

## Sales Tax Guidance

### I. Misconceptions

1. 501(c)(3) status is determined by the IRS. It is a *federal* designation for a nonprofit organization meaning that usually a 501(c)(3) organization doesn't have to pay *federal income tax*. It has nothing to do with Virginia state sales tax.
2. Corporation status is determined by each state. In Virginia it is regulated by the State Corporation Commission. Once incorporated, that organization is considered a separate legal entity. It has nothing to do with sales tax.
3. "Nonprofit" or "tax exempt" status usually refers to federal or state income tax, not sales tax. Most nonprofits in Virginia are exempt from federal and state income tax but not from sales tax.

### II Sales Tax Facts

1. In Virginia, Sales and Use tax is regulated by the Virginia Department of Taxation.
2. Nonprofit organizations in Virginia are NOT automatically exempt from sales and use tax. The only way to be exempt from sales and use tax is apply for a Sales and Use Tax Exemption. You can apply on-line but there are conditions which must be met. Read more about this subject at the Virginia Department of Taxation's site dealing with Sales & Use Tax Exemptions for non-profits at <http://www.tax.virginia.gov/site.cfm?alias=SUTExemption#RetailSales>. Among the requirements is that the nonprofit is or is organized for the purpose of a 501(c)3 or 501(c)4, and that the nonprofit complies with the Department of Agriculture and Consumer Services requirements to solicit contributions. VDACS Form 100 must be completed; it is at <http://www.vdacs.virginia.gov/forms-pdf/cp/oca/charitable/oca100exemption.pdf>.
3. If an organization buys items and then resells those items to the public, that group should obtain a resale exemption certificate from the Department of Taxation once it is established that it meets the exemption requirements, above. This will prevent the group from paying sales tax when it buys the items for resale. For example, an MG group that buys plants and then resells them for a profit can obtain a resale exemption certificate, an "ST-10." Form ST-10 can be found at <http://www.tax.virginia.gov/taxforms/Business/Sales%20and%20Use%20Tax/ST-10.pdf>.

Note: Sales tax proposals frequently come before the General Assembly. Units should make use of the resources at the Virginia Department of Taxation to verify what actions they must conduct.

### III Resources

1. Virginia Department of Taxation Contact Information (email, phone, mailing addresses, live chat, local offices) <http://www.tax.virginia.gov/site.cfm?alias=ContactUs>
2. Apply Online for Retail Sales and Use Tax Exemption (VA TAX Non-Profit Online) [https://www.npo.tax.virginia.gov/VTOL\\_External\\_Entity/NPOLogin.seam](https://www.npo.tax.virginia.gov/VTOL_External_Entity/NPOLogin.seam)
3. VDACS Virginia Exemption Application for a Civic or Charitable Organization, Form 100 <http://www.vdacs.virginia.gov/forms-pdf/cp/oca/charitable/oca100exemption.pdf>