

Nonprofit – Organizations and Fundraising

180

Sales Tax Fact Sheet

What's New in 2015

The annual fundraising exemption for youth and senior citizen groups increased to \$20,000, starting on Jan. 1, 2015. (The previous limit was \$10,000.)

We added the definition of “fundraising events” clarification.

State law provides a sales tax exemption for certain nonprofit organizations that receive formal authorization from the Minnesota Department of Revenue.

To receive formal authorization, eligible nonprofit organizations must apply for the exemption by completing Form ST16, *Application for Nonprofit Exempt Status—Sales Tax*. Qualifying for the federal income tax exemption does not automatically exempt a nonprofit organization from paying Minnesota sales tax on purchases.

This exemption only applies to purchases made by the nonprofit organization.

It does not allow the nonprofit organization to sell items without collecting sales tax unless it is the sale of a qualifying nonprofit admission ticket (page 3). Another exemption allows some organizations to sell items without collecting sales tax when the organization is fundraising. (See *Fundraising Sales* on page 4)

Eligible Exempt Organizations

An organization is eligible to apply for an exemption from paying Minnesota sales and use tax on purchases if it is one of the following:

- Organized and operated exclusively for charitable, religious, or educational purposes and has obtained exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.
- A senior citizen group that is organized for pleasure, recreation, or other nonprofit purpose, not including housing. The group must be exempt under section 501(c) and must limit membership to those who are age 55 years or older or are physically disabled.
- A cemetery owned by a religious organization.

Examples of organizations that **may qualify**:

- Churches
- Private schools, colleges, and universities
- Museums and historical societies
- Youth organizations, including scouts, 4-H clubs, YMCA, YWCA, and youth sports associations
- Senior citizen groups
- Volunteer fire departments

Examples of organizations that **do not qualify**:

- Chambers of Commerce
- Knights of Columbus and Masonic Lodges
- City-run celebrations
- Homeowners' associations
- Fraternities or sororities
- Lake improvement associations
- Medical clinics
- Jaycees, Kiwanis, and Lions Clubs
- Adult sports clubs of any type
- Trade associations
- Prayer societies
- Professional associations
- Social clubs

Purchases by Exempt Organizations

Purchases are taxable unless purchased for resale or the organization has received formal authorization by the department to purchase exempt.

If approved by the department as a qualifying nonprofit organization, the exemption on your purchases is limited to purchases of items used to perform the charitable, religious, or educational functions of the exempt organization.

The purchase must be made and paid for directly by the exempt organization. Purchases of taxable items by an employee who is later reimbursed by the exempt organization are taxable even if they would be exempt if made directly to the exempt organization.

To claim the exemption, purchasers must provide a completed Form ST3, *Certificate of Exemption*, to their suppliers.

This exemption does not apply to the purchase of:

- prepared food, candy, soft drinks, and alcoholic beverages, including catered food
- lodging
- gambling equipment and supplies
- purchases, leases, and rentals of most motor vehicles
- 6.2 percent car rental tax and 5 percent car rental fee
- waste collection and disposal services

Construction contracts with exempt organizations

A nonprofit organization's exempt status **cannot** be used by a building contractor to buy materials exempt for use in a lump-sum contract.

Contractors must pay sales or use tax on all materials used on a construction contract except when an exempt organization designates them as its purchasing agent. In those cases, the written contract must clearly show that:

1. The exempt organization has appointed the contractor as its purchasing agent
2. The exempt organization takes title to all materials and supplies at point of delivery
3. The risk of loss for all materials and supplies is that of the exempt organization
4. the exempt organization, not the purchasing agent, has responsibility for all defective

materials and supplies including those incorporated into real property

Note: These requirements apply to the prime contractor and to every subcontractor who supplies both materials and labor.

To claim exemption, contractors must give their suppliers a completed Form ST3, *Certificate of Exemption*.

1. At the top of the form, check that you are a contractor and have a purchasing agent agreement with an exempt organization.
2. Enter the exempt organization's name and specific project.
3. Circle the "Other" exemption code and enter the number for "Purchasing agent agreement with exempt organization" (as directed on the form).

Contractors must keep documentation to show that a purchasing agent relationship exists, such as:

- a letter indicating the above information
- copy of the written contract
- evidence of the organization's exempt status

Contractors acting as a purchasing agent for an exempt project, and their subcontractors, must keep records identifying all materials and supplies purchased for the exempt project.

An exempt organization cannot appoint a contractor as its purchasing agent to purchase or lease equipment the contractor uses to complete the construction contract. The exemption only applies to building materials, equipment, and supplies used to improve real property.

For more information, see Revenue Notice 95-05, Construction Contracts-Purchasing Agent Exemption.

Veterans organizations

Veterans organizations such as the VFW and American Legion do not qualify for the exemption from paying sales tax on purchases. But a limited exemption is available to organizations that are:

- organized in Minnesota; and
- exempt from federal income tax under section 501(c)(19) of the Internal Revenue Code.

This exemption applies to purchases for charitable, civic, educational, or nonprofit use. Examples include flags, equipment for youth sports teams, educational brochures

or posters, and items given away through programs like Operation Comfort Warriors.

To claim the exemption, give the seller a completed Form ST3, *Certificate of Exemption*.

Healthcare facilities

Refer to Fact Sheet 172 for specific information on purchasing exempt.

Sales by Exempt Organizations

Any sale of taxable items or services are taxable.

Any exempt organization that makes taxable sales must collect and remit tax on the sales unless the state's fundraising exemption applies (see page 4), or the sales are exempt for some other reason (see "Nonprofit admissions tickets," below).

Examples:

1. A nonprofit museum has a gift shop open during regular museum hours. The shop must charge tax on all sales of taxable merchandise.

2. A nonprofit organization operates a store that sells used furniture, appliances, and other items on a regular basis. The store must charge tax on all sales of taxable merchandise.
3. A nonprofit organization offers a painting class. Because the class is not a taxable item or service, no sales tax is due on the charge to participate in the class.

Note: In the first two examples, the organization should buy the inventory items exempt for resale by giving the seller a completed Form ST3, *Certificate of Exemption*.

Certain Sales that are Exempt

Nonprofit admissions tickets

Tickets or admissions to certain nonprofit activities are exempt from sales tax. Examples of activities include: community theater tickets and tickets to nonprofit museums.

The organization's primary mission must be to provide an opportunity for state residents to participate in the creation, performance, or appreciation of the arts. The organization must also be one of the following:

- a 501(c)(3) organization that received at least 5 percent of its revenue from voluntary contributions in its most recent fiscal year (or current fiscal year if the organization has not completed a full year)
- a municipal board that promotes cultural and arts activities

- part of a state college or university (including the University of Minnesota), or a private nonprofit college or university that owns the facility where the event is being held

Examples:

1. A historical society operating a historically preserved home provides an annual art fair for an additional fee. Art fair admissions are taxable. However, museum admission charges are not taxable if separately stated on the customer bill or invoice.
2. A nonprofit museum provides birthday parties for an additional fee. Party charges, such as for pizza and party favors, are taxable. However, museum admission charges are not taxable if separately stated on the customer bill or invoice.

Fundraising Sales

Minnesota has two different exemptions that may apply to fundraising sales.

1. **Youth and senior citizen groups** – Beginning Jan. 1, 2015, up to \$20,000 of fundraising sales each year are exempt from sales tax. (The previous limit was \$10,000.)

Note: The limit does not apply to candy sales by a youth group (see below for details).

2. **All nonprofit organizations** – Sales from up to 24 days of fundraising events each year are exempt from sales tax. (Other requirements apply, as noted below.)

Youth and senior citizen groups

To qualify for this exemption, your annual gross receipts from fundraising cannot exceed \$20,000, regardless of the number of days you spend fundraising. If you exceed \$20,000 in sales, begin charging tax on your fundraising sales at that point. No tax is due on the first \$20,000.

This exemption applies to:

- All sales by a nonprofit organization that exists solely to provide educational or social activities for young people primarily age 18 and under.
- Sales by senior citizen groups that limit membership to persons age 55 or older and operating exclusively for recreation and other nonprofit purposes.

For purposes of \$20,000 limit, an elementary or secondary school club, association, or other student organization that exist to provide sports, educational, or other extracurricular activities is a separate organization from the school district (or school).

This exemption does not apply to admission charges or activities for which the money must be deposited with the school district treasurer under M.S. 123B.49, subd. 2; or be recorded in the same way as other school district revenues or expenditures under M.S. 123B.49, subd. 4.

Examples:

1. A youth group sells wrapping paper and raises \$21,000. Since total sales exceeded the \$20,000 annual limit, the \$1,000 is taxable.
2. A senior citizens' group sells meals at a county fair for six days and raises \$45,000. Since the fair was conducted on premises leased or occupied for more than five days, and the total sales are in excess of \$20,000, the sales above \$20,000 are taxable.

Some activities that qualify for this exemption are not subject to the \$20,000 limit. These activities are:

- Candy sales for fundraising purposes by a youth group, as defined above.
- Sales of tickets or admissions to a Minnesota golf tournament for the benefit of a tax-exempt 501(c)(3) organization. **Note:** This exemption does not apply to greens fees, cart rentals, or other charges to golf participants.
- Sales where proceeds are contributed to a registered combined charitable organization (see Minnesota Statutes 43A.50) and contributions will be used exclusively for charitable, religious,

or educational purposes. **Note:** The 24-day fundraising limit does apply to these sales.

All nonprofit organizations

Nonprofit organizations that have 24 days or less of fundraising events in a year qualify for this exemption. If your nonprofit organization qualifies for this exemption, you may sell otherwise taxable goods or admissions at fundraising events without charging sales tax.

“Fundraising event” means an activity that:

- is of limited duration;
- is not regularly carried out in the normal course of business; and
- attracts people for community, social, or entertainment purposes

Fundraising events do not include business operations that provide services or sell goods during regular hours such as a bookstore, gift shop, or thrift store.

Examples of fundraising events:

- auctions
- bake sales
- concerts

All fundraising event days count toward the 24-day limit.

- If your organization takes orders for goods to be delivered in the future, only count the number of days when customer deliveries are made.
- If your organization sells tickets for admissions, amusements, or meals for a fundraising event, only count the days when the activity actually takes place.
- Count any days when your organization makes only tax-exempt fundraising sales.
- If your organization has more than 24 days of fundraising events, the sales in the first 24 days are retroactively taxable. You must pay tax on those sales and charge tax on your sales for the rest of the year.

To qualify for this exemption, a nonprofit organization and its events must meet all the following requirements:

- The organization must be a nonprofit that is organized and operated for charitable, religious, educational, civic, fraternal, and senior citizens' or veterans' purposes. None of its net earnings can benefit a private individual.

- All proceeds must be used only for charitable, religious, or educational purposes, minus necessary expenses for the event.
- The organization must keep separate accounting records for each fundraising event, including all receipts and disbursements. All expenses must be documented.
- The organization cannot make sales as an active or passive agent of any for-profit organization or person. Otherwise, sales at that event are taxable and the event counts toward the 24-day limit.
- The fundraising event(s) cannot be held on premises that are leased or occupied for more than 5 days, but less than 30 days. Otherwise, sales at that event are taxable and the event counts toward the 24-day limit.
- The organization must bear the financial risk of the event and its net revenue from the event must equal or exceed the total state and local taxes that are exempted. Otherwise sales at that event are taxable and the event counts toward the 24-day limit.
- Charges for admission and use of amusement devices are taxable if the event has bingo or other gambling activities. The event counts toward the 24-day limit (see example 3).

Examples:

1. A nonprofit organization schedules two fundraising events a year that are seven days each and include bingo. The organization charges admission and sells meals at the events.

The admission charge is taxable because one of the activities at the event is gambling (bingo). But the food sales are not taxable because they qualify for the 24-day fundraising event exemption.
2. A nonprofit organization sells pottery as part of its regular business activities. These pottery sales are subject to sales tax. If pottery is also

sold at a fundraising event, those sales are also subject to sales tax.

3. A nonprofit organization sells pottery as part of its regular business activities. These pottery sales are subject to sales tax.

The organization also holds a fundraising event. Tickets for the fundraising event are \$100, which entitles the buyer to a buffet reception and a gift of handmade pottery. For income tax purposes, \$50 of the \$100 ticket price is deductible as a charitable contribution.

Ticket sales for the fundraising event are exempt from sales tax if the nonprofit organization does not exceed the 24-day limit. The fundraising exemption applies here because the pottery is a gift to the ticket buyer and the ticket price is for the buffet reception.

Note: For purposes of this exemption, lawful gambling activities that occur on a regular basis are not considered fundraising events and do not count towards the 24-day limit.

Gambling information

Sales or leases of gambling equipment and supplies to organizations that conduct lawful gambling activities are taxable.

Items purchased to be given away as prizes that are won through lawful gambling or the state lottery are taxable when they are purchased.

A nonprofit organization’s income from gambling, such as bingo and pull tabs, is subject to the state’s lawful gambling tax.

For more information about the lawful gambling tax or answers to your gambling questions:

- Go to www.revenue.state.mn.us and type **lawful gambling tax** into the Search box.
- Call the Gambling Control Board at 651-539-1900 or visit its website at www.mn.gov/gcb.

Legal References

Minnesota Statutes 297A.70, Exemptions for governments and nonprofit groups:

- subd. 4, Sales to nonprofit groups
- subd. 5, Veterans groups
- subd. 7, Hospitals, outpatient surgical centers, and critical access dental providers
- subd. 10, Nonprofit tickets or admissions
- subd. 13, Fundraising sales by or for nonprofit groups
- subd. 14, Fundraising events sponsored by nonprofit groups
- subd. 18, Nursing homes and boarding care homes

Minnesota Statutes 43A.50, Registered combined charitable organizations

Minnesota Rules

- 8130.1200, Sales of building material, supplies or equipment
- 8130.5700, Sales to exempt entities, their employees, or agents
- 8130.6200, Charitable, religious, and educational organizations

Revenue Notices

- 95-05, Construction Contracts-Purchasing Agent Exemption
- 03-14, Nonprofit Admission Ticket and Fund-Raising Sales
- 04-10, Exemption for Fund-Raising Events – Lawful Gambling Activities

Other Fact Sheets

- 111, Schools—Sales and Purchases
- 128, Contractors
- 142, Sales to Governments
- 164, Local Sales and Use Taxes
- 172, Health Care Facilities