

# State and Local Tax Considerations are Complex but Crucial for Nonprofits

Nonprofit organizations play a major role in the U.S., contributing significantly to the economies of every state and vastly improving the wellbeing of individuals, families and communities across the nation. As befitting their importance, the Internal Revenue Code exempts these altruistic organizations from income tax at the federal level.

State and local tax policies usually provide a similar exemption for income tax, but not always. In terms of sales and use tax, however, the picture is quite different. Many jurisdictions hold nonprofits to the same sales and use tax standards as for-profit businesses, obliging them to collect, report and remit sales tax on behalf of the applicable tax authorities.

**State and local tax policies usually provide a similar exemption for income tax, but not always.**

The activities most likely to trigger sales tax liability are those that bring in funds not specifically designated as charitable donations. Though a portion of the income may qualify as a tax-deductible donation, some or all of this revenue may represent a taxable transaction where payers receive something of value from the recipient in exchange for payment. Typical nonprofit activities that open the door to sales and use tax include:

- Selling tangible goods or services – Girl Scout cookies? Tasty but also potentially taxable. Car washes, candy bars, concessions and many other kinds of offerings that provide tangible benefits to purchasers can qualify as transactions accompanied by sales tax obligations.
- Charging membership or admission fees – Admission fees to sports tournaments or membership costs for facilities such as dedicated sports complexes commonly qualify as taxable sales, even if fees support a qualified nonprofit organization. Rules vary though, so it is important to check state and local laws.
- Running retail establishments – The museum may be a nonprofit, but sales made in the gift shop may be taxable transactions. Similarly, nonprofits that run coffee shops, thrift stores, recycling facilities and other entities that generate revenue through sales and services provided to the general public must closely scrutinize sales tax laws in the relevant jurisdictions. In many situations, these activities are treated as taxable transactions.

- Holding fundraising events – Fun runs, dinners, galas, golf tournaments, bake sales, happy hours, auctions and all the rest of the activities that make up the nonprofit social calendar have at their core a transaction that is often taxable. Before counting the net receipts as pure gain, be sure to note any state and/or local sales tax liability stemming from these events.

Determining an organization's tax responsibilities under the law can be a complex undertaking, since state rules often vary based on type of nonprofit entity as well as the specific activities generating revenue, the duration or frequency of these activities and the specific goods or services being sold. In some cases, taxability may rest on the relationship between seller and buyer. For example, selling school uniforms or books to members of a 501(c)(3) organization community, but not to the public (only to students, parents and teachers, for example) may affect the taxability in some states but not in others.

Properly accounting for, tracking and reporting taxable sales and associated sales tax must be a high priority for NFP leaders. A scrupulous approach to this aspect of bookkeeping not only facilitates compliance with the law, but will also prove invaluable should the organization be selected for a state sales tax audit.

There is no question that meeting sales and use tax responsibilities creates a significant burden on nonprofits, but the consequences of noncompliance are severe. Failure to fulfill all applicable tax responsibilities at the state, county and local level can threaten an organization's financial and legal status, through stiff penalties that drain much-needed resources along with other legal remedies.

Do not risk your nonprofit's future. Contact the knowledgeable professionals at Mauldin & Jenkins to learn more strategies for meeting your organization's state and local tax obligations. From fundraising to future-proofing, we know how to help your nonprofit thrive.



**Mauldin & Jenkins**  
800.277.0080  
MJCPA.com