



The Latest on Sales and Use Tax Obligations of 501(c)(3) Organizations

Richard Litwin, Esq.

Robyn Miller, Senior Corporate/Tax Counsel

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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 our [Event listings](#)
 - ✓ 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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What is the Sales Tax?

- Retail Sale – TPP or Services
- Tangible Personal Property
- Tax must be Added to Sales Price
- “Sales Price”



What is the Use Tax?

- Complements Sales Tax
- Focus on Out-of-State/Remote Sellers
 - ✓ Internet seller
 - ✓ No nexus with Georgia
- Form ST3-USE
- Effective 1/1/20 Remote Seller must collect GA sales tax if sales thresholds are met

The logo for amazon.com, featuring the word "amazon.com" in a bold, black, sans-serif font. Below the text is a curved orange arrow that starts under the letter 'a' and points towards the letter 'z', representing the Amazon smile logo.

Services Subject to Tax

- Only Those Services Listed
- Services with min. TPP = Exempt
- Separately-Stated
 - ✓ Installation charges
 - ✓ Labor
- Fabrication Labor
- Mixed Transactions – “True Object Test”



Sales Tax Exemptions General Rules

- Found in Statutes - Not Regulations
- Types
 - ✓ Entities
 - ✓ Uses
 - ✓ Products
- Construed Narrowly



Sales Tax Exemptions – Certificates

- Retail Sale Presumed
- Properly Completed ST-5
- Good-faith
- No Certificate? Collect Tax!



Sales Tax Exemptions – Purchases

- Nonprofit can't buy items tax-exempt
 - ✓ Churches
 - ✓ Charitable orgs.
 - ✓ Civic orgs.
- Must pay sales tax on purchases for own use
- Some exemptions allow specific entities to buy tax-exempt

Sales Tax Exemptions – Purchases

- Specific Entities
 - ✓ American Red Cross
 - ✓ GA State Society of Daughters of American Revolution
 - ✓ Girl Scouts Food Purchases - used for fundraising
 - ✓ Boy Scouts Food Purchases – used for fundraising

- 501(c)(3) w/DOR Commissioner Letter
 - ✓ In-patient nursing homes
 - ✓ In-patient hospice
 - ✓ In-patient mental hospital
 - ✓ Food banks (through 6/2021)

Sales Tax Exemptions – Purchases by Educational, Cultural and Schools

- Univ. System of GA and Educational Units
- Private colleges/universities whose credits accepted by University System of GA
- Private elementary/secondary schools
- Educational or cultural institute sponsored by foreign government
- Food for Consumption by Pupils and Employees of Private Schools

Sales Tax Exemptions Sales By Nonprofits

- PTA
- Private/Public School Events
- Girl Scout Sales of Food/Food Ingredients (cookies)
- Boy Scout Sales of Food/Food Ingr.
- Religious Institution Fundraising



Tax Rates in Georgia

- State Rate – 4%
- Local Rates Vary by County
 - ✓ MARTA
 - ✓ Local Opt.
 - ✓ Sp. Purpose
 - ✓ Educational
 - ✓ Homestead
 - ✓ City of Atlanta
 - ✓ TSPLOST
- Delivery Address for Rate
- Max. Rate – 8% or 8.9% (Atlanta)



Collecting the Tax

- GA = Transaction Tax State
- Seller Adds Tax to Invoice
- Seller Collects Tax as Agent
- Seller Files Monthly Report (ST-3)
- DOR Can Also Collect from Purchaser
 - ✓ Consumer Use
 - ✓ DOR Audit
- Remote Sellers and Virtual Presence/Economic Nexis



Sales and Use Tax Obligations of Nonprofits

- As Seller
 - ✓ Register (Form CRF-002)
 - ✓ Form ST-3 (monthly may ↓ to quarterly)
 - ✓ E-file/E-pay

- As Purchaser
 - ✓ Register (Form CRF-002)
 - ✓ Pay sales tax or exemption cert.
 - ✓ Pay use tax



Department of Revenue Bulletin SUT-2017- 08

- Sales Tax Imposed on:
 - Charges made for participation in games and amusement activities
 - Sales of tickets, fees or charges --
 - For admission to places of amusement, sport, enter.
 - Any other place at which exhibition, display, amusement, entertainment is offered to public
 - Any other place where an admission fee is charged
- If spectators charged a taxable admission fee, then no tax due on entry fee

Department of Revenue Bulletin SUT-2020-02 (July 1, 2020)

- Addresses Fundraising Activities by § 501(c)(3) organizations
- Walks through 13 different fundraising activities and provides sales tax guidance related to conducting such activities
- Supersedes Informational Bulletin SUT 2013-03-28
- Puts § 501(c)(3) organizations “On Notice”

Fundraising Models

- Items to Donors as Token of Appreciation
- Festivals, Block Parties, “Taste of” Events, Carnivals or Fairs
- Galas and Silent Auctions
- Educational Events
- Half-Marathons, Marathons, Fun Runs, Fun Walks or Similar Events
- Charity Golf Tournaments

Items to Donors as Token of Appreciation

- Donor makes contribution
- Org. gives a token of appreciation in return
- Org. must pay sales tax on purchase of token
- Keep good records!
- Coffee Mug Example
- Magazine Example



Festivals, Block Parties, “Taste of” Events, Carnivals or Fairs

- Charges for Admission are taxable
- Various Components to Consider:
 - ✓ Booth Rental
 - ✓ Entry fee/tickets
 - ✓ Food/Beverage tickets
 - ✓ Carnival/game tickets



Galas and Silent Auctions

- Fundraiser with Two Taxable Events
 - ✓ Gala - Food/beverage served
 - ✓ Silent auction – items are purchased

- Cost per person
 - ✓ Partial donation
 - ✓ Partial payment for food/beverage

- Sales tax owed on food/beverage portion

- Sales Tax and prize drawings or raffle tickets



Silent Auction

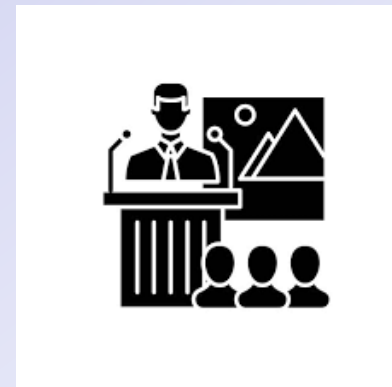
- Items donated to 501(c)(3) for Auction
 - ✓ Donor must pay sales tax on purchase
 - ✓ Business that donates item must accrue on withdrawal from inventory

- Selling Auction Items
 - ✓ Put FMV on bid sheet
 - ✓ Winning bid exceeds FMV
 - ✓ Winning bid is equal to or less than FMV
 - ✓ Bundled transactions/products
 - ✓ Vacation Homes
 - ✓ Keep Good Records!



Training/Seminars/ Educational Events

- Georgia Ruling in February 2020: charges to attend training seminars, meetings and conventions are not taxable (even if for-profit business)
- Educational presentation
 - ✓ By author, educator, expert
 - ✓ Akin to job training
- No sales tax on admission charge –
 - ✓ Not a place of amusement, sports, exhibition, or display
 - ✓ Not entertainment
- Also in Revenue Bulletin 2020-02 (July 1, 2020)



Half-Marathons, Marathons, Fun Runs/Walks

➤ 2019 GA Regulations declared:

“Charges to participate in a 10k, half-marathon, “fun run,” walk, wheelchair race, bicycle race, triathlon, or other similar non-motorized race are NOT charges for participation in games or amusement activities”

➤ No sales tax on charge to participate!

➤ Organization pays sales tax on t-shirts

➤ Also in Revenue Bulletin 2020-02 (July 1, 2020)



Charity Golf Tournaments

- Organization (registered) buys rounds tax-free
- Golfer Fee – Org. collects tax or includes in fee
- Mulligan Package – donation
- Gift Bag
- Sponsorship Package



Questions?



For More Information:

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

www.pbpatl.org

info@pbpatl.org

(404) 618-0900