

NEW JERSEY DIVISION OF TAXATION

TECHNICAL BULLETIN

DISTRIBUTION: C, INCLUDING FIELD

TB- 46

FOR RELEASE: INTERNAL ONLY _____
OUTSIDE DIVISION x

ISSUED: 7-1-02

TAX: SALES AND USE TAX

**TOPIC: EXEMPTIONS FOR ORGANIZATIONS HAVING ST-5 EXEMPT
ORGANIZATION CERTIFICATE ***

EXEMPTION ON PURCHASES

If an organization has been approved by the Division of Taxation to issue an ST-5 exempt organization certificate,* the organization is exempt from sales and use tax on purchases, except energy, that are directly related to the organization's purposes. The exemption covers purchases and rentals of goods and equipment and purchases of services (including janitorial and telecommunications services), meals, admissions and hotel or motel occupancies.

The organization must make payment using organization funds and must provide vendors a copy of the organization's ST-5 exempt organization certificate. If the person making the purchase pays with personal funds, exemption from sales tax does not apply, even if the purchaser will receive reimbursement from the organization.

EXEMPTION ON PURCHASES MADE BY CONTRACTORS

If an exempt organization issues a copy of its ST-5 to its contractors, which would include repair workers and landscapers, the contractors may be exempt from sales and use tax on the materials and services purchased to repair or improve the organization's property. The exemption for contractors covers building materials that will be incorporated into the exempt organization's real property and supplies that will be entirely used or consumed in doing the work for the exempt organization.

The contractor must retain a copy of the organization's ST-5 certificate and issue an ST-13 Contractor's Exempt Purchase Certificate to vendors, as documentation of exemption from sales tax. The exemption does not extend to equipment purchased or rented by a contractor to perform exempt organization work.

EXEMPTION FOR OCCASIONAL FUNDRAISING SALES

An exempt organization is not required to collect sales tax if it makes only occasional fundraising sales, the sales events are relatively short in duration, and all of the proceeds go to the exempt organization.

**Federal and New Jersey government agencies are not issued an ST-5 certificate. Proof of exemption is government purchase order or contract and direct government payment.*

Examples:

- An exempt organization has an annual book and greeting card sale, lasting a few weeks. The organization is not required to collect sales tax on its sales.
- Several times a year, an exempt organization sells gift merchandise, plants or crafts for one or two days. The organization is not required to collect sales tax.
- A little league exempt organization operates a seasonal hot dog and refreshment stand, open only while games are being played. The league is not required to collect sales tax.

STORES, CAFETERIAS AND OTHER BUSINESS SALES

An exempt organization that operates a store or a continuous mail/phone-order business is not exempt from collecting sales tax, except for certain thrift stores (discussed below.) If an exempt organization makes continuous sales of a taxable service, sales tax must be charged. Also, exempt organizations generally must collect sales tax when operating an eating establishment. However, hospitals, nursing homes and similar institutions are not required to collect sales tax on food and beverages served to patients or residents as part of the institution's care. Similarly, school cafeterias are not required to collect sales tax on food and beverages sold to students.

Examples:

- An educational exempt organization sells books and tapes by mail, phone and on-line order, on a regular basis throughout the year. The organization must collect New Jersey sales tax, except when the books or tapes are shipped out-of-State.
- Patients at an exempt organization hospital are provided phone service in the patients' rooms, and the patients are charged a separate amount for the phone service. Sales tax must be collected on the phone service charges.
- An exempt organization has a gift shop that is open one day a week throughout the year. The organization must collect sales tax on taxable items.
- An exempt organization has a café that is open on weekends throughout the year. The organization must collect sales tax on the café sales.

EXEMPTION FOR QUALIFYING THRIFT STORE SALES

If an exempt organization has a store, it is not required to collect sales tax on sales of donated merchandise if: (a) at least 75% of the store merchandise consists of donated items, and (b) at least 75% of the work to operate the store is performed by volunteers. If an exempt organization's store meets the exemption criteria and sells only donated merchandise, and if the store is currently collecting sales tax, the organization must file Form C-6205-ST, Request To Be Placed On A Non-Reporting Basis, to stop collecting sales tax.

For more information, contact the Regulatory Services Branch at 609-292-5994, e-mail us at **nj.taxation@tax.state.nj.us**, or write to:

Regulatory Services Branch
New Jersey Division of Taxation
PO Box 269
Trenton, NJ 08695-0269

For State tax forms and publications, call the Forms Request System at 1-800-323-4400 or 609-826-4400, access the Division's home page at <http://www.state.nj.us/treasury/taxation/>, or call NJ Tax Fax at 609-826-4500 from your fax machine's phone.