

DEPARTMENT OF STATE REVENUE

Information Bulletin #10
Sales Tax
June 2023
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(Replaces Bulletin #10, dated October 2022)

SUBJECT: Application of Sales Tax to Nonprofit Organizations

REFERENCES: [IC 6-2.5-5-21](#); [IC 6-2.5-5-25](#); [IC 6-2.5-5-26](#); [45 IAC 2.2-5-55](#); [45 IAC 2.2-5-56](#); [45 IAC 2.2-5-57](#); [45 IAC 2.2-5-58](#); [45 IAC 2.2-5-59](#); [45 IAC 2.2-5-60](#)

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SUMMARY OF CHANGES

Aside from nonsubstantive, technical changes, this bulletin has been updated to reflect changes to the sales threshold for sales by a nonprofit in Senate Enrolled Act (SEA) 417 (2023), as well as to include an additional example.

INTRODUCTION

This bulletin concerns the application of Indiana sales and use tax to nonprofit organizations. This bulletin will discuss when sales tax must be collected by nonprofit organizations and when Indiana sales and use tax must be paid on purchases by nonprofit organizations.

REGISTRATION

When taxable retail sales are made by nonprofit organizations, the organization must register with the Nonprofit Section of the Indiana Department of Revenue (the department) and receive a taxpayer identification number.

Indiana nonprofit organizations making tax-exempt qualified purchases, but not making retail sales, also must register with the Nonprofit Section of the department and receive a taxpayer identification number. A nonprofit organization must register for a sales tax exemption by filing Form NP-20A, which can be filed using the department's online e-services portal, called the Indiana Taxpayer Information Management Engine (INTIME), by visiting intime.dor.in.gov. Once a nonprofit has been registered with the department, they will be able to obtain a specially-issued exemption certificate through INTIME beginning July 1, 2022.

NOTE: An organization that has been classified as a "social" organization by the Internal Revenue Service (IRS), including homeowner's associations, are not allowed to make purchases exempt from Indiana sales and use tax.

Nonprofits that are temporarily in Indiana, such as those who are here for short events or conventions, may request a temporary exemption certificate by filing for Form NP-20T, which will be available beginning July 1, 2022. The specially-issued exemption certificate will be in the form of a letter issued by the department.

For filing and reporting requirements for nonprofits, please refer to Income Tax Information Bulletin #17, available online at in.gov/dor/legal-resources/tax-library/information-bulletins/income-tax-information-bulletins/.

QUALIFIED NONPROFIT ORGANIZATIONS

For purposes of the nonprofit exemptions described throughout this bulletin, a "qualified nonprofit organization" means any of the following types of organizations:

1. A fraternity, a sorority, or a student cooperative housing organization connected with and under the supervision of a postsecondary educational institution if no part of its income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate.
2. Any institution, trust, group, united fund, affiliated agency of a united fund, nonprofit corporation, cemetery association, or organization that is organized and operated exclusively for religious, charitable, scientific, literary, educational, or civic purposes if no part of its income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate.
3. A group, an organization, or a nonprofit corporation that is organized and operated for fraternal or social

purposes, or as a business league or association, and not for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

4. A hospital licensed by the state department of health, shared hospital services organization exempt from federal income taxation by Section 501(c)(3) or 501(e) of the Internal Revenue Code, labor union, church, monastery, convent, school that is a part of the Indiana public school system, parochial school regularly maintained by a recognized religious denomination, or trust created for the purpose of paying pensions to members of a particular profession or business who created the trust for the purpose of paying pensions to each other, if the taxpayer is not organized or operated for private profit or gain.

SALES BY QUALIFIED NONPROFIT ORGANIZATIONS

Until July 1, 2022, sales of tangible personal property by qualified nonprofit organizations carried on for a total of not more than 30 days in a calendar year and engaged in as a fundraising activity to raise funds to further the qualified nonprofit purposes of the organization are exempt from sales tax. The 30-day rule applies to all such sales by the nonprofit organization. Each day in which selling activities are conducted is a "selling day" for purposes of determining whether a qualified nonprofit organization has conducted sales for more than 30 days during any calendar year. This provision applies to social organizations as well as other qualified organizations. If an organization conducts sales or fundraising activities during 31 or more days (not necessarily consecutive) in a calendar year, the organization is a retail merchant and must collect and remit sales tax on all sales made during the calendar year.

However, effective July 1, 2022, the 30-day rule was repealed and replaced with a different threshold. From July 1, 2022, until the passage of SEA 417, sales of tangible personal property by qualified nonprofit organizations of not more than \$20,000 in a calendar year used to raise funds to further the qualified nonprofit purposes of the organization are exempt from sales tax. The \$20,000 per year threshold was changed to \$100,000 in either the current or previous calendar year effective upon passage of SEA 417¹. The \$100,000 current or previous calendar year threshold applies to all qualified nonprofits except for the following:

- Churches and other places of worship
- Monasteries
- Convents
- Schools that are a part of the Indiana public school system
- Parochial schools regularly maintained by a recognized religious denomination
- A youth organization focused on agriculture

These six types of nonprofits are exempt from the requirement to collect and remit sales tax regardless of the dollar amount of sales in a year. A nonprofit that is not one of these six types of organizations is required to collect sales tax if they reached the \$100,000 threshold in the previous calendar year or after they reach the \$100,000 threshold in the current calendar year on an ongoing basis for the remainder of the calendar year and each calendar year thereafter until the organization makes less than \$100,000 in sales for two consecutive years. Neither the nonprofit nor their customers owe sales tax on sales made prior to meeting the threshold.

Furthermore, the sales of an organization include sales made by all units operating under the organization's registration with the department. These provisions also apply to social organizations as well as other qualified organizations.

NOTE: The \$20,000 rule effective between July 1, 2022 and the passage of SEA 417, applied to all sales by any qualified nonprofit organizations. Once sales of an organization reached \$20,000, the organization was required to collect state gross retail tax on sales on an ongoing basis for the remainder of the calendar year, but was not required to register and collect sales tax for the following year.

For the 2022 calendar year, a nonprofit was subject to the 30-day rule through June 30, and beginning July 1, the \$20,000 rule. However, even though the \$20,000 rule became effective July 1, a nonprofit that had over 30 selling days before July 1 was required to collect sales tax throughout the entire year, even if they did not reach \$20,000 in sales after July 1. Conversely, a nonprofit that reached \$20,000 in sales for the year any time before July 1 would not count those sales toward determining whether they should collect sales tax. Only the sales made after June 30 should be counted.

Example: From January to June, 2022, a nonprofit had 20 selling days including a major event in June, where it sold \$50,000 of souvenirs. Because it had not surpassed 30 selling days, and the \$50,000 in sales occurred before July 1, it had no obligation to collect sales tax, as it was still under the thresholds for the 30-day rule. Further, if the nonprofit only made \$15,000 in sales from July 1 to the end of the year, then it still had no obligation to collect sales tax because it was under the \$20,000 threshold, as the \$50,000 in sales at

the June event did not count toward the threshold for 2022. This is true even if they had 11 more selling days after June 30, as the nonprofit stopped counting selling days after June 30, 2022, when the rule expired.

Example: Another nonprofit had 20 selling days from January to June, 2022. However, this nonprofit's major event was in August, where it sold \$50,000 of souvenirs. This nonprofit was required to begin collecting sales tax after this event in August, because it hit the new threshold after July 1, 2022. It would not be responsible for any tax for any sales made during or prior to the event.

Example: A nonprofit had 65 selling days during January through June 2022, so it registered to collect sales tax. It was required to keep collecting sales tax on and after July 1, even if it never reached \$20,000 in sales from July 1 through the end of the 2022 calendar year.

Example: A nonprofit operated a weekend festival on a Saturday and Sunday in October 2022, which is normally their only selling activity for the entire year. In past years, they normally made between \$18,000 to \$24,000 in sales. If they exceeded \$20,000 in sales at some point on Sunday, the nonprofit was not required to "flip the switch" from that point forward and begin collecting sales tax the rest of the day. The nonprofit would instead be required to register after the event if they expected to have any further selling activity. Alternatively, if the nonprofit expected to exceed \$20,000 in sales that weekend, they could have registered ahead of time, or they could have collected sales tax that weekend, and then registered the following week to remit what they had collected.

NOTE: The new threshold became effective upon passage of SEA 417. From that point forward, a qualified nonprofit organization is required to register as a retail merchant and collect and remit sales tax, if the sales made by the organization in the 2022, 2023 or 2024 calendar year exceed(ed) \$100,000. Neither the nonprofit nor their customers owe sales tax on sales made prior to meeting the threshold.

Before SEA 417 was passed, a nonprofit that made \$20,000 in sales in 2023 was required to collect sales tax. However, unless that nonprofit reached or reaches the \$100,000 in sales in the 2022 or 2023 calendar year, after the passage of SEA 417 they are not required to remain registered as a merchant and collect and remit sales tax and may close their account. They are only required to register and collect and remit sales tax in 2023 after they reach \$100,000 in sales during 2023.

Example: From January to April 2023, a nonprofit makes \$20,000 in sales. It only had \$30,000 in sales during the 2022 calendar year. Because it surpassed \$20,000 in sales before SEA 417 was passed, it had an obligation to collect and remit sales tax. They make an additional \$5,000 in sales the remainder of 2023. Since the nonprofit did not make \$100,000 in sales during the 2022 or 2023 calendar year, they would not have to remain registered as a retail merchant and could close their sales tax account.

Example: A nonprofit makes \$20,000 in sales from January to April 2023, and had \$30,000 in sales during the 2022 calendar year. However, they make an additional \$90,000 in sales during the summer of 2023. Because the nonprofit did make \$100,000 in sales in the 2023 calendar year, they could close their account after SEA 417 passed, but would have to register again after they reached \$100,000 in sales in 2023 and remain registered as a retail merchant for at least the following two years.

Example: A nonprofit operated a weekend festival on a Saturday and Sunday in October 2022, which is normally their only selling activity for the entire year, and exceeded \$100,000 in sales. In 2022, the nonprofit was not required to "flip the switch" in the middle of the festival, but was required to register and collect sales tax after the festival was over. For the 2023 calendar year, they are required to register again (if they haven't remained registered) to collect sales tax, including during the 2023 festival and for any other transactions they make during the remainder of the year.

All organizations required to collect sales tax must register with the Department of Revenue and get a Retail Merchant Certificate. They also must register as nonprofit organizations. An organization can register with the department for sales tax, county innkeepers' tax, and food and beverage tax by visiting the State of Indiana's INBiz website, which allows businesses to register with multiple state agencies, at inbiz.in.gov. A separate application is required for each business location. The nonrefundable application fee for a Retail Merchant's Certificate is \$25.

Upon registration and for the first full year, the nonprofit will be required to file sales tax returns (Form ST-103) based on their taxable sales volume for the preceding calendar year, as determined by the department. Sales tax returns must be filed using INTIME. Even if no tax is due for a particular period, a return must still be filed (called

a "zero return").

However, when the nonprofit organization sells items, such as periodicals, books, or other property, that are intended primarily to further the educational, cultural, or religious purposes of the organization or for the improvement of the work skills or professional qualifications of the organization's members, and the sales are not used in carrying out a private or proprietary business, the 30-day restriction/\$20,000 cap/\$100,000 threshold does not apply and the items may be sold exempt throughout the year.

SALES BY A NONPROFIT FORMED TO SUPPORT A PUBLIC LIBRARY

Sales of tangible personal property by a nonprofit formed to support a public library (e.g., a "Friends of the Library" group), are exempt from the state gross retail tax if the property sold consists of:

1. items in a public library's circulated and publicly available collections, including items from the library's holdings; or
2. items that would typically be included in the public library's circulated and publicly available collections and that are donated to a public library or to a nonprofit formed to support a public library by individuals or organizations.

In other words, nonprofits formed to support a public library do not have to collect and remit sales tax on their normal sales of used books, videos, and other items from a library's collection. However, this exemption does not apply to any other sales of tangible personal property by a nonprofit formed to support a public library (e.g., food and beverages, furniture, and artwork). The sale by nonprofits formed to support a public library of these other types of tangible personal property would be subject to the rules outlined in the Sales by Qualified Nonprofit Organizations section above.

PURCHASES BY NONPROFIT ORGANIZATIONS

Purchases for Own Use

To qualify for a sales tax exemption on purchases as a nonprofit organization, the following conditions must be met:

1. The purchaser must be a qualified nonprofit organization as described in the Qualified Nonprofit Organizations section above.
2. The organization must not be operated predominantly for social purposes.
3. The article purchased must be used to carry on the nonprofit's purpose. This means the article must be used for the same purpose as that for which the organization is being exempted, or the article must be purchased to raise money to carry on the nonprofit's purpose.
4. The transaction must be invoiced directly to the nonprofit organization and paid directly via the organization's funds. **Purchases for the private benefit of any member of the organization, such as meals and lodgings, are not eligible for exemption.**

Example: A nonprofit organization is hosting a three-day convention for its members in Indianapolis. The organization rents meeting rooms in a hotel to conduct its educational meetings. The rental of the rooms will be exempt from the sales tax and local county innkeepers' tax, if applicable.

Sales of meals during a meeting of the organization are taxable because the meals are provided for the convenience of the organization and its members. Such meals are taxable even when served in conjunction with a meeting that is furthering the organization's nonprofit purpose.

At the same convention, the organization reserves and pays for, out of its treasury, the cost of four hotel rooms to be used by its officers for lodging. The lodgings provided for the officers by the organization *are not* exempt from the sales tax or the county innkeepers' tax, if applicable. The rental of rooms for its officers or members is a private benefit for the individual and is not for the purpose for which the organization exists.

If a member of the organization purchases a meal or lodging, even if the member is to be reimbursed by the organization, the purchase is not exempt and the member must pay sales tax at the time of purchase. Purchases used for social purposes are never exempt.

NOTE: The fact that an organization is incorporated as a nonprofit corporation or is being exempted from income tax by the IRS does not necessarily mean that purchases made by the nonprofit organization are exempt from sales/use tax.

Organizations, as previously described, that are registered with the Indiana Department of Revenue as nonprofit

organizations may purchase exempt from Indiana sales and use tax tangible personal property used in carrying out the nonprofit purpose of the qualified organization. To purchase tax exempt, the organization must register with the department no later than 120 days after the taxpayer's formation, after which the organization can obtain a Form NP-1 (Indiana Nonprofit Sales Tax Exemption Certificate) from INTIME.

NOTE: An ST-105 issued prior to Jan. 1, 2023, by a qualified nonprofit registered in Indiana will expire Jan. 1, 2024. The issuing nonprofit must provide an NP-1 to their vendors from that point forward.

Purchases by Non-Indiana Nonprofit Organizations

Nonprofit organizations not registered with the Indiana Department of Revenue and located in another state may use a Streamlined Sales Tax Governing Board Form F0003 to make purchases exempt from the sales tax.

Purchases for Resale

Tangible personal property purchased for resale by a nonprofit organization is eligible for the sales tax exemption.

Purchases by Social Organizations

Purchases of tangible personal property to be used by organizations organized and operated predominantly for social purposes are not exempt. If more than 50% of an organization's expenditures is related to social activities, the organization is considered to be predominantly organized and operated for social purposes. Examples of expenditures related to social activities include:

- Food and beverage services;
- Golf courses;
- Swimming pools;
- Dances;
- Parties; and
- Other similar social activities.

This bulletin applies only to the status of nonprofit organizations under the sales tax statute. Nonprofit organizations are subject to the Adjusted Gross Income Tax Act on unrelated business income as defined in Internal Revenue Code Section 513. Homeowners' associations do not qualify for sales tax exempt status under Indiana law.

¹ The bill states that these provisions are effective July 1, 2023. However, the intent of the Indiana General Assembly was that the provisions become effective immediately upon passage, which was on May 4, 2023, when Governor Holcomb signed SEA 417.

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