

NEW SALES-TAX RULES FOR NONPROFITS

Nonprofit Law Alert
October 21, 2008

Many of you were no doubt surprised to receive a notice recently from the New York State Department of Taxation and Finance concerning changes to the rules governing exemption from sales tax. In fact, you may not even have been notified — there was very little advance public information on the changes, even though they potentially affect many exempt organizations.

What Has Changed

Previously, nonprofit organizations that qualify as IRS 501(c)(3) organizations were exempt from collecting New York sales tax in many situations. Effective September 1, 2008, they must collect state and local sales tax on the following previously exempt types of sales.

- Sales of goods to New York residents via “remote” methods, including by telephone, catalog or the Internet (so long as such remote sale activity is frequent or continuous); for example, regular sales of T-shirts, books, DVDs, or other items via your Web site
- Leases of equipment or other tangible personal property; for example, a lease of radiology equipment by an exempt hospital to a physician group
- Maintenance, servicing, and repairs to real property, including cleaning, painting, landscaping, repairs, and snow plowing; for example, winterization services sold to low-income homeowners
- Sales of utilities, such as gas, electricity, telephone services, telephone answering services, and mobile telecommunications services; for example, renting office space to a tenant and billing the tenant for sub-metered electricity

What Has Not Changed

- You do not have to collect sales tax on sales to an organization that is exempt from having to pay sales tax, but you will have to obtain from that organization evidence of its sales tax exemption.
- You do not have to collect sales tax on goods or services that are not otherwise subject to sales tax; for example, newspapers sold at your office reception desk are not subject to sales tax.

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Practices & Industries

State & Local Tax

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- You do not have to collect sales tax on goods sold personally (not remotely) by your members or other individuals, unless such sales are through a shop or store.
- You still have to collect sales tax on sales of goods through a regularly operated shop or store; this includes sales from a gift shop, a thrift store, or a permanent display in the office vestibule.
- You still have to collect sales tax on sales of goods through a temporary shop or store located on the same premises as businesses that are required to collect sales tax; for example, sales from a booth at a fair, festival, or similar event where other booths are operated by nonexempt vendors.

What Should You Do?

- If you now need to collect sales tax and have not previously registered as a sales tax vendor, complete and file form DTF-17, Application for Registration as a Sales Tax Vendor.
- Seek help if you have questions. The rules can be complicated, and there may be exceptions or exemptions that apply to your specific situation. For assistance, please contact any of the following Hodgson Russ attorneys:

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