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## **Taxes - It's Not Just Federal Income Tax**

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## **TAXES - IT'S NOT JUST FEDERAL INCOME TAX**

### **I. State Tax Exemptions for 501(c)(3) Organizations**

#### **A. Texas Franchise Tax Exemption**

##### **1. Exempt Organizations**

- a. A 501(c)(3) organization is exempt from Texas franchise tax.

Nonprofit hospitals must satisfy the community benefit standard in the Texas Health and Safety Code by providing charity care and government sponsored indigent health care.

- b. A 501(c)(4), (5), (6), (7), (8), (10), (16) or (19) organization is also exempt from Texas franchise tax.
- c. A 501(c)(2) or (25) organization is also exempt from Texas franchise tax if the corporation for which it holds title to property is exempt from Texas franchise tax.<sup>1</sup>

##### **2. Obtaining Franchise Tax Exemption**

- a. An organization obtains exemption from Texas franchise tax by submitting an application for exemption with the Texas Comptroller of Public Accounts.
- b. Comptroller Form AP-204 (see Exhibit 1).
- c. IRS determination letter is submitted along with Texas application to evidence federal tax exemption.

#### **B. Sales Tax Exemption for Purchases**

- 1. Sales tax is usually due on the purchase of most goods and some services in Texas.
- 2. Taxable items sold, leased or rented to a 501(c)(3), (4), (8), (10) or (19) organization are exempt from Texas sales tax.<sup>2</sup>
- 3. An organization may apply for the Texas sales tax exemption at the same time and using the same application form as used for franchise tax exemption.

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<sup>1</sup> Tex. Tax Code § 171.063(a).

<sup>2</sup> *Id.* at § 151.310(a)(2).

4. In addition to the IRS determination letter, an organization must also submit a copy of its bylaws and certificate of formation with any related amendments.<sup>3</sup>
5. Exemption applies only to taxable items related to the organization's exempt purpose and the items may be purchased by the organization or by the organization's authorized agent.

Exemption does not apply to items purchased for personal use.

6. The sales tax exemption is claimed by an exempt organization at the time of a tax-free purchase by providing the seller an exemption certificate.
7. Exemption certificate is found on Comptroller Form 01-339 (see Exhibit 2).
8. Sellers in Texas are not required to sell items tax-free even when the buyer presents a valid exemption certificate.

If seller refuses to sell without charging sales tax:

- a. purchase from another seller
- b. pay sales tax and apply for refund
  - (i) pay sales tax
  - (ii) have seller assign its right to refund of sales tax
  - (iii) apply to the Comptroller for a refund of sales tax
  - (iv) see Forms in Exhibit 3.

## **II. Local Property Tax Exemption**

- A. Texas Property Tax. Most privately-owned real property and income-producing personal property in Texas is subject to an annual property tax of 1 to 3 percent of the property's market value.
- B. Property Tax Exemption. Certain charitable organizations (similar to 501(c)(3)) may receive an exemption from property tax.
  1. organization must be organized exclusively to perform religious, charitable, scientific, literary or educational purposes and must engage exclusively in certain approved charitable functions
  2. organization must own (not rent) the relevant property

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<sup>3</sup> Tex. Admin. Code § 3.322(e)(1)(A).

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[Overview of Nonprofits: Basic Framework, Fiduciary Duties, and Taxes](#)

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