

ICF Branches,

The California State Board of Equalization invited financial leaders of nonprofit organizations to attend a seminar to discuss taxes that apply to them. Although nonprofit, there are still various taxes we are required to pay.

There are several classifications of nonprofit organizations, including: fraternal, cultural, PTAs, religious and human services, to name a few.

The Italian Catholic Federation is incorporated in the state of California as a religious nonprofit organization. This classification makes us the most exempt from the various taxes.

After reviewing several documents and publications, I have condensed the information that would most affect our branches in California. The following pages come directly from publications issued by the state. These are rules established by the California State Board of Equalization, not the Italian Catholic Federation.

For more information, please contact the Board of Equalization (BOE):  
www.boe.ca.gov PO Box 942879, Sacramento, CA 94279-0001  
Customer Service Center (800) 400 – 7115 Open Monday through Friday 8am-5pm.

Helpful guides, forms, publications and resources are available on the BOE website.

The BOE office is your best resource. The ICF Office Staff and Central Council Members are not representatives of the BOE and may not be able to answer your questions. It is best to go directly to the BOE to seek answers.

To condense the information in a few bullet points, please note the following:

**Branches/Districts must obtain a seller's permit and pay sales taxes when they:**

- Sell any kind of merchandise, even when the merchandise is donated to the branch.
- Sell alcoholic or carbonated beverages. It doesn't matter if you charge per drink or take donations for the beverage.
- Serve food for no profit, for example, a meal served at a branch meeting at a price that just covers cost.
- Have auctions, even when the items are donated.

**Branches/Districts do not need a seller's permit, nor do they need to pay sales taxes when they:**

- Serve food for a profit that is used to carry out the functions of the organization.
- Serve alcohol or carbonated beverages within the price of the ticket of food (example = wine served with dinner).
- Conduct raffles.
- Sell tickets for an event which is strictly for an experience; such as a dance, play, guest speaker, movie night, etc.

Note: Liquor licenses are required in addition to seller's permits for alcoholic beverages.

The state is losing billions of dollars in tax revenue each year as a result of nonprofit organizations not charging and paying appropriate taxes. This prompted the state to educate the nonprofits on what taxes they are expected to pay. Although these rules result in more work for our Financial Secretaries/Treasurers, we are obligated to comply.

I thank you for your attention to this very important subject. I encourage you to read this material and explore the BOE website to help you better understand the state's expectations.

Thank you,  
Roselynn Jarrett  
Central Council Grand Treasurer

## INTRODUCTION (Publication 18, Nonprofit Organizations)

### Sales and Use Tax Basics for Various Types of Nonprofit Organizations

This section provides introductory information describing California's sales and use tax and how it generally applies to sales and purchases by nonprofit organizations. It also provides basic information that can help you determine whether any of your organization's sales may qualify for special sales tax exemptions or exclusions. Be sure to read this section before you move on to the rest of the publication.

### Tax applies unless there is a specific exemption or exclusion

In California, sales tax applies to the sale of tangible personal property (referred to as "merchandise" or "goods" in this publication) unless the sale is covered by a specific legal exemption or exclusion. Individuals, businesses, and groups that sell taxable merchandise in California must pay sales tax on their taxable sales. Sellers may charge their customers for sales tax reimbursement (referred to as "sales tax").

Similarly, use tax applies to the purchase of taxable merchandise that will be used, consumed, stored, or given away in this state unless the purchase is exempt or excluded from tax. Individuals, business, and groups must pay use tax on their taxable purchases. The state use tax is complementary to, and mutually exclusive of, the state sales tax.

Tax generally applies regardless of whether the items you sell or purchase are new, used, donated, or homemade.

### No general exemption for nonprofit and religious organizations

Although many nonprofit and religious organizations are exempt from federal and state income tax, there is no similar broad exemption from California sales and use tax. Generally, a nonprofit's sales and purchases are taxable. In other words, nonprofit and religious organizations, in general, are treated just like other California sellers and buyers for sales and use tax purposes.

However, there are special exemptions and exclusions available for certain nonprofit and religious organizations. Some organizations may not owe tax on any of their sales, whereas some organizations may owe tax on certain types of sales, but not all sales. Other organizations may be responsible for tax just like other California sellers. It all depends on what type of organization you are and what your organization's practices and activities are. Later sections of this publication provide information to help you determine which exemptions and exclusions may apply to your organization.

### Typical taxable sales by nonprofit organizations

As noted above, a sale of merchandise or goods is generally taxable unless it's covered by a specific exemption or exclusion. Before you read the sections on specific organizations or types of sales, you may need to know more about sales in general.

A sale is an exchange of merchandise or goods for something else of value: money, barter, or trade. The barter or trade doesn't have to be a two-way exchange of merchandise. It also includes an exchange of merchandise for services. For example, if you give meals to your accountant in your museum café in exchange for accounting services, that's considered a sale of the meals.

Nonprofits commonly conduct a variety of activities that are considered sales. These include (but are not limited to) the following:

- Sales of food, meals, beverages, and similar items under a number of different circumstances.
- Sales of tickets that buyers will exchange for food, beverages, or other physical products.
- Sales of booklets, books, pamphlets, and so forth.

- Sales of tickets for fundraising events when the ticket price includes amounts for food or beverages.
- Sales of items at rummage sales, bazaars, carnival booths, community events, and other fundraisers.
- Sales of merchandise in Internet, live, and silent auctions.
- Sales of tickets for game booths where prizes are guaranteed to each ticket purchaser, even when the prizes have little value. Examples include white elephant, fish pond, grab bag, and “pitch-’til-you-win” games.

#### Typical nontaxable activities by nonprofit organizations

Nonprofits also carry out certain activities that are not considered sales for sales tax purposes. These activities generally are not subject to sales or use tax. Examples include:

- The gifting of merchandise for a true donation: an amount someone gives your organization without expecting to receive merchandise of equal value in return. (Example: A member who donates \$100 and receives a tote bag worth \$5, generally is not considered a sale.)
- Sales of tickets for concerts, movies, plays, shows, and similar events when food and meals are not included in the ticket price.
- Sales of tickets for game booths and raffles when prizes are not guaranteed to every ticket purchaser.
- The sale of travel, home rentals, guide services, personal services, tutoring, and other things of value that are not physical products.
- Sales of gift cards, gift certificates, and coupon books.
- Membership drives and other fundraising activities that do not involve the exchange of merchandise or that include merchandise premiums of a much lower value than the donation or membership amount.
- Sales of advertising that does not involve exchanges of merchandise or goods.

#### Most nonprofits that make sales need seller’s permits

Nonprofit organizations generally need a seller’s permit if they make sales of goods or merchandise in California. This is true even if the sales are not taxable. In limited instances, when the organization makes sales only occasionally, we can issue a temporary seller’s permit. Permit requirements are explained in more detail in the organization-specific sections of this publication. Also please see, Registration Requirements, under the section titled General Obligations of Sellers and Purchasers.

***The following section pertains to the ICF as we are classified as a religious organization. Other sections from the nonprofit organization guide have been omitted as they do not apply to the ICF.***

## RELIGIOUS ORGANIZATIONS

There is no blanket sales or use tax exemption available for nonprofit religious organizations or churches, even when the organizations are exempt from income tax. This section discusses the special exemptions that do exist.

#### Permit and tax requirements (in general)

##### Permit requirements

Unless all of your sales are exempt from tax, religious organizations and churches that make sales of goods or merchandise must hold a seller’s permit as described below and file sales and use tax returns. Please see Registration Requirements, and Collecting and Paying Tax, for more information on seller’s permits and tax reporting requirements.

## General tax requirements

Unless your sales qualify as tax exempt under the meal exemption described in this section, your sales of merchandise are generally taxable. This is true whether you buy the merchandise, make it, or receive it as a donation from an individual or a business.

### Sales of items other than food

Religious organizations' sales and purchases of goods and merchandise other than food are generally taxable. If your religious organization holds or participates in fundraising events where you sell goods and merchandise, such as auctions, festivals, bazaars, firework stands, swap meets, or craft shows, your sales of nonfood items are generally taxable. Tax also applies when you sell from a church bookstore, from tables in your church at events, by Internet, or by mail order.

### Donations to religious organizations

#### Donations vs sales

You may receive donations at the same time you are selling merchandise. "True donations" are not taxable. A true donation is an amount someone gives you without expecting merchandise in return.

Example: If one of your members donates \$100 and receives a tote bag worth \$5, this is generally not a sale. However, your purchase of the tote bags is subject to sales or use tax when you purchase it. If the tote bag were donated to your organization by another member, then no sales or use tax is due when the member donates the \$100.

If your members make donations and expect merchandise in return, then this is a sale.

Example: Your religious nonprofit organization receives 100 knitted afghans donated by the local knitting guild. Afghans of this quality usually are sold for \$75. Your organization decides to sell the afghans and use the proceeds to fund one of its community projects. You sell some of the afghans for \$100 and toward the end of the sale you reduce the price to \$50. In this example, the sales of the afghans are taxable regardless of the price you charge for them. You are making a sale of merchandise or goods, since the person purchasing the afghans is expecting merchandise or goods in exchange for the set price. If you purchase afghans to resell instead of receiving them as a donation, you may present your vendor with a resale certificate and purchase the afghans without tax.

### Donations of merchandise and goods

Generally, items withdrawn from a seller's inventory that are not resold are subject to use tax. However, items withdrawn from a seller's inventory and donated to qualified religious organizations located in California are not subject to use tax. Qualified organizations are described in section 170(b)(1)(A) of the Internal Revenue Code.

Merchandise or goods donated by a seller (donor) who paid sales or use tax at time of purchase does not qualify for this exemption. This is true even if the donated items are resold by the religious organization and the religious organization charges sales tax when they sell it.

Donations of gift cards, gift certificates, services, or cash donations are not subject to sales tax since there is not an exchange of merchandise or goods for a consideration. Gift cards, gift certificates, services, or cash donations are not considered taxable regardless of the person donating, buying, or using them.

Example: Mr. Bob Smith sells fishing gear at his bait shop and provides guided fishing excursions. Mr. Smith donates a fishing pole, a fishing excursion, and a gift certificate to his church. Mr. Smith does not owe use tax on any of these items since the fishing pole came from his resale inventory and tax does not apply to services or gift certificates.

Example: Ms. Jane Jones works for a company that sells wholesale veterinary supplies. Her temple asks for donations of new or gently used children's toys to put up for auction at a fundraising event. The company does not sell children's toys. Ms. Jones purchases and donates fifty children's toys on behalf of her company. Ms. Jones should pay sales tax when she purchases the children's toys from the toy store. The temple should charge sales tax on the auction price of the toys for their fundraiser.

### Meals furnished or served by religious organizations

Religious organizations are generally considered retailers of meals. Tax applies to your sales of food as described in Food and Meals.

However, there is a specific exemption for meals served for fundraising purposes, described below. For purposes of the exemption, "religious organization" means an organization whose property is exempt from property taxation under article XIII, section 3, subdivision (f) of the state Constitution.

#### Tax-exempt sales of meals

Tax does not apply to sales of meals and food by your religious organization when all of these conditions are met:

- You sell the food at a social or other gathering you conduct.
- You furnish the meals to raise funds for your organization's functions and activities.
- You use the proceeds to carry out those functions and activities.

The tax exemption applies regardless of who serves the meals. Your organization can serve the meal or have someone else serve it.

The person furnishing the meals, such as a restaurant or caterer, is selling the meals for resale to the religious organizations and the religious organizations may issue resale certificates to the person furnishing the meals and purchase the meals without tax.

Note: It is important to note that sales of alcoholic or carbonated beverages sold for a separate price are subject to sales tax. If such beverages are included in the price of the meal (single price) and the sale meets the requirement of the exemption, the beverage is regarded as part of the exempt sale of the meal.

#### Taxable sales of meals

When your organization serves meals that do not qualify for the exemption described above, sales tax applies as described in Food and Meals. Examples of sales of meals that do not qualify for the exemption include:

- Serving meals at an event where you serve meals but you do not make a profit on the proceeds (meals are free or sold at or below your cost). These sales do not qualify for the exemption because they are not for fundraising.
- Selling meals at church retreats or church camps, or at year-round cafes that are open to the public. These sales do not qualify for the exemption because they do not occur at a social or other gathering, nor are the meals served for the specific purpose of raising revenue.

In addition, the sale of "edible nonfood items" at an event where tax-exempt meals are served may be taxable. For example, tax would apply to your sales of alcoholic or carbonated beverages for a separate price.

## Purchases of meals

Religious organizations are the retailers of meals even when the sale of the meal is tax-exempt. Your organization may purchase meals without paying sales tax from a restaurant, hotel, caterer, or other supplier by issuing that business a resale certificate at the time of purchase (see Using a resale certificate). You may use resale certificates to buy meals that you resell.

## GENERAL OBLIGATIONS OF SELLERS AND PURCHASERS

### Registration Requirements

As noted in the introduction to this publication, nonprofit organizations generally need seller's permits if they make sales in California. This section describes general permit requirements and the two types of permits available.

#### Obtaining a seller's permit

##### In general

As noted in Introduction: Sales and Use Tax Basics for Various Types of Nonprofit Organizations, you generally need a seller's permit if you make sales of merchandise or goods in California. It is your responsibility to apply for a permit, report your sales, file returns, and pay any tax due. Whether you need a regular or temporary permit depends on the frequency of your sales activities (see "Temporary permits . . .," below).

There is no fee for a seller's permit. However, we may require a security deposit to cover any unpaid taxes your organization might owe if it stops operating. The amount of the security, if any, will be determined when you apply for the seller's permit, based on your anticipated sales.

##### Temporary permits vs. regular permits

If your nonprofit organization holds less than three fundraising events with taxable sales each year, you may apply for a temporary seller's permit for each event.

If your organization conducts three or more fundraising sales events each year, or if your taxable sales activities occur continuously, you should apply for a regular seller's permit.

Even when you are eligible to obtain a temporary permit, you may find it easier to hold a regular permit. It keeps you from having to remember to apply for a temporary permit before each event. You may also find it easier to have a regular permit if you hold annual fundraising events.

##### Register for a permit

You can register on our website at [www.boe.ca.gov](http://www.boe.ca.gov). Under New Registration, select Register a business activity with BOE. You can also register in person at any of our field offices. For assistance, please contact our Customer Service Center at 1-800-400-7115.

If you held a fundraising sales event without applying for a permit, you should register with us right away. Registering promptly may allow you to file and pay any tax due before any penalty and interest are due.

## COLLECTING AND PAYING TAX

This section provides general information on charging your customers amounts for tax, using resale certificates, paying tax on purchases, filing sales and use tax returns, and keeping records.

## Taxable sales

### Taxable amounts

In general, the amount you receive in exchange for merchandise is taxable. This is true whether a person pays you by cash or another method, or offers you something in barter or trade. In general, the taxable amount is the price you set and receive for the item. However, in the case of auctions and silent auctions, the full amount you receive is taxable, regardless of the item's value.

Examples: You sell books after your church services for a price of \$10 each, plus tax. You will owe tax based on the \$10 price ( $\$10 \times \text{tax rate} = \text{tax amount due}$ ).

A member of your church comes by your table and gives you \$50. She takes one \$10 book and tells you to keep the entire \$50. You will owe tax only on the \$10 price of the book. The other \$40 is a nontaxable donation and you do not owe sales tax on it.

You sell a copy of the same book in a silent auction for \$50. You will owe tax on the entire \$50 amount.

### Collecting tax from your customers

You must pay the correct amount of sales tax due on your sales. You are not required to collect tax from your customers, but the law does allow you to reimburse yourself for the tax from your customer equal to the tax you will owe on each sale. Usually, sellers add this sales tax amount to the price of merchandise when they make the sale. If you choose to follow this practice, your receipts should clearly show the price of the item and the amount of tax you applied.

However, to simplify your sales procedures, you may decide not to add tax to the price of each individual item as you sell it. Instead, you can include the tax in the sales price, provided you display a sign stating: "All prices of taxable items include sales tax computed to the nearest mill."

When you include tax in the price of items you sell, you must remember to subtract the tax amount out on your sales tax return to avoid paying too much tax. There is a line for this on the return.

Example: You sell boxes of decorative note cards at a fair booth. To save your volunteers from having to calculate the sales tax due and make change with coins, you charge an even \$5 for the cards and let your customers know that tax is included in the price by posting the sign described above.

## Purchases for resale

### In general

If you are a registered seller, you can make purchases for resale without paying an amount for tax to your supplier, as described below. Otherwise, your suppliers will collect sales tax on your purchases unless the transaction qualifies for a specific exemption or exclusion. In some cases, described under Taxable purchases, you may owe use tax on your purchases.

### Organizations that are consumers

If your organization is considered a consumer, you cannot legally issue a resale certificate to make tax-free purchases. Your suppliers may collect tax reimbursement from you. See Taxable purchases, if you are purchasing items from an out-of-state vendor.

You can calculate the tax that is included in the selling price by use of the following formula. Sales price = total price divided by 1+ tax rate: for example, \$5.00 / 1.0825 = \$4.62. Tax included = \$5.00 – 4.62 = \$.38.

Please note: A tax rate of 8.25 percent was used for illustration purposes, be sure to use the tax rate applicable to your sale and include any district taxes that apply. Please select California City and County Sales and Use Tax Rates, for current tax rates.

### Making purchases for resale

As a registered seller with a permit, you may make tax-free purchases of merchandise for your resale inventory by issuing a resale certificate to your supplier. You must intend to sell the item, either as-is or as a physical part of a product you make and sell. If you plan to use the item for any purpose other than demonstration or display while you hold it for sale, you should not buy it with a resale certificate.

In addition, you should not use a resale certificate to buy an item if you are not sure whether you'll use the item before you sell it. Your seller may require you to pay sales tax. If you end up selling the item before you use it, you can take a deduction on your sales and use tax return (for example, tax-paid purchase resold prior to use).

Example: Your nonprofit organization sells books to your members and the general public. Since your sales aren't covered by any special exemption, they're taxable. You can use a resale certificate to buy books you will sell. However, if every year you order 25 special books to give to volunteers who work in your bookstore and other organization volunteers, you should not use a resale certificate to buy those 25 books since you will give them away rather than sell them.

### Using a resale certificate

To make purchases for resale, you must provide your supplier a resale certificate. The resale certificate may be in any form, such as a note, letter, or memorandum. Regardless of form, it must contain all of the following information:

- Your organization's name and address.
- Your seller's permit number.
- A description of the property you will purchase.
- A statement that the described property is being purchased for resale (the certificate must contain words that state the property will be resold or is for resale).
- The date of the document.
- The signature of someone authorized to act for your organization.

You can find a sample resale certificate on our website at [www.boe.ca.gov](http://www.boe.ca.gov).

More information on using a resale certificate can be found in publication 73, Your California Seller's Permit, and in publication 103, Sales for Resale.

### Taxable purchases

Your organization's purchases may be subject to sales or use tax, as explained below. Use tax generally applies to purchases of items you will use, give away, store, or otherwise consume in California. The use tax rate for a given location is the same as the sales tax rate. The use tax does not apply to transactions subject to California sales tax.

If you purchase an item with a resale certificate, but use it for a purpose other than resale or demonstration and display, you will owe use tax on the purchase price. You must report the purchase price of the item under "Purchases Subject to Use Tax" on your sales and use tax return.



Tax also applies to purchases of supplies and equipment your organization will use rather than sell, such as bookkeeping supplies, office equipment, display equipment, and so forth. You should not issue a resale certificate to purchase those items.

If you purchase items like those described in the previous paragraph from an out-of-state, mail order, or Internet seller who does not collect California tax from you, you must pay use tax on your purchase. Be sure to report the purchase price of the items on your sales and use tax return under “Purchases Subject to Use Tax.”

For more information on purchases subject to use tax, please see Regulation 1685, Payment of Tax by Purchaser, publication 103, Sales for Resale, and publication 110, California Use Tax Basics, or call our Customer Service Center at 1-800-400-7115.

### Filing sales and use tax returns

If you have a temporary permit

When we issue you a temporary seller’s permit, you will use a sales and use tax return to report the tax due from your fundraising event. The return and payment will be due on the last day of the month following the month in which you hold the event (for instance, a return for an event held in May would be due by June 30). Please be sure to comply with the deadline on the return. You may be charged penalty and interest if you do not file the return and payment on time.

If you have a regular permit

If we issue you a regular seller’s permit, you will be instructed to file your tax return on a monthly, quarterly, or annual reporting basis. (Your filing frequency is determined by your estimated taxable sales.) You must file your completed return and any tax you owe to our Sacramento Headquarters Office on or before the due date printed on the return. Or, you may file your return at one of our field offices. Generally, the due date is the last day of the month following the end of the reporting period. Please be sure to comply with the due date. You may be charged penalty and interest if you do not file the return and payment on time.

You can easily file your return on our website at [www.boe.ca.gov](http://www.boe.ca.gov), under the File a Return tab. This free electronic filing system lets you file a California sales and use tax return or prepayment and make payment for amounts due. You can file a return whenever it is most convenient for you, 24 hours a day—7 days a week. Several filing options are available to fit your needs including three convenient payment methods. You will receive immediate confirmation from us when your return is accepted. Most sales and use tax accounts are eligible to file online.

### Reporting your sales and purchases

You must report all of your sales on your sales and use tax return, not only your taxable sales. You will be able to take deductions on the return for sales that qualify for specific exemptions and exclusions, including those described in this publication. The instructions that come with your tax return explain how to complete the return and take the deductions that may apply in your case. Information on common deductions is also found in the Sales and Use Tax section of our website. You are also required to report your taxable purchases (purchases made without tax and used, stored or consumed—not resold) on your sales and use tax return.

### Recordkeeping

In general

Because you are required to report and pay the correct amount of tax on your sales and purchases, be sure to keep adequate records. Your records must show:

- Gross receipts from all sales of physical products, including sales that you think aren’t taxable.
- All deductions claimed on your sales and use tax returns.

- The total purchase price of all items you purchased without tax, used, or gave away (supplies, equipment, fixed assets, and so forth), or leased to a person, organization, or business.

You should keep separate records for each fundraising or sales event. They should show the total amount you received, clearly distinguishing between taxable and nontaxable sales.

Example: Your organization has a booth at a free community fair selling both t-shirts (taxable) and brownies (nontaxable, in this instance). You must itemize your sales records to clearly distinguish between proceeds from taxable sales of t-shirts and proceeds from nontaxable sales of brownies.

If you use a simple cash box to track your sales at events, you may find it easier to account for your sales if you sell taxable and nontaxable items at separate booths.

Our representatives may examine your books, papers, records, and other documents to verify the accuracy of any sales and use tax return you file. Whether or not you file returns, your records may be reviewed to determine if you owe tax. If you have not paid the correct amount of tax, you may be required to pay penalties and interest in addition to any tax you owe.

How long should I keep my business records?

You should keep required records for at least four years unless we give you specific, written authorization to destroy them sooner.

Exception: Records that cover reporting periods before January 1, 2003, may be covered by an extended statute of limitations if you did not participate in the 2005 tax amnesty program, or if fraud or intent to evade tax is discovered during an audit. You must keep those records for at least ten years. If you are being audited, you should retain all records that cover the audit period until the audit is complete, even if that means you keep them longer than four years.

In addition, if you have a dispute with us about how much tax you owe, you should retain the related records until that dispute is resolved. For instance, if you appeal the results of an audit or another determination (billing), or you file a claim for refund, you should keep your records while that matter is pending. For more information, please see Regulation 1698, Records, and publication 116, Sales and Use Tax Records.