CDTFA
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

Nonprofit Organizations

Preface

This publication is a general guide to the Sales and Use Tax Law and Regulations as they apply to sales and purchases by nonprofit organizations, including schools, religious organizations and churches, charitable organizations, and other nonprofit groups.

If you cannot find the information you are looking for in this publication, please call our Customer Service Center at 1-800-400-7115 (TTY:711). Customer service representatives are available to answer your questions Monday through Friday, between 7:30 a.m. and 5:00 p.m. (Pacific time), except state holidays.

This publication complements publication 73, *Your California Seller's Permit*, which includes general information about obtaining a permit; using a resale certificate; collecting and reporting sales and use taxes; buying, selling, or discontinuing a business; and keeping records. Also, please refer to our website or the *For More Information* section of this publication for the California Department of Tax and Fee Administration (CDTFA) regulations and publications referenced throughout this publication.

We welcome your ideas on improving this or any other CDTFA publication. Please send your suggestions to:

Audit and Information Section, MIC:44
California Department of Tax and Fee Administration
PO Box 942879
Sacramento, CA 94279-0044

Tips for Using This Publication

Read the introduction

No matter what kind of organization you operate, be sure to read the introductory section of this publication. It includes background information that will help you understand the remainder of the publication.

Check the organization information

While there is no general sales and use tax exclusion for nonprofit organizations, certain types of organizations are eligible for specific tax exemptions and exclusions. Please check the organization-specific sections for information that may apply to your group before you move on to the rest of the publication.

Know your income and property tax exemptions

As you read this publication, it will help if you know which sections of the Federal and State income tax law and property tax law apply to your organization. For example, you may need to know if your organization is exempt from income tax under Internal Revenue Code sections 501(c)(3) or (c)(4), and/or California Revenue and Taxation Code (R&TC) section 23701. You may also need to know if your group is exempt from property taxes under R&TC section 214, commonly known as the "welfare exemption." For information on the welfare exemption, contact your county assessor or visit the *Property Tax* section of our website at *www.cdtfa.ca.gov*.

Please note: This publication summarizes the law and applicable regulations in effect when the publication was written, as noted on the back cover. However, changes in the law or regulations may have occurred since that time. If there is a conflict between the text in this publication and the law or regulations, decisions will be based on the law or regulations and not on this publication.

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Introduction

Sales and Use Tax Basics for Various Types of Nonprofit Organizations

This section provides introductory information describing California's sales and use tax and how it generally applies to sales and purchases by nonprofit organizations. It also provides basic information that can help you determine whether any of your organization's sales may qualify for special sales tax exemptions or exclusions. Be sure to read this section before you move on to the rest of the publication.

Tax Applies Unless There is a Specific Exemption or Exclusion

In California, *sales tax* applies to the sale of tangible personal property (referred to as "merchandise" or "goods" in this publication) unless the sale is covered by a specific legal exemption or exclusion. Individuals, businesses, and groups that sell taxable merchandise in California must pay sales tax on their taxable sales. Sellers may charge their customers for sales tax reimbursement (referred to as "sales tax").

Similarly, *use tax* applies to the purchase of taxable merchandise that will be used, consumed, stored, or given away in this state unless the purchase is exempt or excluded from tax. Individuals, business, and groups must pay use tax on their taxable purchases. The state use tax is complementary to, and mutually exclusive of, the state sales tax. Meaning, when sales tax applies, use tax does not, and when use tax applies, sales tax does not. Tax generally applies regardless of whether the items you sell or purchase are new, used, donated, or homemade.

No General Exemption for Nonprofit and Religious Organizations

Although many nonprofit and religious organizations are exempt from federal and state income tax, there is no similar broad exemption from California sales and use tax. Generally, a nonprofit's sales and purchases are taxable. In other words, nonprofit and religious organizations, in general, are treated just like other California sellers and buyers for sales and use tax purposes.

However, there are special exemptions and exclusions available for certain nonprofit and religious organizations. Some organizations may not owe tax on their sales, whereas some organizations may owe tax on certain types of sales (but not all sales). Other organizations may be responsible for tax just like other California sellers. It all depends on what type of organization you are and what your organization's practices and activities are. Later sections of this publication provide information to help you determine which exemptions and exclusions may apply to your organization.

Typical Taxable Sales by Nonprofit Organization

As noted above, a sale of merchandise or goods is generally taxable unless it is covered by a specific exemption or exclusion. Before you read the sections on specific organizations or types of sales, you may need to know more about sales in general.

A sale is an exchange of merchandise or goods for something else of value: money, barter, or trade. The barter or trade does not have to be a two-way exchange of merchandise—it also includes an exchange of merchandise for services. For example, if you give meals to your accountant in your museum café in exchange for accounting services, that is considered a sale of the meals.

Nonprofits commonly conduct a variety of activities that are considered sales. These include (but are not limited to) the following:

- Sales of food, meals, beverages, and similar items under a number of different circumstances.
- Sales of tickets that buyers will exchange for food, beverages, or other physical products.
- Sales of booklets, books, pamphlets, and so on.
- Sales of tickets for fundraising events when the ticket price includes amounts for food or beverages.
- Sales of items at rummage sales, bazaars, carnival booths, community events, and other fundraisers.
- Sales of merchandise in Internet, live, and silent auctions.
- Sales of tickets for game booths where *prizes are guaranteed* to each ticket purchaser, even when the prizes have little value. Examples include white elephant, fish pond, grab bag, and "pitch-'til-you-win" games.

Typical Nontaxable Activities by Nonprofit Organizations

Nonprofits also carry out certain activities that are not considered sales for sales tax purposes. These activities generally are not subject to sales or use tax. Examples include:

- The gifting of merchandise for a true donation: an amount someone gives your organization without expecting to receive merchandise of equal value in return. (*Example:* A member who donates $100 and receives a tote bag worth $5 generally is not considered a sale.)
- Sales of tickets for concerts, movies, plays, shows, and similar events when food and meals are not included in the ticket price.
- Sales of tickets for game booths and raffles *when prizes are **not** guaranteed* to every ticket purchaser.
- The sale of travel, home rentals, guide services, personal services, tutoring, and other things of value that are not physical products.
- Sales of gift cards, gift certificates, and coupon books.
- Membership drives and other fundraising activities that do not involve the exchange of merchandise or that include merchandise premiums of a much lower value than the donation or membership amount.
- Sales of advertising that does not involve exchanges of merchandise or goods.

Most Nonprofits That Make Sales Need Seller's Permits

Nonprofit organizations generally need a seller's permit if they make sales of goods or merchandise in California. This is true even if the sales are not taxable. In limited instances, when the organization only makes sales occasionally, we can issue a temporary seller's permit. Permit requirements are explained in more detail in the organization-specific sections of this publication. For more information, see *Registration Requirements*.

Types of Organizations

Charitable Organizations That Relieve Poverty and Distress

The Sales and Use Tax Law includes special exemptions for qualifying charitable organizations that relieve poverty and distress. This section is designed to address those exemptions. For more information, see Regulation 1570, Charitable Organizations.

Seller's permit required

The organizations described in this section are considered retailers and must hold a seller's permit if they make sales of goods or merchandise, even if the sales are exempt from tax. Please see *Registration Requirements* and *Collecting and Paying Tax* for more information on seller's permits and tax reporting requirements.

Sales exempt from tax if the charitable organization meets certain qualifications

If your organization meets all of the following qualifications, your sales are not subject to sales or use tax. The organization must:

- Be formed and operated for charitable purposes.
- Qualify, under Revenue and Taxation Code (R&TC) section 214, for the "welfare exemption" from property taxation on the retail site where you sell merchandise. If the organization does not own the store, the organization must qualify for the welfare exemption on its personal property located there, such as the store fixtures and equipment. For more information, see *Note for thrift store operators*.
- Carry out activities that relieve poverty and distress.
- Sell or donate items principally to assist purchasers or recipients in distressed financial condition.
- Make, prepare, assemble, or manufacture the items it sells or donates. "Preparation" includes cleaning, repairing, or reconditioning items. "Assembly" includes gathering together items at one or more locations for sale or donation.

  Example: Your 501(c)(3) charitable nonprofit corporation, which conducts a rehabilitation program, has qualified for the welfare exemption from property tax. You operate an emergency shelter for homeless families where you cook inexpensive hot lunches and sell them to families in need at reduced prices. Although sales of hot meals are ordinarily taxable, your sales are tax exempt because your organization and sales meet all of the conditions listed above.

Some purchases may be tax exempt

If your organization meets the qualifications described earlier, your qualifying organization's purchases are not subject to sales or use tax, provided the qualifying organization will donate or sell the items you purchase. In the example above, purchases of clothing, personal supplies, and other articles donated to the families in the emergency shelter would be tax exempt. However, tax does apply to purchases of items that the qualifying organization uses rather than donates or sells, such as office supplies or equipment, tools, displays, and similar items.

Welfare exemption from property tax

For information on the welfare exemption, see the *Property Tax* section of the California State Board of Equalization (BOE) website. The welfare exemption is jointly administered by the BOE and each county assessor. The BOE will determine whether an organization is eligible for the exemption. The county assessor determines whether the organization's use of property qualifies the property for the exemption.

Eligibility review

If you believe your organization's sales or purchases are exempt from sales and use tax as described in this section, you can write to us and ask us to review your eligibility. If we determine you qualify for the exemption, we will send you a letter that verifies your exempt status. We will also let you know which documents to provide to your suppliers to enable you to purchase items without tax.

Send your request by email to:

BTFD-CTSCPUGroup@cdtfa.ca.gov

Or by mail to:

Compliance Policy Unit, MIC:40
California Department of Tax and Fee Administration
PO Box 942879
Sacramento, CA 94279-0040

Please provide all of the following information and documentation with your request:

- A letter describing your organization's practices and activities, as well as what items will generally be purchased or sold by the organization.
- A copy of your Organizational Clearance Certificate issued by the BOE showing that the organization qualifies under R&TC section 214 for the welfare exemption.

Note for thrift store operators: To qualify for the welfare exemption, a thrift store must, among other things, conduct a rehabilitation program recognized by the California Department of Rehabilitation or operate under a city or county rehabilitation program. It must also sell goods processed in some manner by people who are being rehabilitated through the program and are employed in the operation of the store.

Cultural Organizations: Museums, Government Art Programs, Library Support Organizations, and Zoological Societies

This section includes information relating to sales and purchases by certain cultural organizations. For more information, please see regulations noted in the text.

Permit and tax requirements (in general)

Permit requirements

Museums, government art programs, library support groups, and zoological societies generally must hold seller's permits if they make sales of merchandise or goods. Please see *Registration Requirements* and *Collecting and Paying Tax* for more information on seller's permits and tax reporting requirements.

General tax requirements

Unless your sales qualify as tax exempt under one of the special exemptions described in this section, your sales of merchandise are generally taxable. This is true whether you buy the merchandise, make it, or receive it as a donation from an individual or a business. When you buy merchandise you sell as a retailer in a taxable sale, you can do so without paying sales tax to the supplier by issuing a resale certificate. For more information, see *Purchases for resale*. If you buy merchandise you will use rather than sell, you may be required to pay use tax or an amount for the sales tax to your supplier.

Museums and government art programs

For more information, see Regulation 1586, Works of Art and Museum Pieces for Public Display.

Museum, defined

A museum is a place specifically designated for display of artifacts or objects of art that either has a significant portion of its display space open to the public without charge during its normal operating hours, has its entire display space open to the public without charge for at least six of its normal operating hours during each month of operation, or has its entire display space open without charge to a segment of the student or adult population for educational purposes.

Purchases and leases of artwork and museum pieces

For the exemptions described below, works of art include two-dimensional and three-dimensional works of visual art. The exemption is not limited to paintings, drawings, prints, photographs, and sculptures; it also includes film, crafts, costumes, dresses, clothing, and items of personal adornment (such as jewelry).

Sale or purchase of works of art on public display

Under certain conditions, the sale or purchase of original works of art *for permanent collections on public display* is exempt from sales and use tax. The exemption covers original artworks that are any of the following:

1. Purchased by the state or any California county, city, or other local government entity for free public display.
2. Purchased by a nonprofit organization operating a public museum under contract with a government entity described in condition 1.
3. Purchased by a nonprofit organization exempt from state income taxes under Revenue and Taxation Code (R&TC) section 23701d for a museum open to the public at least 35 weeks a year for at least 20 hours a week. The buyer or another qualifying nonprofit organization must operate the museum.
4. Purchased by any buyer from a retailer for donation to a qualifying organization or government entity (see conditions 1-3). The retailer must deliver the artwork directly to the donee. The donor must transfer ownership to the recipient in writing.

Leases of works of art

Leases of original works of art are exempt from sales or use tax when both of the following conditions are met:

- Both parties to the lease are nonprofit organizations of the types listed under condition 2 or 3 in the previous section.
- The term of the lease is at least 35 years.

The exemption also includes public art leased by the state or any local government from another entity for display in public places.

Purchase of replacement museum pieces

Museums and governments sometimes lose items in their permanent collections to fire, flood, earthquake, and other causes. Sales and use tax does not apply to the purchase of replacement pieces under certain conditions.

The replacement pieces must be all of the following:

- Purchased to replace a museum display piece that was physically destroyed by fire, flood, earthquake, or other calamity.
- Purchased within three years of the calamity.
- Used exclusively for display.
- Valued at the same or a lesser amount as the destroyed item as of its destruction date.

The replacement piece does not have to be similar to the destroyed piece.

To qualify as tax-exempt, the purchase must be made by one of the following:

- A nonprofit museum regularly open to the public and operated by or for a local or state government entity.
- A nonprofit museum regularly open to the public and operated by a nonprofit organization exempt from state income tax under R&TC section 23701d.
- A state or local government entity for its art collection that is open to the public without charge.

Please note: Display cases, lighting fixtures, shelving, and similar items used in displaying the artwork or operating the museum do not qualify for this exemption.

Nonprofit organizations assisting museums: rummage sales

Under certain conditions, sales tax does not apply to sales by an authorized nonprofit museum auxiliary association or equivalent organization that assists a California city or county museum. You are considered a consumer, not a retailer, of the items you sell, and you cannot issue resale certificates on your purchases. As a consumer, you may be required to pay use tax or sales tax on your purchase. The sales of the items are not taxable if both of the following conditions are met:

- The rummage sale is at least the sixth consecutive annual rummage sale sponsored by the organization.*
- All profits are used exclusively to advance the purpose of the organization.

* *For the first five consecutive annual rummage sales, the museum auxiliary is considered to be a retailer of the items it sells. It must report the sales and pay sales tax on the proceeds.*

If your organization's sales are tax-exempt as shown above, you are considered a consumer, not a retailer, of the items you sell. Although you are not required to pay tax on your sales, you do need a seller's permit. For more information, see *Registration Requirements*.

Friends of the Library organizations

Nonprofit associations commonly called "Friends of the Library" and equivalent organizations are considered consumers of items they sell when they meet both of the following conditions:

- The organization performs auxiliary services to a library district, municipal library, or county library in California as authorized by the library's governing authority.
- The organization uses all profits from sales exclusively to advance its purpose.

As a consumer, your sales are not taxable. However, you may be required to pay sales tax or use tax on your purchases.

> *Example*: The Sierraburg Friends of the Library receives a donation of 20 new books. It sells the books in its annual book sale and uses the profits to buy more books for the library. Because the organization qualifies as a consumer for sales tax purposes, it does not owe tax on the sale of the books. Since the books were donated, there is no sales tax due on the purchase.
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> If Sierraburg had purchased the books from a retailer and then sold them at the annual book sale, sales tax should be paid to the vendor from whom the books were purchased. Sierraburg must not issue a resale certificate to the vendor to purchase the books without tax.

Zoological societies

The sale, purchase, trade, or exchange of certain animals and plants is exempt from sales and use tax when both of the following conditions are met:

- The animal or plant is a member of a threatened or endangered species listed on one of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Appendixes or the federal threatened or endangered species list. For more information, see *www.cites.org*.
- The buyer and the seller are nonprofit zoological societies (private charitable, scientific, or educational (501)(c)(3) entities or government agencies).

Donations

Generally, items withdrawn from a seller's inventory that are not resold are subject to use tax. However, items withdrawn from a seller's inventory and donated to an organization operated for educational, scientific, or literary purposes, including nonprofit museums, art galleries, libraries, and performing arts groups, are not subject to use tax.

Merchandise or goods donated by a seller (donor) who paid sales or use tax at time of purchase do not qualify for this exemption. This is true even if the donated items are resold by the organization, and the organization must charge sales tax when they sell it.

Generally, donations of gift cards, gift certificates, checks, cash, or services are not subject to sales tax since there is not an exchange of merchandise or goods. Donations of services and gift cards are not considered taxable regardless of the person donating, buying, or using them.

Leases of artwork

R&TC section 6365 expands the exemption for original works of art to include those leased from one nonprofit organization to another nonprofit organization for 35 years or more. The exemption includes public art leased by the state or any local government from another entity for display in public places. The definition of a work of art includes a costume, dress, clothing, or personal adornment. A permanent collection, as it applies to leases of original works of art, means a collection with a lease term of 35 years or more.

Nonprofit Veterans' Organizations

This section describes specific exemptions that apply to nonprofit veterans' organizations. If your organization sells food or meals, be sure to also read Food and Meals.

Permit and tax requirements (in general)

Permit requirements

Nonprofit veterans' organizations that make sales of merchandise or goods generally must hold a seller's permit. Please see *Registration Requirements* and *Collecting and Paying Tax* for more information on seller's permits and tax reporting requirements.

General tax requirements

Except for transactions where you are considered the consumer of purchases (for example: purchases that will be resold) but qualify as exempt sales as described in this section, your organization's sales of merchandise are generally taxable. This is true whether you buy the merchandise, make it, or receive it as a donation from an individual or a business. When you buy merchandise to resell as a retailer in a taxable sale, you can do so without paying tax to your vendor by issuing a resale certificate. For more information, see *Using a resale certificate*. If you buy merchandise you will consume rather than sell, you may be required to pay sales tax to your supplier.

Sales of flags and symbolic pins

Nonprofit veterans' organizations are considered the consumers of American flags they sell when the profits from the sales are used exclusively to advance the organization's purpose. As explained in *Sales and Use Tax Basics for Various Types of Nonprofit Organizations* and *Collecting and Paying Tax*, your sales are not taxable when your organization is a consumer. However, tax does apply to your purchase of the flags or materials used to make them.

For more information, see Regulation 1597, *Property Transferred or Sold by Certain Nonprofit Organizations*.

Sales or use tax does not apply to a veterans' organization's sale or purchase of "Buddy Poppies" and similar symbolic, temporary lapel pins when both of the following conditions are met:

- The pins are sold or purchased by the Veterans of Foreign Wars or other specified organizations described in Revenue and Taxation Code section 6360.1.
- The pins memorialize U.S. military veterans killed in foreign wars.

Meals served by nonprofit veterans' organizations

Meal exemption

Tax does not apply to your nonprofit veterans' organization's sales of meals and food products when all of the following conditions are met:

- You sell the food or meals at a social or other gathering you conduct.
- You furnish the meals or food to raise funds for your organization's functions and activities.
- You use the proceeds to carry out those functions and activities.

Please note: Sales of carbonated and alcoholic beverages are exempt from sales tax as described above only when included in the price of a meal. Even though your sales of carbonated and alcoholic beverages may be exempt from sales tax, if you issue a resale certificate when purchasing these items, you will owe use tax on the purchase price if the carbonated or alcoholic beverage is included in the price of a meal. You must report the purchase price of the item under *Purchases Subject to Use Tax* on your sales and use tax return. Sales of carbonated and alcoholic beverages for a separate price are taxable.

For additional information on the sale of food and meals, see *Food and Meals*.

Loans of motor vehicles

Loans by a retailer of motor vehicles to a veterans' hospital or other nonprofit facility for use in teaching disabled veterans how to operate specially equipped vehicles are exempt from use tax.

Military welfare society thrift stores

Tax does not apply to the sale of, and the storage, use, or other consumption in this state of, tangible personal property sold by a thrift store located on a military installation and operated by a designated entity that, in partnership with the United States Department of Defense, provides financial, educational, and other assistance to members of the Armed Forces of the United States, eligible family members, and survivors that are in need. A "designated entity" means a military welfare society described in Section 1033 of Chapter 53 of Part II of Subtitle A of Title 10 of the United States Code.

Religious Organizations

As discussed in Sales and Use Tax Basics for Various Types of Nonprofit Organizations*, there is no blanket sales or use tax exemption available for nonprofit religious organizations or churches, even when the organizations are exempt from income tax. This section discusses the special exemptions that do exist. You may also want to read* Charitable Organizations That Relieve Poverty and Distress*.*

Permit and tax requirements (in general)

Permit requirements

Unless all of your sales are exempt from tax, religious organizations and churches that make sales of goods or merchandise must hold a seller's permit as described below and file sales and use tax returns. Please see *Registration Requirements* and *Collecting and Paying Tax* for more information on seller's permits and tax reporting requirements.

General tax requirements

Unless your sales qualify as tax-exempt under the meal exemption described in this section, your sales of merchandise are generally taxable. This is true whether you buy the merchandise, make it, or receive it as a donation from an individual or a business.

Sales of items other than food

Religious organizations' sales and purchases of goods and merchandise other than food are generally taxable. If your religious organization holds or participates in fundraising events where you sell goods and merchandise, such as auctions, festivals, bazaars, firework stands, swap meets, or craft shows, your sales of nonfood items are generally taxable. Tax also applies when you sell from a church bookstore, from tables in your church at events, by Internet, or by mail order.

Donations to religious organizations

Donations vs. sales

You may receive donations at the same time you are selling merchandise. "True donations" are not taxable. A true donation is an amount someone gives you without expecting merchandise in return.

> *Example*: If one of your members donates $100 and receives a tote bag worth $5, this is generally not a sale. However, your purchase of the tote bags is subject to sales or use tax when you purchase it. If the tote bag was donated to your organization by another member, then no sales or use tax is due when the member donates the $100.

If your members make donations and expect merchandise in return, then this is a sale.

> *Example*: Your religious nonprofit organization receives 100 knitted blankets donated by the local knitting guild. Blankets of this quality usually are sold for $75. Your organization decides to sell the blankets and use the proceeds to fund one of its community projects. You sell some of the blankets for $100 and toward the end of the sale you reduce the price to $50. In this example, the sales of the blankets are taxable regardless of the price you charge for them. You are making a sale of merchandise or goods, since the person purchasing the blankets is expecting merchandise or goods in exchange for the set price. If you purchase blankets to resell instead of receiving them as a donation, you may present your vendor with a resale certificate and purchase the blankets without tax.

Donations of merchandise and goods

Generally, items withdrawn from a seller's inventory that are not resold are subject to use tax. However, items withdrawn from a seller's inventory and donated to qualified religious organizations located in California are not subject to use tax. Qualified organizations[1] are described in section 170(b)(1)(A) of the Internal Revenue Code.

Merchandise or goods donated by a seller (donor) who paid sales or use tax at the time of purchase do not qualify for this exemption. This is true even if the donated items are resold by the religious organization and the religious organization charges sales tax when they sell them.

Donations of gift cards, gift certificates, services, or cash are not subject to sales tax since there is not an exchange of merchandise or goods for a consideration. Gift cards, gift certificates, services, or cash donations are not considered taxable regardless of the person donating, buying, or using them.

> *Example*: Mr. Bob Smith sells fishing gear at his bait shop and provides guided fishing excursions. Mr. Smith donates a fishing pole, a fishing excursion, and a gift certificate to his church. Mr. Smith does not owe use tax on any of these items, since the fishing pole came from his resale inventory and tax does not apply to services or gift certificates.[2]
>
> *Example*: Ms. Jane Jones works for a company that sells wholesale veterinary supplies. Her temple asks for donations of new or gently used children's toys to put up for auction at a fundraising event. The company does not sell children's toys. Ms. Jones purchases and donates fifty children's toys on behalf of her company.
>
> Ms. Jones should pay sales tax when she purchases the children's toys from the toy store. The temple should charge sales tax on the auction price of the toys for their fundraiser.

Meals furnished or served by religious organizations

Religious organizations are generally considered retailers of meals. Tax applies to your sales of food as described in *Food and Meals*.

However, there is a specific exemption for meals served for fundraising purposes, described below. For purposes of the exemption, "religious organization" means an organization whose property is exempt from property taxation under article XIII, section 3, subdivision (f) of the state Constitution.

Tax-exempt sales of meals

Tax does not apply to sales of meals and food by your religious organization when all of these conditions are met:

- You sell the food at a social or other gathering you conduct.
- You furnish the meals to raise funds for your organization's functions and activities.
- You use the proceeds to carry out those functions and activities.

The tax exemption applies regardless of who serves the meals. Your organization can serve the meal or have someone else serve them.

The person furnishing the meals, such as a restaurant or caterer, is selling the meals for resale to the religious organizations and the religious organizations may issue resale certificates to the person furnishing the meals and purchase the meals without tax.

Please note: Sales of alcoholic or carbonated beverages sold for a separate price are subject to sales tax. If such beverages are included in the price of the meal (single price) and the sale meets the requirement of the exemption, the beverage is regarded as part of the exempt sale of the meal.

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[1] Includes religious organizations; charitable organizations such as Red Cross, Salvation Army, nonprofit schools and hospitals, medical assistance and research groups; organizations operated for educational, scientific, or literary purposes including nonprofit museums, art galleries, and performing arts groups; organizations operated for the protection of children or animals; fraternal lodges if the property is used for charitable purposes; and U.S., this state, or political subdivisions thereof.

[2] Once the gift certificate is redeemed, it will be considered the same as cash; thus, the retail selling price of the goods must be included in the taxable gross receipts of the bait shop.

Taxable sales of meals

When your organization serves meals that do not qualify for the exemption described above, sales tax applies as described in *Food and Meals*. Examples of sales of meals that do not qualify for the exemption include:

- Serving meals at an event where you do not make a profit on the proceeds (meals are free or sold at or below your cost). These sales do not qualify for the exemption because they are not for fundraising.
- Selling meals at church retreats or church camps, or at year-round cafes that are open to the public. These sales do not qualify for the exemption because they do not occur at a social or other gathering, nor are the meals served for the specific purpose of raising revenue.

In addition, the sale of "edible nonfood items" at an event where tax-exempt meals are served may be taxable. For example, tax would apply to your sales of alcoholic or carbonated beverages for a separate price.

Purchases of meals

Religious organizations are the retailers of meals even when the sale of the meal is tax-exempt. Your organization may purchase meals without paying sales tax from a restaurant, hotel, caterer, or other supplier by issuing that business a resale certificate at the time of purchase. For more information, see *Using a resale certificate*. You may use resale certificates to buy meals that you resell.

Social Clubs and Fraternal Organizations

"Social clubs" and "fraternal organizations" include any corporation, partnership, association, or group acting as a unit, such as service clubs, lodges, and community, country, or athletic clubs. This section focuses on the limited sales tax exemption available to these organizations. You may also need to read Food and Meals *for information on food and meal sales that are not covered by that limited tax exemption. More information on sales of food and meals is found in publication 22,* Dining and Beverage Industry.

Permit and tax requirements (in general)

Permit requirements

Social clubs and fraternal organizations that make sales must hold a seller's permit and file sales and use tax returns. Please see *Registration Requirements* and *Collecting and Paying Tax* for more information on seller's permits and tax reporting requirements.

General tax requirements

Except for sales that qualify as tax-exempt under the meal exemption described in this section, your sales of goods and merchandise are generally taxable. This is true whether you buy the merchandise, make it, or receive it as a donation from an individual or a business. Organizations that sell nonfood items at fundraising events, such as auctions, festivals, firework stands, bazaars, swap meets, or craft shows are considered retailers and their sales are subject to sales tax.

Sales of food and beverages

Meals, food, and beverages furnished by social clubs or fraternal organizations

Tax applies to your group's sales of meals, food, and drinks in the same way it does to sales by other businesses unless both of the following conditions apply:

- You sell meals, food, and beverages exclusively to your members. Items paid for by members but consumed by guests are considered sold to members.
- You make these sales less than once a week.

  Example: Your fraternal organization sells meals and drinks only to your members at a monthly dinner. You make no other food or beverage sales. Tax would not apply to the proceeds from your monthly dinner sales. However, if nonmembers attend even one of your dinners and pay for their own food or drinks, all of your food and drink income from all dinners is taxable. The member must pay for the guests' meal for the exemption to apply.

  Exception: Meals served to your members by a restaurant are generally taxable. See *Food served by a restaurant* on the following page.

Food served by a caterer

A caterer is a person in the business of serving meals, food, or drinks on premises owned or supplied by a customer, including premises leased by the customer from a person other than the caterer.

Sales of meals to social clubs and fraternal organizations are sales for resale if the social club or fraternal organization is the retailer of the meal. You may issue the caterer a resale certificate and report the sales of meals on your sales and use tax return. Meals served by a caterer, where the social club or fraternal organization is the retailer, are subject to tax unless the criteria noted in the previous section are met.

Food served by a restaurant

Tax applies to a restaurant's sales of meals to social or fraternal organizations in the same way it does to sales to any other customers. This is true regardless of the frequency of the meals or whether the meals are served to the organization's members. However, if the meals are served at a location other than the restaurant, the restaurant is acting as a caterer and tax applies as explained in the previous section.

Donations of merchandise and goods

Generally, items withdrawn from a seller's inventory that are not resold are subject to use tax. However, items withdrawn from a seller's inventory and donated to fraternal organizations are not subject to use tax if the donated items are to be used for charitable purposes and not for the benefit of the members. This exemption does not apply to social organizations unless they are an organization described in section 170(b)(1)(A) of the Internal Revenue Code.

Merchandise or goods donated by a donor who paid sales tax or use tax at the time of purchase do not qualify for this exemption. This is true even if the donated items are resold by the fraternal organization and the fraternal organization must charge sales tax when they sell it.

Donations of gift cards, gift certificates, checks, cash, or services are not subject to sales tax since there is not an exchange of merchandise or goods. Donations of services and gift cards are not considered taxable regardless of the person donating, buying, or using them.

Schools, Parent-Teacher Associations, Children's Organizations, Youth Organizations, and Children's Clothing

This section provides information on sales and use tax issues for schools, parent cooperative nursery schools, parent-teacher associations, children's organizations, and youth organizations.

Permit and tax requirements (in general)

Permit requirements

The organizations described in this section may be consumers of items they sell rather than retailers. If the organization meets certain requirements, as a consumer, your organization is not required to hold California seller's permits or pay tax on their sales. However, some of the organizations are consumers for certain types of sales and retailers for others. Retailers must hold a seller's permit and file sales and use tax returns. Please see *Registration Requirements* and *Collecting and Paying Tax* for more information on seller's permits and tax reporting requirements.

Before you apply for a permit, please read the rest of this section to determine whether any part of your organization is considered a retailer or a consumer regarding the sales it makes.

General tax requirements

When you are the consumer of items you sell, you should pay tax to your supplier when you buy those items. You cannot legally buy the items for resale using a resale certificate. When you are a retailer, tax applies to your sales whether the items you sell are things that you buy, make, or receive as a donation from an individual or a business. You may buy items without paying tax by issuing a resale certificate if you will resell the goods or merchandise in your normal sales activities. For more information, see *Using a resale certificate*.

Schools

Meal and food sales

Tax does not generally apply to sales of meals, as defined in subdivision (k)(1)(B) of Regulation 1603, to school students, for an established single price, when the sales are made at a time set aside for meals, and by public or private schools, school districts, student organizations, parent-teacher associations, a blind person operating a restaurant, vending machine, or a vending stand in an educational institution (as specified in Regulation 1603). The term "meal," as it applies to sales to school students, includes both food and nonfood products (such as carbonated drinks), which are sold together for an established single price. A meal does not include nonfood products which are sold to students for a separate price. Products sold at a time designated as nutrition breaks, recesses, or similar breaks are not considered meals. In addition, tax does not apply to individual sales of food products that are sold to school students.

The following food sales at schools are taxable:

- Sales of edible nonfood products—such as carbonated beverages—unless the products are sold as part of a meal.
- Sales of food to students and nonstudents in a place where admission is charged—such as an athletic event—even when the event is held at a school.
- Sales of meals and food products to nonstudents.

Sales made by caterers are subject to tax unless:

- The premises used by the caterer to serve the lunches to the students are used by the school for other purposes, such as sporting events and other activities during the remainder of the day,
- The fixtures and equipment used by the caterer are owned and maintained by the school, and
- The students purchasing the meals cannot distinguish the caterer from the employees of the school.

Yearbooks and catalogs distributed to students

A public or private school, school district, student organization, or county office of education is considered the consumer of yearbooks and catalogs it sells. The yearbooks or catalogs must be prepared for or by the school, district, or organization and distributed to students. There is no restriction on how the profits may be used.

Donations of merchandise and goods

Generally, items withdrawn from a seller's inventory that are not resold are subject to use tax. However, items withdrawn from a seller's inventory and donated to a nonprofit school are not subject to use tax.

Merchandise or goods donated by a donor who paid sales tax or use tax at time of purchase do not qualify for this exemption. This is true even if the donated items are resold by the organization, and the organization must charge sales tax when they sell it.

Donations of gift cards, gift certificates, checks, cash, or services are not subject to sales tax since there is not an exchange of merchandise or goods. Donations of services and gift cards are not considered taxable regardless of the person donating, buying, or using them.

Loans to schools

Certain loans by retailers are exempt from use tax, including:

- Loans of items to a school district for a district educational program.
- Loans of motor vehicles to be used exclusively in driver training programs by accredited private or parochial secondary schools. The driver training program must be approved by the State Department of Education as a regularly conducted course of study.
- Loans of motor vehicles to the California State University or the University of California for exclusive use in an approved driver education program conducted by the university.

Donations of children's new clothing

If your charitable nonprofit organization distributes new clothing to elementary schoolchildren, at no charge, to assist those in financial need, you are not required to pay sales tax or use tax on the purchase or use of the clothing according to Revenue and Taxation Code (R&TC) section 6375.5. To qualify for this exemption, your organization must meet the following requirements:

- Be organized and operated for charitable purposes.
- Have exempt status from state income tax under R&TC section 23701d.
- Be engaged in relieving poverty or distress.
- Distribute new children's clothing principally as a matter of assistance to recipients in distressed financial conditions.

Parent cooperative nursery schools

Nonprofit parent cooperative nursery school associations are considered consumers of property they sell, provided the resulting profits are used exclusively to advance the organization's purpose.

Nonprofit parent-teacher associations

Nonprofit Parent-Teacher Associations (PTAs) chartered by the California Congress of Parents, Teachers, and Students, Incorporated, and equivalent organizations authorized by school authorities to perform the same type of service for public or private schools, are considered to be consumers of products they sell. The profits from the sale must be used exclusively to further the organization's purpose.

Please note: Connection with a school does not automatically make a group equivalent to a chartered PTA. To be considered equivalent, your group must meet all of the following conditions:

- It is a nonprofit organization that includes parents.
- The group's objectives include enhancing the welfare of all of the students in the school and developing better communication between parents and school authorities. (Groups such as athletic booster clubs, whose efforts are directed toward a select group of students rather than all students, are not considered PTA-equivalent organizations.)
- The group is authorized to operate in the school by the school's governing authority.
- The profits from the group's sales are used exclusively to advance the group's purpose.

If your group meets these qualifications or is a chartered PTA, you are the consumer of products you sell, provided your group uses the profits from the sales only to advance your organization's purpose. Your organization is generally not required to hold a California seller's permit or file sales and use tax returns.

Although your organization's sales may not be taxable, your purchases generally *are* taxable and you cannot issue resale certificates to buy merchandise tax-free. Since businesses that sell to your organization generally must pay tax on their sales to your organization, you can expect to pay an amount for tax when you buy merchandise unless the sale qualifies for a specific exemption or exclusion. If you work with a fundraiser company or similar supplier, different regulations may apply. For more information, see *Sales That Involve Fundraiser Companies*.

Nonprofit youth organizations

Retailers

Youth groups that sell merchandise such as t-shirts, wrapping paper, mugs, and other items are generally retailers of those products. Sales of these items are taxable and your group must obtain a seller's permit and file sales and use tax returns. For more information, see *Registration Requirements* and *Collecting and Paying Tax*. Your group may need a permanent seller's permit.

Consumers

Qualifying requirements

Specific types of nonprofit youth organizations may qualify as consumers in certain situations. To qualify as a consumer, your group must be one of the following:

- A nonprofit organization that qualifies for tax-exempt status under Internal Revenue Code section 501(c). Your primary purpose must be to provide a supervised program of competitive sports for youth or to promote good youth citizenship. The group must not discriminate on the basis of race, sex, nationality, or religion.
- A youth group or club sponsored by or affiliated with a "qualified educational institution." This includes, but is not limited to, student activity groups such as debating teams, swimming teams, bands, and choirs. Most public and private schools are qualified educational institutions. Qualified educational institutions do not include schools that discriminate on the basis of race, sex, nationality, or religion. Youth organizations affiliated with them do not qualify for the tax exemption.

If your youth group does not meet the requirements listed above, it is generally considered the retailer of products it sells and may need a seller's permit. For more information, see *Registration Requirements*.

Qualifying sales

If your group qualifies as described above, you are a consumer when you do all of the following:

- Sell food products, nonalcoholic beverages, or items made by members of your organization.
- Make sales on an irregular or intermittent basis. Sales made in storefront or mobile retail outlets that normally require local business licenses do not qualify as intermittent or irregular sales.
- Use the profits from your sale only to advance your organization's purpose.

As a consumer, you do not owe tax on your sales. However, your purchases are generally taxable and you cannot issue resale certificates to your suppliers. For more information, see *Taxable purchases*. Since your suppliers will generally owe tax when they sell you merchandise, you can expect them to collect tax on your purchases. If you work with a fundraiser company or similar supplier, different regulations may apply. For more information, see *Sales That Involve Fundraiser Companies*.

For more information, see Regulation 1597, *Property Transferred or Sold by Certain Nonprofit Organizations*.

Organizations That Provide Human Services and Goods Related to Medical or Health Information, Disabilities, HIV/AIDS, Nutrition, and Homelessness

This section focuses on the limited tax exemptions available to certain organizations that provide community health and human services. If your organization's sales are not covered by those specific exemptions, be sure to read the other sections of this publication that may apply to you.

Permit and tax requirements (in general)

Permit requirements

Please see *Registration Requirements* and *Collecting and Paying Tax* for more information on seller's permits and tax reporting requirements.

General tax requirements

Unless they qualify as tax-exempt under the exemptions described in this section, your sales of merchandise are generally taxable. This is true whether you buy the merchandise, make it, or receive it as a donation from an individual or a business. Organizations that sell nonfood items at fundraising events, such as auctions, festivals, firework stands, bazaars, swap meets, or craft shows, are considered retailers and sales tax is due on their sales. For more information on tax reporting requirements, see *Collecting and Paying Tax*.

Medical health information literature or health and safety materials

Qualifying organizations

If your charitable organization's local office distributes medical health information literature, you are not required to pay use tax on the purchase, storage, or other use of that literature, provided you meet **all** of these conditions:

- You purchase the literature from your organization's national or branch office.
- Your organization is formed and operated for charitable purposes.
- Your organization qualifies for the welfare exemption from property taxation under Revenue and Taxation Code (R&TC) section 214.

This exemption also applies to your purchase, storage, or distribution of health and safety educational materials you routinely sell in connection with health and safety and first aid classes. To qualify for the exemption on materials you sell, your national organization must routinely distribute health and safety information and meet all the conditions listed above. However, your other sales of medical health information or health and safety materials are generally taxable.

> *Example*: You operate the local office of a national nonprofit charitable organization that distributes health and safety materials to the public. As part of your activities, you conduct cardiopulmonary resuscitation (CPR) classes. You purchase textbooks from your national or branch office and provide them to CPR students. Your textbook purchases would not be taxable. However, if you also sell health booklets you purchase from other sources, your sales of those booklets would be taxable.

Medical identification tags

People wear medical identification tags to alert others that they have a medical disability or allergic reaction to certain treatments. A nonprofit organization's sale, storage, or other use of those tags is exempt from sales and use tax provided the organization is exempt from state income taxes under R&TC section 23701.

Thrift stores benefiting individuals with HIV or AIDS

Legislation has extended the sunset date until January 1, 2029, for the sales tax exemption for thrift stores whose proceeds benefit individuals with HIV or AIDS. Therefore, through December 31, 2028, tax does not apply to certain thrift stores' sales of used clothing, household items, or other retail merchandise. A nonprofit organization must operate the thrift store to raise funds that will be used to provide medical, hospice, or social services for individuals chronically ill with HIV or AIDS.

The organization operating the thrift store, described in this section, must:

- Spend at least 75 percent of the store's net income on providing the medical, hospice, or social services for individuals with HIV or AIDS, and
- Be exempt from state income tax under R&TC section 23701d.

If you believe that your organization's sales qualify for this tax exemption, you may ask us to review your eligibility. If you qualify, we will provide your organization with a verification letter. Please send your request to:

> Compliance Policy Unit, MIC:40
> California Department of Tax and Fee Administration
> PO Box 942879
> Sacramento, CA 94279-0040

Please provide the following information with your request:

- A letter signed by an officer of your organization describing the organization's activities and certifying that it meets the requirements for the exemption described above.
- A letter from the California Franchise Tax Board verifying your organization's exempt status under R&TC section 23701d.
- A list of the types of merchandise your organization will sell.

Organizations providing services to people with developmental disabilities or children with severe emotional disturbances

Under certain circumstances, organizations whose primary purpose is to provide services to individuals with developmental disabilities or children with severe emotional disturbances are considered consumers of items they sell. The organization must:

- Be tax-exempt under Internal Revenue Code (IRC) section 501(c)(3).
- Not discriminate on the basis of race, sex, nationality, or religion.

In addition, all of the following conditions must be met:

- The items sold are handcrafted or artistic and designed, created, or made by individuals with developmental disabilities or children with severe emotional disturbances. Those individuals must be members of your organization or receive services from it.
- Each item sells for $20 or less.
- Your organization makes sales on an irregular or intermittent basis.
- You use the profits from your sales exclusively to advance your organization's purpose.

Tax applies to your organization's purchases of materials and supplies for use in making the items you sell. You cannot buy materials and supplies for resale using a resale certificate. For more information, see *Using a resale certificate*.

> *Example*: Your charitable, IRC section 501(c)(3) tax-exempt organization provides educational services and skills training for adults with developmental disabilities. Each year, participants in your programs make holiday decorations you sell at an annual open house for $20 each. The profits are used to buy educational materials for your classes. Your organization's sales are not taxable.

Organizations and institutions that serve meals or food

Deliveries to the elderly and people with disabilities

Tax does not apply to the sale or use of meals by a nonprofit volunteer home-delivery organization that delivers meals to homebound elderly people or people with disabilities.

Meals or food served to low-income elderly people

Sales tax does not apply to meals served to low-income elderly people by a nonprofit organization when both of the following conditions are met:

- The meals or food are served at or below the organization's cost.
- The meals are provided under a state-financed or federally-financed program.

Meals served to patients or residents of institutions

Sales of meals and food products to residents or patients of certain institutions are exempt from sales tax. These facilities include:

- Qualified health care facilities.
- Qualified community care facilities.
- Qualified residential care facilities for the elderly.
- Qualified alcoholism recovery, drug recovery, or drug treatment facilities.
- Any house or institution financed by state or federal programs that (1) serves as a principal residence exclusively for people age 62 or older, and (2) supplies room and board for a flat monthly rate.

In addition, sales tax does not apply to those institutions' purchases of food products, meals, and nonreusable items that become parts of meals or food products such as straws, paper napkins, and carbonated beverages. The meals or food products must be furnished or served to patients or residents.

For more information on qualifying institutions, please see Regulation 1503, *Hospitals and Other Medical Service Facilities*, *Institutions and Homes for the Care of Persons*.

Homeless shelters and related organizations

Homeless shelter operators

Nonprofit organizations operating homeless shelters may qualify for an exemption from sales and use tax. For more information, see *Charitable Organizations That Relieve Poverty and Distress*.

Auctions to benefit homeless shelters

Auction sales made to benefit a homeless shelter are exempt from tax when the auction is conducted by or affiliated with a nonprofit organization and all three conditions below are met:

- The funds raised in the auction are spent to benefit the homeless shelter and homeless people.
- The organization is exempt from state income tax under R&TC section 23701d.
- The organization conducts only one such auction during any 12-month period.

Volunteer Fire Departments

General tax requirements

From January 1, 2016, through December 31, 2030, qualified all-volunteer fire departments are no longer required to report sales tax, have a seller's permit, or file sales tax returns for the sale of tangible personal property, including clothing and hot prepared food products, when the profits are used to further the department's purposes. Instead, your all-volunteer fire department may be considered the consumer of goods sold. As a consumer, you cannot issue a resale certificate for the purchase of goods you will be reselling in your fundraising. You will need to pay sales or use tax on the purchase of these goods.

To qualify, an "all-volunteer fire department" must be an organization that meets all of the following requirements:

- Not pay members a regular salary, but may pay members hourly or per incident,
- Have as its purpose the protection of lives, property, and the environment within a designated geographical area from fire, disasters, and emergency incidents,
- Be regularly organized for volunteer fire department purposes,
- Qualify as a tax exempt nonprofit organization, and
- Not have gross receipts of $100,000 or more in each of the two prior calendar years.

How do I obtain more information?

For more information, please call our Customer Service Center at 1-800-400-7115 (TTY:711), Monday through Friday from 7:30 a.m. to 5:00 p.m. (Pacific time), except state holidays.

Organizations That Construct Military and Veteran Medical Facilities

From January 1, 2019, through December 31, 2024, Revenue and Taxation Code (R&TC) section 6369.7 provides for a sales and use tax exemption on the sale and use of building materials and supplies purchased by a qualified person for use by that qualified person in the construction of a qualified facility.

A "qualified person" means either or both of the following:

- A "qualified nonprofit organization," which means an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code that constructs a "qualified facility" as a gift to the United States Department of Defense (USDOD), pursuant to section 2601 of Title 10 of the United States Code or the United States Department of Veterans Affairs (USDVA), pursuant to section 8301 of Title 38 of the United States Code, or
- A contractor, sub-contractor, or builder working under contract with a "qualified nonprofit organization" to construct a "qualified facility."

A "qualified facility" means either of the following:

- A medical facility, or a temporary residential facility for families of patients receiving care, including either or both inpatient and outpatient care, at a medical facility, located on a United States military base in California; or
- A USDVA medical center, or a temporary residential facility for families of patients receiving care at or as part of a USDVA medical center, located in California.

Building materials and supplies that may have been purchased under this exemption include any machinery, equipment, materials, accessories, appliances, contrivances, furniture, fixtures, and all technical equipment or other tangible personal property of any other nature or description that meet all of the following:

- Are necessary to construct and equip a qualified facility.
- Become part of the completed qualified facility.
- Are transferred to the USDOD or USDVA as a gift, as specified.

The exemption does *not* apply to purchases of tools or other construction equipment that are not specified above and meet the three listed criteria.

This exemption from tax only applies to sales and purchases made after the date the USDOD or USDVA accepts the qualified nonprofit organization's offer to construct the qualified facility and on or before the date the USDOD or USDVA accepts the qualified facility.

A purchaser who issued an exemption certificate for its purchases made according to R&TC section 6369.7, and who subsequently uses the items purchased in a manner not qualifying for the exemption, will be liable for the payment of tax (calculated on the sales price of the property), plus any applicable interest.

Specific Sales Activities

Food and Meals

This section is a general guide for applying tax to sales of food and meals. It is not intended for organizations that are considered consumers of items they sell and is not a detailed explanation of all circumstances affecting food sales. Be sure to also read the portions of the prior sections that may apply to your specific kind of organization. If you have questions regarding how to apply tax to the sale of food at your particular event after reading this publication, please call our Customer Service Center 1-800-400-7115 (TTY:711). Customer service representatives are available Monday through Friday from 7:30 a.m. to 5:00 p.m. (Pacific time), except state holidays.

Food sales (in general)

The sale of food can be tax-exempt or taxable, depending on:

- The type of food,
- The circumstances under which the food is sold, and
- Who makes the sale.

However, the source of the food does not affect how tax applies. The same rules apply whether the food is purchased, donated to you, or homemade.

Special exemptions for the sale or use of meals and food products

Some nonprofit organizations qualify for special exemptions from sales or use tax on meals and food products. For more information, see the sections referenced in the list below.

Sales or use tax exemptions may be available for meals and/or food that are:

- Served to low-income elderly people (see *Organizations and institutions that serve meals or food*).
- Delivered to elderly people and people with disabilities (see *Organizations and institutions that serve meals or food*).
- Sold at schools (see *Schools*).
- Furnished or served by religious organizations (see *Meals furnished or served by religious organizations*).
- Furnished by social clubs and fraternal organizations (see *Sales of food and beverages*).
- Sold by nonprofit veterans' organizations (see *Meals served by nonprofit veterans' organizations*).
- Served to patients or residents of "institutions" (see *Organizations and institutions that serve meals or food*).
- Sold by nonprofit youth organizations (see *Nonprofit youth organizations*).

If your organization's food-related activity is not listed above, your sale of food or meals may be taxable. The next section "Sales of food at fundraising events" discusses how tax generally applies to various event sales. If you have an ongoing food sales operation, such as a café or restaurant, please refer to publication 22, *Dining and Beverage Industry*.

Sales of food at fundraising events

The circumstances under which you sell food at fundraising events affect whether your sales are taxable. The chart and the following sections describe certain general rules for those food sales. They will help you understand how to apply tax to common fundraising situations such as bake sales, fundraising dinners, and other events. Be sure to read the sections that apply to your nonprofit organization rather than rely on this table alone.

General rules for applying sales tax to food sold at events

Please note: The table on the following page does not apply to nonprofit organizations covered by the exemptions listed previously in this section, to restaurant sales, or to vending machine sales. For more information, see *Vending Machines*.

Sales of food "to go"		
Type of food	*Is the sale usually taxable?*	*See this section for more information*
Cold food (candy, snack food, produce, and so on)	No. *Exception*: Tax applies to the sale of cold food when it is part of a hot food combination package.	*Combination packages*
Cold beverages	No. *Exception*: Tax applies to the sale of alcoholic, carbonated beverages and cold beverages sold in hot food combination packages.	*Combination packages*
Hot prepared food	Yes. *Exception*: Tax does not apply to sales of individual hot drinks or bakery goods sold for a separate price.	*Hot prepared foods*
Combination packages	Yes. Application of tax depends on contents of package.	*Combination packages*

Sales of food for consumption on-site		
Type of sale/location	*Is the sale usually taxable?*	*See this section for more information*
Food sold where admission is charged	Yes. *Exception*: Food sold in a form or size that buyers would not ordinarily eat on-site. For example, the sale of a whole pie.	*Sales of food for consumption on-site*
Food sold where dining facilities are provided	Yes. *Exception*: Food sold in a form or size that buyers would not ordinarily eat on-site. For example, the sale of a whole pie.	*Where dining facilities are provided*
Meals served at fundraising events	Yes.	*Meals served at fundraising events*

Sales of food "to go"

The information in this section does not apply to your organization's sales of food in places where admission is charged or where "dining facilities" are provided for your customers. Dining facilities include tables, chairs, benches, counters, plates and glasses, and so on. For information on those types of sales, see *Sales of food for consumption on-site*.

Cold food products

Sales of cold food products such as produce, candy, cold sandwiches, baked goods, ice cream, and snack foods are generally not taxable. For more information, see *Combination packages*. However, certain vending machine sales of candy and other food products are partially taxable. For more information on vending machine sales, see *Vending Machines*.

Cold beverages

Sales of alcoholic beverages are taxable. Sales of carbonated beverages—including carbonated bottled water—are also taxable. "To go" sales of noncarbonated and noneffervescent bottled water and juice are not taxable. For more information, see *Combination packages*. Special rules for hot beverages are discussed under *Hot prepared foods*, below.

Hot prepared foods

Sales of hot prepared food products are taxable. This includes food products, items, components, or beverages heated for sale and sold at any temperature higher than the air temperature of their sales location. Examples include hot pizza, hot nuts, hot barbecued chicken, hot sandwiches, and hot soup. Sales of food prepared to be served hot are taxable even if the food has cooled by the time it is served.

Hot bakery goods, hot coffee, and other hot beverages are considered hot prepared food products. However, the sale of individual hot bakery items or drinks "to go" for a separate price is tax-exempt unless the items are sold through a vending machine for more than 15 cents or as part of a combination package.

Combination packages

Combination packages are two or more items sold together for one price. The application of tax will vary depending on the type of combination package sold.

Contents of combination packages	*How tax applies*
A. A hot prepared food item or hot drink and any other food item. *Examples*: Hot coffee and a pastry; hot sandwich and a cold drink.	Full price is taxable.
B. All cold food	Not taxable.
C. Carbonated or alcoholic drink and at least one cold food item. *Example*: Cold sandwich, chips, a cookie, and a carbonated drink.	The portion of the selling price that represents the charge for the carbonated or alcoholic drink is taxable.

Examples:

A. A hot coffee and pastry sold together for $3.50. The full $3.50 price is taxable.
B. A cold sandwich sold with a cookie and chips for $5.75. The sale is not taxable.
C. A cold sandwich package in example B sold with a carbonated soft drink for $6.00, with the soft drink normally priced at $1.00. Tax applies to $1.00.

Sales of food for consumption on-site

Sales of food for consumption at certain events and locations are generally taxable, even if the sale of the same food product would be tax-exempt when sold "to go." This section explains how tax applies to the sale of food intended to be eaten on-site, but it is not a guide to restaurant sales. For information on restaurant sales, please see publication 22, *Dining and Beverage Industry*.

Where admission is charged

Sales of food, meals, or beverages are generally taxable when the food product is sold ready to eat within a place where admission is charged, such as a concert, a play, a football game, or a similar location.

> *Example*: If you sell juice and sandwiches at a dog show where spectators have paid $5.00 for admission, your food sales are taxable.

However, sales of food products that would not ordinarily be eaten on the premises, such as jars of pickles, whole cakes or pies, or a canned ham, are not taxable. If you make sales of this type, be sure to keep good records that clearly indicate the type of products you sold. For more information, see *Recordkeeping*.

Exceptions: Certain locations are not covered by this general rule:

- National and state parks, marinas, campgrounds, and recreational vehicle parks.
- Places where admission is based on membership dues or use of a student body card, and places where spectators are admitted free, such as bowling alleys and golf courses, are not considered to be places where admission is charged.
- Meals served by religious organizations at a social event or other gathering when the purpose of serving or furnishing the meals is to obtain revenue for the functions of the organization and the proceeds are actually used in carrying out such functions. A clear separation of charges must be made on the ticket if the admission covers a taxable event, such as wine tasting.

Where dining facilities are provided

Sales of food, meals, or beverages are generally taxable when sold ready to eat at a location where your organization provides any of the following:

- Tables, chairs, or counters for dining.
- Trays, glasses, dishes, or other tableware for your customers' use.

  Example: Your organization sells ice cream sundaes at a free community fair where tables and chairs are available for use by your customers. Your sales are taxable.

However, if you sell food products that would not ordinarily be eaten on-site, such as jars of jam, whole pies, or packages of cookie dough, those sales are not taxable. If you make sales of this type, be sure to keep good records that clearly indicate the type of products you sold. For more information, see *Recordkeeping*.

Special events involving food, meals, or refreshments

Special considerations for ticket pricing

Special events sponsored by your organization may include both taxable and nontaxable activities. Consequently, your organization should be especially careful when providing food, drinks, prizes, admission to entertainment, and so on, for a single amount designated as a donation. Generally, if you charge a single donation for a fundraising event involving taxable sales, the entire ticket charge will be taxable unless you do both of the following:

- List the taxable charges separately on the event tickets.
- Keep separate records of taxable and nontaxable charges.

  Example: You hold a fundraising dinner, where the $75 ticket price includes dinner and drinks (that are taxable—see below) and entertainment (that is not taxable). If your tickets list only one price, that full amount is taxable. However, if the tickets state "Ticket price includes $35 for dinner and drinks" and your event income records reflect this breakdown, tax would apply only to the $35 charge for dinner and drinks.

  Please note: When your organization is not responsible for reporting and paying the tax for sales of meals at a fundraising dinner or other event (as explained in the next section) you do not need to separate charges in this manner.

Amounts you receive from tickets sold, but not used, are not taxable. You should keep records that show the difference between any advance sales you make and the number of tickets actually turned in at your event.

Meals served at fundraising events

When your organization serves the meals

Tax generally applies to charges for drinks, food, and meals included in the ticket price of fundraising dinners or special events. The business or organization that serves the meals at a fundraising event is responsible for reporting the taxable sales and paying the tax due. If your organization serves the meals at your event, you are liable for the tax. This is true whether the meals are furnished by members of your organization, purchased, or donated to you. Tax is due based on the ticket price for the meal. As noted in the previous section, if the charge for the meal is not separately listed on the event ticket, the entire ticket price is taxable.

When another business or organization serves the meals

If your organization contracts with someone else to serve the meals at your event, you generally are not responsible for paying tax on your ticket sales. Instead, the business that serves the meals must report the sale of the meals and pay the tax due, based on the amount they charge you.

For example, your organization might contract with a restaurant or hotel to provide and serve meals for a certain price. The food server would be liable for the sales tax, based on the amount the server charged you for the meals.

> *Example*: Your organization holds a fundraising dinner at the ballroom of a hotel with ticket prices of $100 each that covers a meal, drinks, and entertainment. You contract with the hotel to provide and serve the meals and drinks for $25 per person. Since the hotel serves the meals, it must pay sales tax based on the amount it charges you for the meals and drinks ($25 each). Your organization does not owe tax on your ticket sales.

Refreshments served at event but not mentioned on the event tickets

If your tickets do not mention refreshments, and you serve only an insignificant amount of food or drink at your event, your ticket sales are not taxable. For example, if you hold a Meet-the-Candidates Night and serve only coffee and tea, tax would not apply to your income from ticket sales.

It may be difficult to determine whether the amount of food you serve at an event would be considered insignificant or whether it is a significant enough part of the event to become a taxable sale. If you have questions, you can email us at *www.cdtfa.ca.gov/email*, write to us at Audit and Information Section, MIC:44, California Department of Tax and Fee Administration, P.O. Box 942879, Sacramento, CA 94279-0044, or call our Customer Service Center for assistance at 1-800-400-7115 (TTY:711).

Purchases of supplies and nonfood products

Tax applies to your purchases of items such as disposable plates, napkins, utensils, cups, and nonfood products such as carbonated or alcoholic beverages. However, if you intend to resell these items, you may purchase them tax-free by issuing a resale certificate to the seller when making your purchase. For more information, see *Using a resale certificate*.

However, if you do not buy these items for resale and you pay tax to your supplier, you may be able to take a deduction on your sales and use tax return. The deduction would reduce the amount of your total taxable sales based on the cost of the tax-paid purchases. You must use the items for one of the taxable activities covered by the sales or ticket proceeds from your event.

For example, your organization might pay sales tax to a vendor when it buys paper plates on which to serve taxable meals at a fundraising breakfast. In that case, you could take a deduction for the cost of the tax-paid plates. You would take the deduction under *Tax-Paid Purchases Resold Prior to Use* on your sales and use tax return. You must claim the deduction on the same return on which you report the full, taxable gross receipts from the breakfast sales. Taking the deduction does not change the amount you report as total sales for the event. However, if the meals you provide are exempt from sales tax, and you are considered the consumer of the meals and not the retailer, then you would owe tax on the cost of the supply items and are not entitled to a tax-paid purchases resold deduction.

Recordkeeping

Whenever you sell food for fundraising, your records must indicate the type of food and the location of the sale. If you make tax-exempt sales of food "to go," your records should state that you did not provide dining facilities for your customers or that you were selling products not suitable for consumption on site. For more information, see *Sales of food for consumption on-site* and *Where dining facilities are provided*.

If you claim a tax exemption for sales of food products in a form or size not suitable for consumption on site, your records should:

- Indicate that the food products would ordinarily not be consumed on the premises, and
- If applicable, separately list income for sales of these "to go" food items from income for your sales of food to be eaten on site. Make the separation in your sales records, cash register tapes, or a similar record that we can verify by audit. For example, you might sell pie slices and whole pies at a fair that charges admission. While you could use one cash box for all sales, you should retain sales receipts for all nontaxable whole pie sales.

Your records must provide sufficient detail to back up your claim that any sales are tax-exempt.

Vending Machines

For information on vending machine sales at schools, see Schools. *The information in this section supplements the organization-specific information found in the first section of this publication. If there is information in that section that applies to your specific type of organization, be sure to read that section first.*

Vending machine sales are generally taxable

Sales tax generally applies to vending machine sales, including sales of toys, snack foods, hot food products, and carbonated drinks. However, items considered food (including hot drinks "to go") when sold in a vending machine are taxed at 33 percent of their selling price. Also, some organizations are consumers for all of their vending machine sales, while other organizations are consumers for only some of their vending machine sales.

Operator owes the tax

The operator of the vending machine is responsible to report and pay the tax. If your nonprofit organization stocks the machine and collects the money from it, you are the operator and responsible for the sales tax. If an outside company stocks the machine and collects the money, then pays you a portion of the profits, that company must report and pay the tax due.

Some organizations are consumers

Certain nonprofit organizations are considered to be the consumers of all products they sell through vending machines, regardless of price. If you are a consumer of nonfood products sold through the vending machine, tax applies to your purchases of those items, but not to your sales. The organizations include:

- Nonprofit parent-teacher associations and equivalent organizations.
- Nonprofit organizations commonly called Friends of the Library and equivalent organizations.
- Nonprofit parent cooperative nursery schools.

For more information on these organizations, see *Nonprofit organizations assisting museums: rummage sales* and *Schools, Parent-Teacher Associations, Children's Organizations, Youth Organizations, and Children's Clothing*.

In addition, nonprofit, educational, or charitable organizations other than those listed above are considered consumers of the following items they sell in a vending machine:

- Items sold for 15 cents or less.
- Unsorted cold food products (other than beverages), sold in bulk and priced at 25 cents or less, such as loose candies.

More information

For more information, see Regulation 1574, *Vending Machine Operators*, or publication 118, *Vending Machine Food Sales*. For information on seller's permits and tax reporting requirements, see *Registration Requirements* and *Collecting and Paying Tax*.

Newspapers and Periodicals

Nonprofit organizations commonly distribute newspapers, newsletters, and periodicals to their members and the public, and they may also sell periodicals. This section provides general information on the application of sales and use tax to these kinds of publications. Please remember that this section addresses the general tax rules that apply. If there is a section that applies to your specific type of organization, be sure to read that section first.

What is a newspaper or periodical?

For sales and use tax purposes, a publication qualifies as a newspaper or periodical if you publish different issues at least four times a year. Books, annual reports, journals, special reports, and other publications that are published less than four times a year do not qualify for the special tax exemptions discussed in this section. The sale of those publications is taxable unless your organization qualifies for the special exemptions described earlier in this publication.

Specific exemptions from tax

Types of exemption (in general)

An organization's sale of newspapers and periodicals (including newsletters) is generally taxable. However, tax does not apply to the sale or use of these publications under the specific conditions explained in this section. The exemptions apply to:

- Publications distributed at no charge (explained below).
- Certain periodicals sold by subscription (see *Periodicals sold by subscription*).
- Periodicals published by 501(c)(3) nonprofit organizations only for their members or without commercial advertising (see *Periodicals published by nonprofit 501(c)(3) organizations*).
- Periodicals published by other nonprofit organizations for their members (see *Periodicals published by other nonprofit organizations for their members*).

Be sure to read the next sections for the specific requirements for each exemption. Your periodical may fully or partially qualify for one of the exemptions listed above.

Sale of component parts to periodical publishers

Tax does not apply to the sale of component parts or ingredients of any periodical that will be sold. In addition, tax does not apply to the sale of component parts or ingredients of certain periodicals that will be given away.

Component parts are the materials that become a physical part of the periodical, such as ink, paper, and binding. Fliers, circulars, handbills, and similar items that are inserted in or attached to a qualifying publication are also considered component parts. Businesses that make nontaxable sales of component parts to periodical publishers should obtain an exemption certificate from the publisher.

Publications distributed without charge

Sales tax does not apply when you distribute periodicals (or any other publication) without charge. In addition, purchases of component parts for periodicals you distribute without charge are not taxable, provided the publications:

- Are regularly published, and
- Average at least four issues a year.

If you distribute a publication that qualifies for this exemption, your supplier or printer should not charge you tax for component parts when you provide the supplier or printer with an exemption certificate.

What does "without charge" mean?

Distributing a publication to people or businesses without asking for anything of value in exchange is clearly a distribution without charge. Other cases may not be as clear-cut. For your publication to be considered distributed without charge, you:

- May distribute the publication on a voluntary pay basis, meaning that while you request payment, you will give the publication away for free.
- Must not distribute the publication to recipients in consideration of their membership dues or fees.

Periodicals sold by subscription

The sale or use of a newspaper or other periodical by subscription is not taxable if both of the conditions listed below apply. The periodical must be:

- Published from four to 60 times a year.
- Delivered by mail or common carrier.

If your periodical qualifies for this exemption, you do not owe sales tax on your subscription charges. In addition, you can buy component parts for the periodical without paying an amount for tax to your supplier or printer. You will need to give the printer or supplier an exemption certificate. For more information, see *Specific exemptions from tax*.

Periodicals published by nonprofit 501(c)(3) organizations

If your organization qualifies for tax-exempt status under Internal Revenue Code (IRC) section 501(c)(3), tax does not apply to the sale or use of a newspaper or other periodical you distribute or to its component parts if either of the following conditions apply:

- You distribute issues of the publication to your organization's members in consideration, in whole or part, of their membership dues.
- The publication does not generate revenue from or accept commercial advertising.

To qualify for the tax exemption, you must regularly publish the newspaper or periodical at average intervals of three months or less.

Newspapers and periodicals distributed by government entities established and administered for the purposes provided in IRC section 501(c)(3) may also qualify for this tax exemption.

If your periodical qualifies for this exemption, you do not owe sales tax on the portion of any dues you receive that go toward the newsletter or income from the sale of publications that do not contain advertising. In addition, you can buy component parts for the periodical without paying an amount for tax to your supplier or printer. You will need to give the supplier or printer an exemption certificate. For more information, see *Specific exemptions from tax*.

Periodicals published by other nonprofit organizations for their members

If your tax-exempt nonprofit organization's publications or newsletters do not qualify for one of the other tax exemptions already discussed in this section, another tax exemption may apply. Tax does not apply to your use or distribution of a publication if both of the following conditions are met:

- The publication is distributed to your organization's members, in whole or in part, in consideration of their membership dues.
- The cost for printing the publication is less than ten percent of the membership fee for the period in which the publication is distributed (see *Calculating your printing costs*).

  Example: Your organization, an IRC section 501(c)(4) nonprofit group, prints and distributes a monthly newsletter for its members. They receive the newsletter in consideration of their $25 annual membership dues. If the printing cost of the newsletter is less than 20.8 cents per issue ($25 annual membership fee divided by 12 months x 10 percent = $0.208 or 20.8 cents), the publication and its component materials would be exempt from tax.

Common publication situations for nonprofit organizations

You can use the table below to determine how tax may apply to your 501(c)(3) organization's newspapers, newsletters, and periodicals. Please note that the table assumes that your periodical is published at average intervals of three months or less.

<table>
<tr><th>Distributed to</th><th colspan="2">For a charge or free?</th><th>Subject to tax?</th></tr>
<tr><td colspan="4">Periodical without advertising revenue or commercial ads</td></tr>
<tr><td>Any recipient</td><td colspan="2">Either</td><td>No</td></tr>
<tr><td colspan="4">Periodical with advertising revenue or commercial ads</td></tr>
<tr><td>Members of your organization only</td><td colspan="2">Charge included in membership dues</td><td>No</td></tr>
<tr><td rowspan="3">Both members and nonmembers</td><td colspan="2">Members: Charge included in membership dues</td><td>No</td></tr>
<tr><td rowspan="2">Nonmembers:</td><td>Free</td><td>No</td></tr>
<tr><td>For a charge</td><td>Sales to nonmembers are taxable unless they qualify for the subscription sales exemption (see Periodicals sold by subscription)</td></tr>
<tr><td rowspan="2">Nonmembers only</td><td colspan="2">For a charge</td><td>Yes, unless distributions qualify for the subscription sales exemption (see Periodicals sold by subscription)</td></tr>
<tr><td colspan="2">Free</td><td>No</td></tr>
</table>

Calculating your printing costs

To determine your printing costs, you must include the cost of materials that become physical components of the publication (ink and paper, for example) and the cost of printing labor. Printing labor includes printing, collating, folding, binding, and other finishing work. It does not include prepress work such as camera work, plate preparation, film or plate output, typography, layout, and electronic file preparation. If you claim this exemption, you must obtain and keep documentation from your printer that shows the cost for the allowable charges separate from other charges.

If your organization does its own printing, you must include fringe benefits and payroll taxes in your labor cost. In addition to costs for component materials, you must also include any other costs you incur for the actual printing of the newspaper or periodical.

Using exemption certificates

If your publication qualifies for one of the exemptions described in this section, you should issue an exemption certificate to your supplier or printer when you purchase component materials or have the publication printed. The document should certify that your publication is not subject to sales or use tax. This allows your supplier or printer to charge you for materials or printing without charging tax. Sample certificates can be found in Regulation 1590, *Newspapers and Periodicals*.

Sales That Involve Fundraiser Companies

Nonprofit organizations and volunteer groups often contract with fundraiser companies to help them raise money. Whether your organization is responsible to report and pay sales tax depends on how the sales are handled.

Organization as a "sales agent" (permit not required)

Generally, your organization's members or representatives are considered agents of a fundraiser company when they solicit orders, collect payments, and distribute merchandise for the company. In that situation, your organization is not required to obtain a seller's permit for those activities. The fundraiser company is responsible for reporting the sales and paying any tax due, based on the retail selling price of the merchandise.

Please note: Special tax exemptions that apply to an organization's sales generally do not extend to sales the organization makes as the agent of a fundraiser company. The fundraiser company is responsible for the tax due on those sales.

Organization as a retailer (must obtain seller's permit)

When working with a fundraiser company, your organization is considered to be a retailer when it buys and sells items for its own account. You must obtain a seller's permit and pay any tax due if your organization does all of the following:

- Executes a contract with the supplier clearly stating that your organization will purchase and resell merchandise.
- Solicits orders from the public in its own name.
- Collects the sales price from customers in its own name.
- Is responsible for and pays the supplier for the merchandise or receives merchandise the supplier indicates it is donating.

Exceptions

Your organization is generally not responsible to obtain a seller's permit and report tax if the following apply:

- The organization is a qualifying PTA, Friends of the Library group, nonprofit parent cooperative nursery school, or qualified youth organization (under certain circumstances), as described in *Cultural Organizations: Museums, Government Art Programs, Library Support Organizations, and Zoological Societies* and *Schools, Parent-Teacher Associations, Children's Organizations, Youth Organizations, and Children's Clothing*.
- The profits from the sales are used *exclusively* to further the organization's purpose.

We consider the fundraiser company or supplier to be the retailer of the products you sell. In this case, the company or supplier is responsible for the tax, but they may charge you for tax reimbursement. Such companies often include multilevel marketing companies that solicit sales through a network of representatives.

For more information

If you're not sure who is responsible for reporting and paying tax on sales you arrange with a fundraiser company, please call our Customer Service Center for assistance at 1-800-400-7115 (TTY:711). Customer service representatives are available Monday through Friday from 7:30 a.m. to 5:00 p.m. (Pacific time), except state holidays.

General Obligations of Sellers and Purchasers

Registration Requirements

As noted in the introduction to this publication, nonprofit organizations generally need seller's permits if they make sales in California. This section describes general permit requirements and the two types of permits available.

Obtaining a seller's permit

In general

As noted in *Sales and Use Tax Basics for Various Types of Nonprofit Organizations*, you generally need a seller's permit if you make sales of merchandise or goods in California. It is your responsibility to apply for a permit, report your sales, file returns, and pay any tax due. Whether you need a regular or temporary permit depends on the frequency of your sales activities. For more information, see *Temporary permits vs. regular permits*, below.

There is no fee for a seller's permit. However, we may require a security deposit to cover any unpaid taxes your organization might owe if it stops operating. The amount of the security, if any, will be determined when you apply for the seller's permit, based on your anticipated sales.

Certain types of organizations are not ordinarily required to hold a seller's permit. For more information, see the organization-specific information included in this publication.

Temporary permits vs. regular permits

If your nonprofit organization holds less than three fundraising events with taxable sales each year, you may apply for a *temporary seller's* permit for each event.

If your organization conducts three or more fundraising sales events each year, or if your taxable sales activities occur continuously, you should apply for a *regular seller's permit*.

Even when you are eligible to obtain a temporary permit, you may find it easier to hold a regular permit. It keeps you from having to remember to apply for a temporary permit before each event. You may also find it easier to have a regular permit if you hold annual fundraising events.

Register for a permit

You can register on our website at *www.cdtfa.ca.gov* under *Register for a Permit*, or you can also register in person at any of our CDTFA offices. For additional assistance, please contact our Customer Service Center at 1-800-400-7115 (TTY:711).

If you held a fundraising sales event without applying for a permit, you should register with us right away. Registering promptly may allow you to file and pay any tax due before any penalty and interest are due.

Collecting and Paying Tax

This section provides general information on charging your customers tax, using resale certificates, paying tax on purchases, filing sales and use tax returns, and keeping records.

Taxable sales

Taxable amounts

In general, the amount you receive in exchange for merchandise is taxable. This is true whether a person pays you by cash or another method, or offers you something in barter or trade. In general, the taxable amount is the *price* you set and receive for the item. However, in the case of auctions and silent auctions, the *full amount you receive* is taxable, regardless of the item's value.

> *Examples:* You sell books after your church services for a price of $10 each, plus tax. You will owe tax based on the $10 price ($10 x tax rate = tax amount due).
>
> A member of your church comes by your table and gives you $50. She takes one $10 book and tells you to keep the entire $50. You will owe tax only on the $10 price of the book. The other $40 is a nontaxable donation and you do not owe sales tax on it.
>
> You sell a copy of the same book in a silent auction for $50. You will owe tax on the entire $50 amount.

Collecting tax from your customers

You must pay the correct amount of sales tax due on your sales. You are not required to collect tax from your customers, but the law does allow you to reimburse yourself for the tax from your customer equal to the tax you will owe on each sale. Usually, sellers add this sales tax amount to the price of merchandise when they make the sale. If you choose to follow this practice, your receipts should clearly show the price of the item and the amount of tax you applied.

However, to simplify your sales procedures, you may decide not to add tax to the price of each individual item as you sell it. Instead, you can include the tax in the sales price, provided you display a sign stating: "All prices of taxable items include sales tax computed to the nearest mill."

When you include tax in the price of items you sell, you must remember to subtract the tax amount out on your sales tax return to avoid paying too much tax. There is a line for this on the return.

> *Example*: You sell boxes of decorative note cards at a fair booth. To save your volunteers from having to calculate the sales tax due and make change with coins, you charge an even $5.00 for the cards and let your customers know that tax is included in the price by posting the sign described above.

Purchases for resale

In general

If you are a registered seller, you can make purchases for resale without paying an amount for tax to your supplier, as described below. Otherwise, your suppliers will collect sales tax on your purchases unless the transaction qualifies for a specific exemption or exclusion. In some cases, described under *Taxable purchases*, you may owe use tax on your purchases.

Organizations that are consumers

If your organization is considered a consumer, you cannot legally issue a resale certificate to make tax-free purchases. Your suppliers may collect tax reimbursement from you. See *Taxable purchases* if you are purchasing items from an out-of-state vendor.

You can calculate the tax that is included in the selling price by use of the following formula. Sales price = total price divided by 1+ tax rate: for example, $5.00 / 1.0825 = $4.62. Tax included = $5.00 – $4.62 = $0.38.

Please note: A tax rate of 8.25 percent was used for illustration purposes. Be sure to use the tax rate applicable to your purchase and include any district taxes that apply. Please see *California City and County Sales and Use Tax Rates* for current tax rates.

Making purchases for resale

As a registered seller with a permit, you may make tax-free purchases of merchandise for your resale inventory by issuing a resale certificate to your supplier. You must intend to sell the item, either as-is or as a physical part of a product you make and sell. If you plan to use the item for any purpose other than demonstration or display while you hold it for sale, you should not buy it with a resale certificate.

In addition, you should not use a resale certificate to buy an item if you are not sure whether you'll use the item before you sell it. Your seller may require you to pay sales tax. If you end up selling the item before you use it, you can take a deduction on your sales and use tax return (for example, tax-paid purchase resold prior to use).

> *Example*: Your nonprofit organization sells books to your members and the general public. Since your sales are not covered by any special exemption, they are taxable. You can use a resale certificate to buy books you will sell. However, if every year you order 25 special books to give to volunteers who work in your bookstore and other organization volunteers, you should not use a resale certificate to buy those 25 books since you will give them away rather than sell them.

Using a resale certificate

To make purchases for resale, you must provide your supplier a resale certificate. The resale certificate may be in any form, such as a note, letter, or memorandum. Regardless of form, it must contain all of the following information:

- Your organization's name and address.
- Your seller's permit number.
- A description of the property you will purchase.
- A statement that the described property is being purchased for resale (the certificate must contain words that state the property will be resold or is for resale).
- The date of the document.
- The signature of someone authorized to act for your organization.

You can find a sample resale certificate on our website at *www.cdtfa.ca.gov*.

More information on using a resale certificate can be found in publication 73, *Your California Seller's Permit*, and in publication 103, *Sales for Resale*.

Taxable purchases

Your organization's purchases may be subject to sales or use tax, as explained below. Use tax generally applies to purchases of items you will use, give away, store, or otherwise consume in California. The use tax rate for a given location is the same as the sales tax rate. The use tax does not apply to transactions subject to California sales tax.

If you purchase an item with a resale certificate, but use it for a purpose other than resale or demonstration and display, you will owe use tax on the purchase price. You must report the purchase price of the item under *Purchases Subject to Use Tax* on your sales and use tax return.

Tax also applies to purchases of supplies and equipment your organization will use rather than sell, such as bookkeeping supplies, office equipment, display equipment, and other similar items. You should not issue a resale certificate to purchase those items.

If you purchase items like those described in the previous paragraph from an out-of-state, mail order, or Internet seller who does not collect California tax from you, you must pay use tax on your purchase. Be sure to report the purchase price of the items on your sales and use tax return under *Purchases Subject to Use Tax*.

For more information on purchases subject to use tax, see Regulation 1685, *Payment of Tax by Purchaser*, publication 103, and publication 110, *California Use Tax Basics*, or call our Customer Service Center at 1-800-400-7115 (TTY:711).

Filing sales and use tax returns

If you have a temporary permit

When we issue you a temporary seller's permit, you will use a sales and use tax return to report the tax due from your fundraising event. The return and payment will be due on the last day of the month following the month in which you hold the event (for instance, a return for an event held in May would be due by June 30). Please be sure to comply with the deadline on the return. You may be charged penalty and interest if you do not file the return and payment on time.

If you have a regular permit

If we issue you a regular seller's permit, you will be instructed to file your tax return on a monthly, quarterly, or annual reporting basis. (Your filing frequency is determined by your estimated taxable sales.) You must file your completed return and pay any tax you owe on or before the due date. Generally, the due date is the last day of the month following the end of the reporting period. Please be sure to comply with the due date. You may be charged penalty and interest if you do not file the return and payment on time.

You can easily file your return on our website at *www.cdtfa.ca.gov*, under *File a Return & Pay Taxes*. This free electronic filing system lets you file a California sales and use tax return or prepayment and make payment for amounts due. You can file a return whenever it is most convenient for you, 24 hours a day, 7 days a week. Several filing options are available to fit your needs including three convenient payment methods. You will receive immediate confirmation from us when your return is accepted. Most sales and use tax accounts are eligible to file online. You may also file your return at one of our CDTFA offices.

Reporting your sales and purchases

You must report all of your sales on your sales and use tax return, not only your taxable sales. You will be able to take deductions on the return for sales that qualify for specific exemptions and exclusions, including those described in this publication. For more information on common deductions, see our *Common Sales & Use Tax Nontaxable Sales and Partial Exemptions* webpage.

You are also required to report your taxable purchases (purchases made without tax and used, stored, or consumed—not resold) on your sales and use tax return.

Recordkeeping

In general

Because you are required to report and pay the correct amount of tax on your sales and purchases, be sure to keep adequate records. Your records must show:

- Gross receipts from all sales of physical products, including sales that you think are not taxable.
- All deductions claimed on your sales and use tax returns.
- The total purchase price of all items you purchased without tax, used, or gave away (supplies, equipment, fixed assets, and so on), or leased to a person, organization, or business.

You should keep separate records for each fundraising or sales event. They should show the total amount you received, clearly distinguishing between taxable and nontaxable sales.

> *Example*: Your organization has a booth at a free community fair selling both t-shirts (taxable) and brownies (nontaxable, in this instance). You must itemize your sales records to clearly distinguish between proceeds from taxable sales of t-shirts and proceeds from nontaxable sales of brownies.

If you use a simple cash box to track your sales at events, you may find it easier to account for your sales if you sell taxable and nontaxable items at separate booths.

Our representatives may examine your books, papers, records, and other documents to verify the accuracy of any sales and use tax return you file. Whether or not you file returns, your records may be reviewed to determine if you owe tax. If you have not paid the correct amount of tax, you may be required to pay penalties and interest in addition to any tax you owe.

How long should I keep my business records?

You should keep required records for at least four years unless we give you specific, written authorization to destroy them sooner. If you are being audited, you should retain all records that cover the audit period until the audit is complete, even if that means you keep them longer than four years. In addition, if you have a dispute with us about how much tax you owe, you should retain the related records until that dispute is resolved. For instance, if you appeal the results of an audit or another determination (billing), or you file a claim for refund, you should keep your records while that matter is pending.

For more information, see Regulation 1698, *Records*, and publication 116, *Sales and Use Tax Records*.

Special requirements: operators of flea markets, swap meets, and similar events

If you conduct a flea market or swap meet where sellers rent or lease space under your control, you must obtain certain information from those sellers and provide it to us. Publication 111, *Operators of Swap Meets, Flea Markets, and Special Events*, describes your responsibilities, the information you must obtain from sellers, and the significant penalties that apply if you do not collect that information and provide it to us.

Donations to Nonprofits and Religious Organizations

Business Donations of Goods and Services

This section provides basic information for businesses on the sales and use tax consequences of donations made to nonprofit and religious organizations.

Donations of merchandise and goods

Items withdrawn from business inventory

In general, your business owes use tax when you remove items from your resale inventory and use them for a purpose other than to sell or for demonstration and display. However, you will not owe use tax if you donate those items to certain nonprofit or governmental organizations without first making any other use of the items. The organization must be operated for educational, scientific, or literary purposes, or be a religious or other organization described in Internal Revenue Code section 170(b)(1)(A).

The use tax exemption for donation includes, but is not limited to, goods you donate to the following:

- Churches and religious organizations.
- Charitable organizations such as the Red Cross, Salvation Army, nonprofit schools and hospitals, and medical assistance and research groups.
- Nonprofit educational organizations and schools.
- Organizations operated for educational, scientific, or literary purposes including nonprofit museums, art galleries, and performing arts groups.
- Organizations operated for the protection of children or animals.
- Fraternal lodges (if the donated item is used for charitable purposes).
- The United States, State of California, and political subdivisions of the state (counties, cities, and certain special districts).

Example: ABC Tires withdraws eight new truck tires valued at $800 from its resale inventory and donates them to Home Meals Express, a charitable nonprofit senior meals organization. If ABC Tires had used the tires on its own trucks, it would owe use tax based on their $800 value. But since it donated the tires to a qualified nonprofit organization from its resale inventory, before any use by ABC Tires, it does not owe use tax.

Items purchased for donation

Your business's purchase of items specifically for donation to a nonprofit, government, or religious organization is not eligible for any exemption from sales or use tax. You should pay an amount for tax to the seller rather than make the purchase with a resale certificate.

Example: The owner of California Pets Unlimited, Ms. Jones, is asked to donate new or gently used children's toys to her temple. Since Ms. Jones doesn't sell children's toys, she buys three stuffed animals from a toy store and donates them on behalf of her company. Ms. Jones may not buy the toys for resale since her intent is to donate them rather than sell them in her business. Her business is not eligible for any sales or use tax deduction or exemption related to the purchase and donation.

For recipients: sales of donated goods

If your organization receives a donation of merchandise from a business, please note that tax usually applies if you sell the donated item. But tax would not apply if you qualify as a consumer or if your sale is otherwise tax exempt, as explained earlier in this publication.

Example: The Smalltown Friends of the Library receives a donation of 20 new books from Smalltown Books and Espresso. The group sells the books in its annual book sale and uses the profits to buy more books for the library. Because the organization qualifies as a consumer for sales tax purposes, it does not owe tax on the sale of the books. For more information, see *Friends of the Library organizations*.

Donations and sales of gift cards, gift certificates, and services

Your business may donate gift cards, gift certificates, or services to nonprofit and religious organizations. When no merchandise changes hands in the donation, the donation has no effect on your sales or use tax liability and the donation does not entitle you to any sales or use tax deduction. Similarly, when the recipient organization sells the items, the sale is not taxable.

> *Example*: Joe's Fishing Shop sells fly fishing gear and provides guided fishing trips. The owner donates a fly fishing rod, fishing trip, and gift certificate to a California nonprofit fish conservation organization for its annual fundraiser. The shop does not owe use tax on the fly fishing rod withdrawn from its inventory. The donation of the trip and gift certificate have no effect on the business's sales and use tax liability.

The fish conservation organization sells the entire package to a California buyer in an online auction. The organization owes sales tax based on the fair market value of the fly rod. Its sale of the fishing trip and gift certificate are not taxable since those items are not physical merchandise.[3]

Loans for educational purposes

Certain loans by retailers to schools are exempt from use tax, including:

- Loans of items to a school district for a district educational program.
- Loans of motor vehicles to be used exclusively in driver training programs by accredited private or parochial secondary schools. The driver training program must be approved by the State Department of Education as a regularly conducted course of study.
- Loans of motor vehicles to a California State University or a University of California for exclusive use in an approved driver education program conducted by the university.
- Loans of motor vehicles used in teaching disabled veterans, including loans to a veterans' hospital or other nonprofit facility for use in teaching disabled veterans how to operate specially equipped vehicles.

The retailer may not make an earlier use of the loaned property other than retention, demonstration, or display in order for these exemptions to apply.

[3] Once the gift certificate is redeemed, it will be considered the same as cash; thus the retail selling price of the goods must be included in the taxable gross receipts of the seller. In this case, that is Joe's Fishing Shop.

For More Information

For additional information or assistance, please take advantage of the resources listed below.

CUSTOMER SERVICE CENTER
1-800-400-7115 (TTY:711)

Customer service representatives are available Monday through Friday from 7:30 a.m. to 5:00 p.m. (Pacific time), except state holidays. In addition to English, assistance is available in other languages.

OFFICES

Please visit our website at *www.cdtfa.ca.gov/office-locations.htm* for a complete listing of our office locations.

INTERNET
www.cdtfa.ca.gov

You can visit our website for additional information—such as laws, regulations, forms, publications, industry guides, and policy manuals—that will help you understand how the law applies to your business.

You can also verify seller's permit numbers and certain CDTFA licenses or accounts using our Online Services and selecting *Verify a Permit, License, or Account*.

Our publications are available on our website at *www.cdtfa.ca.gov/formspubs/all-forms-and-publications.htm*.

We also provide multilingual versions of many of our resources on our webpage, *www.cdtfa.ca.gov/languages.htm*, including publications, industry guides, forms, videos, and seminars.

Another good resource, especially for starting businesses, is the California Tax Service Center at *www.taxes.ca.gov*.

TAX INFORMATION BULLETIN

We publish a quarterly Tax Information Bulletin (TIB). It includes articles on the application of laws and regulations to specific types of transactions and special tax and fee programs, announcements regarding new and revised publications, information on any new or revised legislation affecting our taxpayers, and other areas of interest. You can find current TIBs on our website at *www.cdtfa.ca.gov/taxes-and-fees/tax-bulletins.htm*.

You can sign up for our CDTFA Updates email list at *www.cdtfa.ca.gov/subscribe/* to receive a monthly email with the latest news about and changes to the taxes and fees we administer.

FREE CLASSES AND SEMINARS

We offer free online seminars and video tutorials for help using our Online Services system, including how to file your return. Some classes are offered in multiple languages. If you would like further information on specific classes, please call your local office.

WRITTEN TAX ADVICE

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges due on a transaction if we determine we provided incorrect written advice regarding the transaction which you reasonably relied on and did not pay the correct amount of tax. For this relief to apply, a request for advice must:

- Be in writing,
- Identify the taxpayer to whom the advice applies, and
- Fully describe the facts and circumstances of the transaction.

For written advice on general tax and fee information, you may email your request at *www.cdtfa.ca.gov/email* or you may send your request to the addresses below.

For written advice on general sales and use tax information, including the California Lumber Products Assessment or Prepaid Mobile Telephony Services (MTS) Surcharge, send your request to:

Audit and Information Section, MIC:44
California Department of Tax and Fee Administration
P.O. Box 942879
Sacramento, CA 94279-0044

TAXPAYERS' RIGHTS ADVOCATE

If you would like to know more about your rights as a taxpayer or if you have not been able to resolve a problem through normal channels (for example, by speaking to a supervisor), see publication 70, *Understanding Your Rights as a California Taxpayer*, or contact the Taxpayers' Rights Advocate Office for help at 1-888-324-2798. Their fax number is 1-916-323-3319.

If you prefer, you can write to:

Taxpayers' Rights Advocate, MIC:70
California Department of Tax and Fee Administration
P.O. Box 942879
Sacramento, CA 94279-0070

Regulations, forms, publications, and industry guides

Lists vary by publication

Selected forms and publications, regulations, and industry guides that may interest you are listed below. Multilingual versions of certain publications are also available online.

Regulations

1503 *Hospitals and Other Medical Service Facilities, Institutions and Homes for the Care of Persons*
1570 *Charitable Organizations*
1574 *Vending Machine Operators*
1586 *Works of Art and Museum Pieces for Public Display*
1590 *Newspapers and Periodicals*
1597 *Property Transferred or Sold by Certain Nonprofit Organizations*
1603 *Taxable Sales of Food Products*
1668 *Sales for Resale*
1669 *Demonstration, Display and Use of Property Held for Resale—General*
1669.5 *Demonstration, Display and Use of Property Held for Resale—Vehicles*
1670 *Gifts, Marketing Aids, Premiums and Prizes*
1685 *Payment of Tax by Purchasers*
1698 *Records*
1699 *Permits*
1700 *Reimbursement for Sales Tax*
1701 *Tax-Paid Purchases Resold*
1821 *Foreword*

Publications

17 *Appeals Procedures: Sales and Use Taxes and Special Taxes and Fees*
22 *Dining and Beverage Industry*
44 *District Taxes (Sales and Use Taxes)*
51 *Doing Business in California—What You Need to Know*
61 *Sales and Use Taxes: Tax Expenditures*
70 *Understanding Your Rights as a California Taxpayer*
73 *Your California Seller's Permit*
74 *Closing Out Your Account*
75 *Interest, Penalties, and Collection Cost Recovery Fee*
76 *Audits*
100 *Shipping and Delivery Charges*
101 *Sales Delivered Outside California*
103 *Sales for Resale*
105 *District Taxes and Sales Delivered in California*
106 *Combination Packages and Gift-Wrapping*
109 *Internet Sales*
110 *California Use Tax Basics*
111 *Operators of Swap Meets, Flea Markets, or Special Events*
114 *Consignment Sales*
116 *Sales and Use Tax Records*
118 *Vending Machine Food Sales*
439 *Online Services*

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