-1E: Application for New Jersey Exempt Organization Certificate Form ST-5 Certificate: [http://www.state.nj.us/treasury/taxation/pdf/other\\_forms/sales/reg1e.pdf](http://www.state.nj.us/treasury/taxation/pdf/other_forms/sales/reg1e.pdf)

Form ST-5 Explained (and additional general information):  
<http://www.state.nj.us/treasury/taxation/pdf/pubs/sales/st5.pdf>

Sales and Use Tax – Admission Charges:  
<http://www.state.nj.us/treasury/taxation/pdf/pubs/sales/su11.pdf>

Sales Tax Information for Exempt Organizations with an Exemption Certificate (including discussion of thrift shops and occasional fundraising sales):  
<http://www.state.nj.us/treasury/taxation/st5excert.shtml> and  
<http://www.state.nj.us/treasury/taxation/pdf/pubs/tb/tb46.pdf>

#### NEW YORK

NY Department of Taxation and Finance, Sales Tax Exempt Organizations (includes links to forms): <http://www.tax.state.ny.us/sbc/exempt.htm>

Publication 843: Guide to Sales Tax for Exempt Organizations:  
<http://www.tax.state.ny.us/pdf/publications/sales/pub843.pdf>

Publication 750: Guide to Sales Tax in New York State:  
<http://www.tax.state.ny.us/pdf/publications/sales/pub750.pdf>

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