

# Application of Kentucky's New Sales Taxes to Charitable Institutions

Kentucky charitable organizations have been hard hit by the Department of Revenue's interpretation of Kentucky's new sales tax law. To assist organizations in complying with the law, we have partnered with the Kentucky Nonprofit Network and compiled a list of frequently asked questions. Before getting to the list, however, there are three general rules to keep in mind:

The "exemption" for nonprofits that everyone is most familiar with is the exemption from sales tax when a 501(c)(3) organization purchases something for use within the educational, charitable, or religious function of the organization. The organization provides the seller with the organization's purchase exemption certificate. KRS § 139.495(1).

There are other specific exemptions for elementary and secondary schools and organizations related to those schools (KRS § 139.497), and colleges and universities and certain school sponsored clubs. KRS § 139.495(2)-(5). The exemption for elementary and secondary schools is broad, while the exemption for colleges and universities is narrow. Generally, these exemptions are not addressed here.

Tax is not imposed on the first \$1,000 of sales made in any calendar year by individuals or nonprofit organizations not engaged in the business of selling. This exemption is limited to:

- a. Garage or yard sales; and
- b. Fundraising events held by nonprofit civic, governmental, or other nonprofit organizations.

KRS § 139.496(1).

DISCLAIMER: Getting the correct answers to sales tax questions is difficult, because the answer depends on the facts and circumstances in which the question arises. The answers to the questions here are based on answers provided by the Department to specific questions. As a result, they should be viewed as guidelines; neither Dean Dorton nor KNN can guarantee the answers are the correct answers to your individual questions.



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Questions	Answers
Are tickets for fundraising events taxable?	Yes. Kentucky is now taxing admissions to fundraising events.
Is the entire ticket price subject to sales tax, even if a portion is a charitable contribution?	Yes. The sales tax is imposed on gross receipts, which includes the charitable contribution portion of the ticket price.
Can the sales tax be included in the price of the ticket?	Yes. However, if the tax is included in the total price, a statement must appear on the ticket saying sales tax is included in the price, unless the tax is separately stated on a sign posted in a conspicuous place at the place where the tickets are sold.
Are sponsorships for fundraising events taxable?	Sponsorships are taxable if the sponsor receives tickets or tangible property in exchange for the sponsorship.
Can a sponsor be billed separately for its tickets and sponsorship so that tax is paid only on the tickets?	Yes. Tickets and sponsorship income can be billed separately. Then, there would be no tax on the sponsorship income. Also, there is no tax on sponsorship income in connection with an event that is not ticketed.
Are auctions (live or silent) taxable?	Items purchased at auctions that are tangible property (artwork, jewelry, gift baskets, etc.) are taxable. Items such as experiences (trips, tours, etc.), services (i.e., landscaping), and gift cards are not subject to tax.
Do purchasers pay sales tax on the total price paid for an auction item or on the item's fair market value?	Sales tax is charged on the amount paid for the item, regardless of whether the amount is higher or lower than fair market value.
How is a gift basket sold at an auction that contains taxable and nontaxable items treated?	The gift basket would be taxable.
Are donations to auctions or for raffles subject to tax?	No.
Are raffles taxable?	No. Games of chance are not subject to sales tax.
Is a gift card to Disney World taxable?	No. Gift cards are not subject to sales tax.
Are registration fees for a charitable run, walk, or golf tournament taxable?	Yes.
Are admissions to theatres or museums operated by nonprofits subject to tax?	Yes; these admissions are subject to tax. Tax must be charged on the full ticket price.
Is the rental of parking spaces subject to sales tax?	No. The rental of parking spaces is treated as the rental of real property and is not subject to tax.
Are membership fees taxable?	Provided that the membership fee does not provide admission to a taxable venue, such as a museum, sporting event, fair, gym, golf course, etc., the membership fee is not taxable.
Are membership fees taxable if a member receives benefits such as a quarterly newsletter or publication, and/or the opportunity to attend seminars, lectures, or instructional classes?	No.
Is the sale of t-shirts or other logo items purchased and used by volunteers of an organization subject to sales tax?	Yes. Furthermore, it does not matter whether the t-shirts or other items are available to the public at large or only to a few people; the items are taxable.
Are tickets to professional development or networking events taxable?	No. The sale of admissions to a professional conference, educational conference, or networking event is not subject to tax.
Are 501(c)(3) organizations still exempt from sales tax on purchases of equipment?	Yes. 501(c)(3) organizations are exempt from purchases of tangible personal property, digital property, and services used within the educational, charitable, or religious function of the organization.
May a nonprofit use its purchase exemption certificate to avoid paying sales tax on services that are now taxable, such as janitorial services, linen services, and lawn mowing?	Yes, if the invoice is billed directly to the nonprofit institution and the purchase is used within the scope of its exempt function. Purchases for fundraising activities are not considered to be within the scope of the exempt function.

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Are clothes sold by a nonprofit thrift store taxable?	Yes.
In addition to the sale of a ticket in some instances certain fees are charged, for example, a convenience or handling fee or ticket provider fee. Are these fees taxable in addition to the ticket price?	Yes; all charges by a retailer for any services necessary to complete the sale are subject to tax. However, charges related to credit extended on a sale, such as credit card fees, interest and financing and carrying charges, are not subject to tax.
Are bingo cards taxable?	Yes.
Are pull-tabs taxable?	No.
What must be taxed when a 501(c)(3) is hosting a golf tournament?	Taxable: admission/green fees; sponsorship with admission/green fees included; cart fees; food purchased; anything purchased from the pro shop. Not taxable: hole sponsorship; mulligan.
Are historic sites exempt from event/auction sales?	No; only admission to the historic site is exempt.
Is the sale of used goods, such as at a rummage sale, taxable?	Yes.
Is the sale of vegetables from a church garden to church members taxable?	No.
Is the sale of vegetables from a church garden at a farmers' market taxable?	No.
Is rental of office space by a nonprofit taxable?	No.
Is room/board/etc. for volunteers taxable?	No.
Are fees dictated by local governments, such as city animal license fees and fees regarding boarding or surgeries, taxable?	If the required license fee is separately stated by the retailer, it would not be subject to tax.
Are coffee sales by a nonprofit café the proceeds of which are used to support the café taxable?	Yes.
Are Medicare-sponsored memberships, such as Silver Sneakers, to medical fitness facilities taxable?	Yes, if the membership is billed to an individual customer.
Is the sale of "heart pins," the proceeds of which are donated to a nonprofit, taxable?	Yes.
Are employee benefits on a membership to a wellness facility taxable?	The purchase of a membership to a wellness facility is taxable.
Do you file a tax return regardless of whether there were any sales?	Yes. A zero return must be filed.
Must sales tax returns be filed beginning July 1 even though there are no sales for several months?	Yes. Zero returns must be filed.
Is there tax on rental of housing?	No. There is no tax on the rental of real property.
Are annual memberships to museums and theatres taxable?	Yes, if the membership includes admittance to the museum and/or shows at the theatre.
Are memberships to a "friends of" organization taxable?	Yes, if the membership is bundled with admission to an event or taxable venue.
If tickets are purchased by a tax-exempt entity (e.g., the Rotary Club) for resale to members, are the tickets taxable?	Yes.
Is space or a booth for a trade show taxable?	No.
Are fees to set-up booths at a trade show taxable?	No.