



Sales 2

Sales Tax Exempt Status for Charitable Organizations: Application Requirements

GENERAL INFORMATION

Colorado allows charitable organizations an exemption from state-collected sales tax for purchases made in the conduct of their regular charitable functions and activities. [§39-26-718 (1) (a), C.R.S.]

This exemption does not apply to locally-collected sales tax levied by home-rule cities. Home-rule jurisdictions make their own tax regulations and they must be contacted directly for information.

WHO QUALIFIES?

The threshold for sales tax exempt status in Colorado is exemption from income tax under Section 501(c)(3) of the Internal Revenue Code. Such income tax exempt status must first be obtained from the federal Internal Revenue Service (IRS). Package 1023 is the "Application for Recognition of Exemption Under Section 501 (c) (3) of the Internal Revenue Code." The companion Publication 557 is "Tax-Exempt Status for Your Organization." The form number to remit the fees is 8718. To obtain package 1023 from the IRS, call 1-800-829-1040 or visit www.irs.gov. The cost ranges from \$400 to \$850. Organizations must be organized specifically for one of the following purposes:

- religious, charitable, scientific, testing for public safety, literary or educational;
- to foster national or international amateur sports competition, as long as no part of its activities involve providing athletic facilities or equipment;
- the prevention of cruelty to children or animals.

Additionally:

- no substantial part of the organization's activities may include carrying on propaganda or otherwise trying to influence legislation;
- the organization may not participate in, or intervene in, any political campaign on behalf of any candidate for public office (including the publishing or distributing of statements).
- no part of the net earnings benefit any private shareholder or individual.

The Department of Revenue (DOR) is not bound by an IRS determination of an organization's charitable status. Organizations that are exempt from federal income tax under 501(c)(3) will generally be approved for a sales tax certificate of exemption in Colorado, unless the DOR chooses to conduct an independent review and make its own determination regarding an organization's qualifications. Sales and Use Tax Regulation 26-102(2.5), see Colorado Department of Revenue v. Woodmen of the World, 919 P.2d 806 (Colo. 1996).]

Any society or organization whose deeds and gifts are limited to its members and their beneficiaries and which depends upon payments required of its members are not charities and are not organized for charitable purposes.

The fact that an organization performs some charity work, or funds, all or in part, a charitable group does not automatically qualify an organization for the Colorado sales/use tax exemption. An organization qualifies only if it is organized and operated exclusively for one of the above-stated purposes. Additionally, not all purchases by qualified organizations are exempt from Colorado sales tax. The exemption applies only to purchases of items used in the conduct of the organization's regular charitable functions and activities. For a more in-depth discussion of these criteria, please see FYI Sales 1, How to Document Sales to Tax-Exempt Organizations. See also Security Life & Accident Co. v. Heckers, 495 P.2d 225 (Colo. 1972) and Colorado Department of Revenue v. City of Aurora, 32 P.3d 590 (Colo. App. 2001).

Governmental entities, including all political subdivisions of the state of Colorado (state agencies, school districts, cities and counties etc.,) are automatically tax-exempt and are not subject to the above criteria.

VETERAN'S ORGANIZATIONS

The Colorado Revised Statute, 39-26-102 (2.5), is specific in what circumstances veterans' organizations qualify under IRS code 501(c)(19) for exemption from sales tax. An exemption may only be granted for a special event, meeting or other function that is not part of the organization's regular activities. The organization would need a special event license and sales tax would be exempt from purchases but sales tax must be collected and remitted on the items sold at the event. Since the statute is specific in that an exemption may only be granted for a special event or function that is not part of the organizations regular activities, a permanent sales tax exemption for veteran's organizations is excluded.

NOTE: Exempt status for Colorado sales tax purposes does not necessarily mean that donations to the organizations are tax exempt or tax deductible for people who make the donations. Such donations are income tax matters and are subject to determination by the IRS.

APPLICATION PROCEDURES

Complete and return to the DOR an Application for Sales Tax Exemption for Colorado Organizations (DR 0715). Please note that when applying for exempt status, organizations **must** include with their application a copy of their 501(c) (3) letter provided by the Internal Revenue Service.

If the Department of Revenue determines that your organization qualifies for sales tax exempt status, the organization will receive a "Certificate of Exemption" that authorizes it to purchase items and services used in the conduct of its regular charitable functions and activities without paying state sales tax and state-administered local sales taxes when items are to be used in the conduct of the organization's regular charitable function.

NOTE: Governmental entities **need not** obtain a tax-exempt certificate or number for tax-exempt organization status. Purchases made by government agencies are exempt from sales tax if the order for goods is made on a prescribed government form or purchase order and payment is made to the seller by warrant or check drawn directly from governmental funds. [§39-26-704(1),C.R.S.] For detailed information regarding tax-exempt purchasing by governmental entities, see FYI Sales 63, Government Purchases Exemptions.

SALES BY CHARITABLE ORGANIZATIONS

Charitable organizations that hold an IRS section 501(c)(3) qualification letter and have a Colorado exemption certificate may be exempt from collecting sales tax during fund raising events.

If the charitable organization conducts sales for a total of 12 days or less during a calendar year and the **net proceeds** from all these events do not exceed \$25,000 in that calendar year, the sales are not subject to sales tax. [**Net proceeds** are total gross events receipt(s) less expenses attributable to the event(s).] As soon as the organization reaches either \$25,000 in net proceeds, or conducts sales for more than 12 days a year, the organization must obtain a sales tax license from the department and remit sales tax on all sales that occurred in that calendar year, including sales in that calendar year that were previously exempt prior to the date when the threshold was exceeded. [§39-26-718,C.R.S.]

Charitable organizations should contact their local government to find out if a similar exemption is allowed for local taxes. For local tax rates in cities and counties where the state administers the tax, organizations may refer to the publication Colorado Sales/Use Tax Rates (DR 1002).

If the local jurisdiction is a state-collected tax jurisdiction that does not allow the exemption, the charitable organization should obtain a Colorado sales tax license so that the organization can report and pay local tax to the department.

SALES BY OTHER TAX-EXEMPT ORGANIZATIONS

Other tax-exempt organizations (including governmental entities and schools) that sell tangible personal property (for example, through a secondhand goods retail store, a fundraiser sales event or routine sales of organization-related items) must obtain a sales tax license and collect all applicable state and local sales taxes.

For more information see:

- FYI Sales 3, Out-of-State Sales Tax-Exempt Organizations Doing Business in Colorado
- FYI Sales 9, Sales Tax Licenses
- FYI Sales 62, Guidelines for Determining When to Collect State-Collected Local Sales Tax
- FYI Sales 63 Government Purchases Exemptions
- FYI Sales 86, Sales Tax Exemption on School Related Items

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.