

N.C. Sales and Use Tax requirements

Effective Jan. 1, 2014

N.C.G.S. § 105-164.4(a)(10)

17-1 EXEMPT SALES, TAXABLE SALES AND PURCHASES BY NONPROFIT ENTITIES

A. Exempt Sales by Nonprofit Entities

1. Sales of items by a nonprofit civic, charitable, educational, scientific or literary organization are exempt from tax when the net proceeds of the sales will be given or contributed to the State of North Carolina... **(not applicable)**

2. Sales by a nonprofit civic, charitable, educational, scientific, literary, or fraternal organization are exempt from sales or use tax when all of the following conditions are met:

a. The sales are conducted only upon an annual basis for the purpose of raising funds for the organization's activities.

b. The proceeds of the sale are actually used for the organization's activities.

c. The products sold are delivered to the purchaser within 60 days after the first solicitation of any sale made during the organization's annual sales period. [G.S. 105-164.13(35)]

Analysis by Dept. of Revenue staff, Directive SD-13-4

Certain Fundraising Activities

N.C. Gen. Stat. § 105-164.13(35) exempts from sales and use tax “[s]ales by a nonprofit civic, charitable, educational, scientific, literary, or fraternal organization when all of the following conditions are met:

a. The sales are conducted only upon an annual basis for the purpose of raising funds for the organization's activities.

b. The proceeds of the sale are actually used for the organization's activities.

c. The products sold are delivered to the purchaser within 60 days after the first solicitation of any sale made during the organization's annual sales period.”

For purposes of this exemption, a qualifying organization may have more than one “annual” sale in a twelve-month period if the sales are conducted with respect to different fundraising activities and purposes. Each fundraising sale must conclude prior to the start of another fundraising sales activity. The proceeds from one fundraising sale may be used for general operating expenses; however, all other fundraising sales must be for specific projects, committees,

or purposes, and the proceeds therefrom must be used for the designated purpose. The specific purpose or intended use of the funds by the organization must be designated prior to the start date of the fundraising sales activity. The organization must receive all admission charges designated for a specific fundraising purpose within 60 days prior to the date of the entertainment activity for such admission charges to be exempt from sales and use tax per N.C. Gen. Stat. § 105-164.13(35).

Admission charges to an entertainment activity subject to tax per N.C. Gen. Stat. § 105-164.4(a)(10) received on or after January 1, 2014 by a qualifying nonprofit organization that meets all of the above criteria are exempt from the 4.75% general State and applicable local and transit rates of sales and use tax.

THOUGHTS, based on conversation with Dept. of Revenue senior Staff:

Our Kiwanis Club fund raisers are exempt at this time (pending more changes by the legislature) if we are careful to:

- a. Hold the event, sale, or fundraiser within 60 days of first promoting it.
- b. Use the proceeds for specified projects, in furtherance of our Organizational mission.
- c. Are not “selling” goods such as shirts, hats, etc. that would be sold over more than a 60 day time period.

I discussed the wide variety of fund raising events held by clubs, including Azalea sales, bar b ques, yard sales, pancake dinners, bingo, turkey shoots, Wooly Worm festivals, car washes, raffles, etc. As long as the event complies with other statutes, such as Bingo meeting the licensing requirements of the State, then the event would be OK. They suggested that the charge would be a “fee to participate” rather than selling goods, so exempt. Also, an admission is not taxed if it complies with the max. 60 day rule and the funds are used for our mission. I suggested that some clubs repeat a fundraiser throughout the year, and that did not seem to be a problem as long as we used the proceeds as required.

NOTE: all of this is subject to change at the will of the Legislature at any time!!

Tom Dimmock
District Parliamentarian