

**Galas & Tournaments
& Festivals, Oh My!
Part I - Galas and
Silent Auctions**

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Mission of Pro Bono Partnership of Atlanta:

To provide free legal assistance to community-based nonprofits that serve low-income or disadvantaged individuals. We match eligible organizations with volunteer lawyers from the leading corporations and law firms in Atlanta who can assist nonprofits with their business law matters.

Pro Bono Partnership of Atlanta Eligibility & Other Information

- In order to be a client of Pro Bono Partnership of Atlanta, an organization must:
 - ✓ Be a 501(c)(3) nonprofit.
 - ✓ Be located in or serve the greater Atlanta area.
 - ✓ Serve low-income or disadvantaged individuals.
 - ✓ Be unable to afford legal services.
- *Visit us on the web at www.pbpatl.org*
- We host free monthly webinars on legal topics for nonprofits
 - ✓ To view upcoming webinars or workshops, visit the [Workshops Page](#) on our website
 - ✓ Join our mailing list by emailing rla@pbpatl.org

Legal Information:

- ✓ This webinar presents general guidelines for Georgia nonprofit organizations and should not be construed as legal advice. Always consult an attorney to address your particular situation.

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Overview of the Sales and Use Tax

Yes, this is something your nonprofit needs to consider as it gets ready for its special event!

➤ Sales Tax

➤ Applied to a Retail Sale

- Tangible personal property or certain enumerated services
- Sales of tickets, fees or charges for admission to places of amusement, sports or entertainment

➤ Does not apply to a “sale for resale”

➤ Added to the “sales price”

➤ Use Tax

- Complements the sales tax; ex: Internet purchases

Sales Tax Exemptions

- Seller does not have to collect tax on an exempt sale
- Contained in Georgia Code Section 48-8-3
 - There is not a general exemption for nonprofits
- Types of statutory exemptions
 - Entities
 - Use
 - Products

Sales Tax Exemptions, cont'd

- **Seller has the burden of proof for exempt sales**
 - Can rely on a properly completed certificate of exemption taken in good faith
 - If no exemption is applicable and the transaction is not a sale for resale, then the seller must collect tax

Sales Tax Exemptions – Application to Nonprofits

- Purchases will be taxable unless a specific exemption applies
 - So nonprofits must generally pay sales tax on their purchases
- Sales will be taxable unless a specific exemption applies
 - So nonprofits must generally collect sales tax on their retail sales

Collecting the Sales Tax

- Sales tax is imposed on the purchaser but is collected by the seller
 - Seller adds the tax to the invoice and remits it to the state
 - Rate is determined by location of delivery or first use
- Purchasers are responsible for use tax if no sales tax was paid

Fundraising Dinners and Galas

- Common event to raise money for an organization
 - Tickets are sold to attend
 - Food and drink is served to guests for no charge at the event
 - Attendees listen to a program or presentation
 - Entertainment may be provided

Fundraising Dinners and Galas

- Sales tax must be collected on the **fair market value** of the food and drink because ticket and admission charges are taxable.
 - Example: Charity hosts a fundraiser where food and drink are provided. Tickets cost \$100. The FMV of the food/drink is \$40. Tax is owed on the \$40 and the remaining \$60 is a tax-deductible donation.
 - Calculating and remitting the sales tax
 - Publicize the bifurcation of the ticket amount

Fundraising Dinners and Galas

- Calculating and remitting the sales tax
 - Tax rate depends on the location of the event
 - Tax can be collected on the FMV of the food/drink (e.g. \$40)
 - Tax can be included in the \$40 charge attributed to the food/drink and then remitted by the nonprofit (e.g. \$36.73 of food/drink + \$3.37 tax at 8.9%)
- Publicize the bifurcation of the ticket amount
 - On nonprofit website
 - At the event

Fundraising Dinners and Galas

- If entertainment is provided that is the type of entertainment for which someone would typically pay an admission charge to see, then tax would be included on the FMV of the entertainment in addition to the food/drink, but only up to the price of the ticket.

Silent and Live Auctions

- Many fundraising dinners and galas include a silent auction, live auction or both
- Nonprofits receive donations of items and services on which attendees bid and the highest bidder wins the item or service.

Silent and Live Auctions

- Individuals who buy and donate items for the auctions must pay sales tax on the item
- Businesses that donate items from their inventory must remit tax on the item when it is donated.

Silent and Live Auctions

- The nonprofit must collect sales tax from the winning bidder.
 - The tax is due on the fair market value of the item
 - Winning bid exceeds FMV
 - Winning bid equals or is less than FMV
 - Bundled transactions
 - Vacation homes
 - Determine the FMV of the item prior to the auction
 - Keep good records

Additional Items to Consider

- If you are hosting a raffle, apply for a license with your county sheriff: [How to Obtain Raffle License](#)
- If you are selling or serving alcoholic beverages, you may need to apply for a license: [How to Apply for Alcoholic Beverage Permit](#)
- Will your insurance policy cover claims from your Auction or Gala? Check with your agent.

“Take Aways”

- Nonprofits are subject to sales and use tax unless an exemption applies (exemptions are rare)
- Nonprofits should determine what their responsibilities are to collect and remit sales tax when hosting a fundraising dinner or gala and selling items at silent and/or live auctions

Questions?



For More Information:

If you would like more information about the services of Pro Bono Partnership of Atlanta, contact us at:

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