

CNPE - Nonprofit Sales Tax: Now What?

April 16, 2019



In Case You Don't Believe It...

From the Kentucky Department of Revenue website:

Nonprofit Sales Tax Exemption Goes Into Effect March 26, 2019

Governor Bevin's March 26th signing of HB 354 resolved questions and confusion about the application of sales tax to nonprofit sales.

Due to an emergency clause in this legislation, **sales of admissions and tangible property sales at fundraising events by all nonprofit groups and governmental organizations are now exempt from sales tax for transactions on or after March 26, 2019.** These nonprofit, governmental, and civic organizations will no longer charge sales tax on these types of transactions as specified in Sections 28-29 of HB 354. However, please note that this new exemption does not apply to sales by retail businesses such as bookstores and thrift stores owned or operated by nonprofit or governmental groups.

All of these nonprofit organizations should discontinue charging sales tax to their customers and benefactors immediately.

The Department of Revenue is available to provide additional guidance as needed and will soon be posting further information at www.taxanswers.ky.gov. Please submit specific questions by email to dorsalesusetaxanswers@ky.gov or call (502) 564-5170.

Kentucky Sales and Use Tax is imposed at the rate of 6 percent of gross receipts or purchase price. There are no local sales and use taxes in Kentucky. Sales and Use Tax Laws are located in [Kentucky Revised Statutes Chapter 139](#) and [Kentucky Administrative Regulations - Title 103](#).

Sales Tax is imposed on the gross receipts derived from both retail sales of tangible personal property, digital property, and sales of certain services in Kentucky.

Use Tax is imposed on the purchase price of tangible personal property, digital property purchased for storage, use or other consumption in Kentucky. The use tax is a "back stop" for sales tax and generally applies to property purchased outside the state for storage, use or consumption within the state.

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HB 354 - Effective March 26, 2019

Exempts Who?

- ▶ 501(c)(3) organizations: Resident, nonprofit educational, charitable, or religious institutions
- ▶ Governmental organizations
- ▶ Nonprofit civic or other nonprofit organizations
 - ▶ Other 501(c) organizations including
 - ▶ (c)4 - Civic league, social welfare organization
 - ▶ (c)5 - Labor, agriculture, and horticultural organization
 - ▶ (c)6 - Business league, chamber of commerce
 - ▶ (c)7 - Social and recreational club
 - ▶ (c)8 - Fraternal beneficiary societies
 - ▶ Etc. (there is no definition of “other nonprofit organizations” in the regulation)

HB 354 - Effective March 26, 2019

Exempts What?

▶ Admissions

- ▶ The right of entrance to a display, program, sporting event, music concert, performance, play, show, movie, exhibit, fair, or other entertainment or amusement event or venue

▶ The privilege of using facilities or participating in an event or activity, including but not limited to:

- ▶ Bowling centers
- ▶ Skating rinks
- ▶ Health spas
- ▶ Swimming pools
- ▶ Tennis courts
- ▶ Weight training facilities
- ▶ Fitness and recreational sports centers; and
- ▶ Golf courses, both public and private

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Exempts What?

- ▶ Fundraising event sales, except for those consisting of a retail business
 - ▶ Operation of a retail business - thrift store, bookstore, recycle and reuse store, any ongoing operation in competition with a for-profit = TAXABLE
- ▶ First \$1,000 exemption is deleted; therefore, all sales subject to sales tax are taxable.

HB 354 - Effective March 26, 2019

Exempts What? In English...

- ▶ No more sales tax on the following:
 - ▶ Membership dues/fees which include an admission
 - ▶ Fundraising event tickets (breakfasts, dinners, galas)
 - ▶ Sponsorships which included an admission (fundraiser sponsorships)
 - ▶ Live or silent auction items (no matter what the item is)
 - ▶ Registrations for fundraising walk, run, golf scramble
 - ▶ Admissions to a museum
 - ▶ Tickets to a theatre
 - ▶ Admissions to a golf course
- ▶ No more separate invoicing of the sponsorship and event ticket sales

Do I Have to Keep Filing? Can I Get a Refund?

- ▶ You **MUST** file and remit all monies collected through March 26, 2019. You will file and remit with your next scheduled sales tax return due the 20th day following the end of the period.
- ▶ You may cancel your sales tax account - use caution.
 - ▶ Be sure to remit all sales tax on admissions and fundraising events held before March 26, 2019.
 - ▶ Send request to close out account to KY Department of Revenue.
- ▶ NO refunds for sales prior to March 26, 2019

Questions?

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