ADMINISTRATIVE GUIDELINES
NONPROFIT ORGANIZATIONS
Procedure 412

CBJ 69.05.040 (12) Sales, services and rentals to a buyer, or made by a seller, organized and administered solely by an organization that has a current 501(c)(3), 501(c)(4), or 501(c)(19) exemption ruling from the Internal Revenue Service and an exemption certificate from the manager, provided this exemption applies to sellers only if the income from the sale is exempt from federal income taxation. This exemption does not apply to the sale of pull-tab games.

Applicable Definitions under 69.05.010:

> ***Donation*** *means any voluntary consideration, whether money, credit, rights, other property, or services provided to an exempt organization, as defined in 69.05.040(11), for which the provider neither expects nor receives anything more than goods or services of insubstantial value relative to the provided consideration.*

The federal government grants certain nonprofit corporations tax-exempt status. The CBJ Assembly grants sales tax exemption status to nonprofit organizations that have been designated by the Internal Revenue Service as a 501(c)(3), 501(c)(4), or 501(c)(19) entity.

Organizations who qualify for exemption from income tax under Sections 501(c)(3), 501(c)(4), or 501(c)(19) of the Internal Revenue Code may apply for a CBJ Sales Tax Exemption Certificate.

The nonprofit exemption applies to the purchases of the organization made by an authorized purchasing agent of the organization. Employees and volunteers may not use the organization's exemption on any purchase where the goods or services purchased are not for the use and benefit of the organization as a whole. Individuals who are participating in activities organized by the exempt nonprofit are not exempt from paying the tax on their personal purchases while engaging in those activities.

The nonprofit exemption also applies to sales made by the nonprofit organization. A nonprofit organization is not required to collect the CBJ sales tax on sales made directly by the nonprofit organization, provided the income from those sales is exempt from federal income tax. Nonprofit organizations with sales revenue generated from local activity (donations, membership fees, and initiation fees excluded) in excess of $25,000 in a fiscal year may be requested to provide a copy of their IRS Form 990 demonstrating that none of their income was subject to federal income tax.

The nonprofit exemption does not apply to the sale of pull-tabs.

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Donations

Some organizations believe that if they call payments "donations," they can avoid the obligation to report their sales. To qualify as a donation, a payment must be voluntary, with no restrictions placed on people who do not make a payment. "Required donations," which entitle the donor to receive goods, services, or a rental, are reportable sales. The following tests are made to determine if the payment is considered a donation:

- The property or service must be transferred voluntarily;
- There must be no advantage of a material character received by the donor; and
- There must be an element of benefaction to the transfer.

Nonprofit transactions that meet all three donation criteria are exempt from sales tax and are <u>not reported on the sales tax return form</u>.

The nonprofit's board of directors is responsible for ensuring the existence of internal controls to ensure the exemption is not abused. Such controls would include making payments with the organization's checks, establishing charge accounts with its vendors, designating a purchasing agent(s) as the only authority allowed to claim the exemption on behalf of the organization, etc. Accounting records shall be maintained in accordance with CBJ 69.05.090(c).

Applications for the exemption certificate are made to the CBJ Sales Tax Office. A representative of the organization must present a copy of the IRS ruling letter stating the section of the IRS code under which it is exempt. The exemption certificate will not be issued without the IRS ruling letter, and the exemption may not be enjoyed before the issuance of the CBJ exemption certificate.

Sellers, at the time of purchase, must obtain and document the following:

1. The exempt (nonprofit) organization's name.
2. The CBJ exemption certificate number and expiration date.
3. Secure the signature and title of the person making the purchase.

Or, for purchases on an account:

1. Obtain a copy of the nonprofits' exemption certificate.
2. Obtain a statement should be taken at the time the account is established that all purchases made on the account will be for the use and benefit of the exempt organization.