
Provision for the Collection of Tax on Fundraising Transactions

Adopted July 28, 2000

A. Any nonprofit or charitable organization [*as defined under the State's applicable provisions, which may refer to IRC 501(c)(3), educational, religious or other specific organizations*] making taxable sales of tangible personal property for fundraising shall not be required to collect and remit sales tax due on such sales, provided the wholesaler or distributor is registered with this State as a vendor.

B. Purchases made by a nonprofit or charitable organization of tangible personal property to be sold for fundraising are not to be treated as sales for resale requiring the issuance of a resale exemption certificate.

C. If a nonprofit or charitable organization purchases tangible personal property from a wholesaler or distributor for resale for other than fundraising, the nonprofit or charitable organization must register as a vendor with the State and collect tax on its sales of tangible personal property for other than fundraising. The nonprofit or charitable organization must also provide a resale exemption certificate for these purchases to discharge the obligation of the wholesaler or distributor for collecting and remitting a sales tax on the purchases by the nonprofit or charitable organization.

D. The wholesaler or distributor of tangible personal property to a nonprofit or charitable organization making sales of the tangible personal property for fundraising shall collect and remit the sales tax measured by the selling price of such tangible personal property to the nonprofit or charitable organization. The wholesaler or distributor shall register as a vendor in this State and shall file a return and remit the total amount of taxes collected under this section [*in accordance with the collection/payment provisions of the State sales/use tax act*].

E. As used in this section:

1. "Wholesaler or distributor" means any person engaged in the sale of tangible personal property to a nonprofit or charitable organization that purchases the tangible personal property for fundraising.
2. "Fundraising" shall refer to the irregular or intermittent sale [*as defined by applicable State provisions*] by a nonprofit or charitable organization of tangible personal property for the purpose of obtaining funds from the public for the benefit of the organized purpose of the organization, provided fundraising does not include the sale of tangible personal property by a nonprofit or charitable organization in an unrelated trade, business or activity. Sales of tangible personal property by a nonprofit or charitable organization offered exclusively to its members and not to the general public shall not be considered fundraising under this provision.

F. Examples.

1. Boy Scout Troop A purchases twice in one year, candy, nuts and other items from Wholesaler/Distributor to be sold to the public to raise funds for an annual camping trip. Troop A is a nonprofit organization and does not sell candy in an unrelated trade, business or activity. Under this section, Wholesaler/Distributor Manufacturer is required to collect tax on the items sold to Troop A based on the sales price to Troop A. Troop A is not required to collect sales tax on the sales made to the public.
2. A nonprofit fraternal organization located in State A occasionally purchases from T-Shirt Company clothing imprinted with the organization's emblem to be sold to interested members. The sales to the members would not be considered fundraising sales. The fraternal organization would be required to collect and remit sales tax on the sales made to its members and provide a resale exemption certificate to T-Shirt Company. If the fraternal organization does not provide a resale exemption certificate, T-Shirt Company must collect the use tax due on the goods sold to the organization.