



SALES AND USE TAX SPECIAL EXEMPTION FOR NONPROFIT ORGANIZATIONS PROVIDING LOW-INCOME HOUSING AND SHELTERS

This publication provides general information regarding the special exemption, enacted in 1989, for nonprofits that provide shelter to needy people where the nonprofit does not otherwise qualify for exemption from sales and use tax. It is not a substitute for tax laws or regulations.

GENERAL INFORMATION

- Nonprofit organizations are not exempt from the sales and use tax by reason of their nonprofit status alone but must meet the very specific requirements contained in the sales and use tax laws and legislative regulations.
- Nonprofit organizations that do not meet these requirements are required to pay tax on their purchases and collect and remit tax on their sales (unless their purchases or sales are exempt under some other provision of the law).
- All sales and purchases are presumed to be taxable. It is the responsibility of the person making a purchase to prove that the purchase is for an exempt purpose.
- See Publication [TSD-320](#) for general sales and use tax considerations for nonprofit organizations.
- To qualify for this exemption, the organization must have a current business registration certificate. To obtain a registration application ([WVBUS APP](#)), contact the West Virginia State Tax Department.

PURCHASES OF CERTAIN BUILDING SUPPLIES AND MATERIALS

- Certain nonprofit organizations purchasing building materials or supplies to be installed in qualified buildings or structures owned or operated by the organization for specialized housing are exempt from payment of the consumers sales tax or use tax on those purchases.
- To qualify for this exemption the organization must meet all FIVE of the following conditions:
 - (1) The organization must have a current annual registration certificate with the Department of Tax and Revenue; AND
 - (2) The organization must be exempt from paying federal income tax under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code or must have received a prior written ruling from the West Virginia State Tax Commissioner certifying that the organization would qualify for that tax exemption; AND
 - (3) The organization must use the building material and supplies to construct, improve or repair ONE of the following (A, B, C or D) facilities owned, managed developed or operated by the organization:
 - A. Permanent low-income housing
 - B. Emergency homeless shelter
 - C. Domestic violence shelter
 - D. Emergency children or youth shelter
 - (4) The materials purchased by the organization must be installed in, affixed to or incorporated into and become a part of a building or structure or the real property; AND
 - (5) The purchase of the material must be made directly by the organization.

EXAMPLE:

If a low-income housing development hires a contractor, then the housing development must directly purchase all the materials that the contractor uses in order to qualify for this tax exemption. If the contractor purchases the material for the development, then the materials are subject to sales tax and no refund can be given.

EXCLUSIONS

- Some important points to remember about this limited exemption for certain purchases by nonprofit organizations follow:

- This exemption does not apply to purchases of gasoline and special fuels.
- This exemption does not apply to purchases of items or services used or consumed in generating unrelated business income by the nonprofit organization.

**DETERMINATION
BY IRS AS
501(c)(3) OR
501(c)(4)**

- If the nonprofit organization has received a determination from the Internal Revenue Service that the organization qualifies as a 501(c)(3) or 501(c)(4) organization and the determination has not been revoked, withdrawn or nullified, the nonprofit organization need not apply to the Tax Commissioner for determination of whether the organization qualifies as a 501(c)(3) or 501(c)(4) organization.
- If the nonprofit organization has not received a determination from the Internal Revenue Service, the organization must receive a prior written ruling from the Tax Commissioner regarding its qualification by filing a copy of its articles of incorporation, bylaws and a sworn statement by an officer of the organization setting forth reasons for qualification.

**METHOD OF
CALCULATING
THE EXEMPTION**

- Persons claiming an exemption for sales or use tax must be registered with the West Virginia Department of Tax and Revenue. Registration is accomplished by completing an application for business license (WV/ACT 8.01). In an effort to promote efficiency and cost savings, the Department uses a single form for all types of registration. Churches and nonprofit organizations are not considered to be "businesses" or engaged in business or subject to any other tax laws by the mere completion of this form.
- Nonprofit organizations that meet the requirements set forth in WV Code § 11-15-9(f) (general nonprofit organization exemption) may claim the exemption from sales or use tax on their exempt purchases by providing the vendors from whom they make purchases with a properly completed tax certificate of exemption (Form F0003). When a vendor in good faith accepts a properly completed tax exemption from a customer at the time of the sale, the vendor is relieved of the responsibility of collection of sales tax from the customer. Whenever the nonprofit organization uses a tax exemption certificate to make purchases, the burden of proof that the purchase was exempt is on the organization. Misuse of the tax exemption certificate is a serious offense and will subject the purchaser to penalties in addition to any tax, interest and additions to tax due on the purchase.
- Nonprofit organizations that do not meet the requirements set forth in WV Code § 11-15-9(f) (general nonprofit organization exemption) must pay the vendor the sales tax at the time of purchase and then apply to the Department of Tax and Revenue for a refund or credit of the tax paid on its exempt purchases.

**ASSISTANCE AND
ADDITIONAL
INFORMATION**

- For assistance or additional information, you may call a Taxpayer Service Representative at:

**1-800-WVA-TAXS
(1-800-982-8297)**

Or visit our website at:

www.tax.wv.gov

File and pay taxes online at:

<https://mytaxes.wvtax.gov>

Email questions to:

taxhelp@wv.gov