



Tax Compliance Guide

Tax Exempt Entities – Governments, Charitable and Other Organizations

Certain entities, such as charitable organizations, qualified hospitals, governments, foreign diplomats and agents of foreign governments, may qualify for tax exemption (sales, use, or accommodations) by the City of Lakewood.

Resellers and wholesalers may also qualify for certain tax-exempt transactions in the City.

Certificate of Exemption

The *Certificate of Exemption* exempts qualifying organizations from paying the 3% Lakewood sales tax on items purchased within the City for the exclusive use of the organization. It does not exempt organizations from taxes or fees imposed by Jefferson County or the State of Colorado. Exemption from those taxes should be pursued with the associated jurisdictions.

The following entities should apply for a Lakewood *Certificate of Exemption* if planning to make tax exempt purchases in Lakewood:

- ❖ Charitable organizations, regardless of physical location
- ❖ Qualified hospitals

Governments, foreign diplomats or agents of foreign governments are not required to request a *Certificate*, but obtaining a *Certificate* is recommended as it would provide assurance to the seller that the purchaser is an authorized exempt entity.

The *Application for Certificate of Exemption* can be found on the Lakewood.org website. *Certificates* must be renewed every 5 years.

Additional Clarification:

- ❖ **Charitable Organizations** - For a charitable organization to receive a *Certificate* from the City of Lakewood, the following qualifications must be met:
 - ❖ The entity must be exempt from tax under Section 501(c)(3) of the Internal Revenue Code; and
 - ❖ The entity must be an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons or animals, freely and voluntarily ministers to the physical, mental, or spiritual needs of

persons or animals, and thereby lessens the burden of government.

❖ **Qualified Hospitals**

Hospitals meeting certain qualifications may be granted tax exemption. See *Tax Compliance Guide – Qualified Hospital Organizations*

❖ **Governments and Foreign Diplomats**

Governments include the United States (Federal) government and the State of Colorado, as well as their respective departments, institutions and political subdivisions. Political subdivisions include Colorado counties, public school districts, municipalities and certain special districts.

A foreign diplomat or agent of a foreign government who is in the United States in their official capacity can make exempt purchases and are not required to have a *Certificate of Exemption*. The purchaser must present a state department issued card with the name/photo of the bearer on the card.

Purchases by Exempt Entities

Purchases must be for items used in the conduct of the exempt organization's functions and activities in order to qualify for exemption.

In partnership with other Colorado jurisdictions, an *Affidavit of Exempt Sale* form was created to streamline the purchase process for all qualifying tax exempt purchases. The use of this form will also help to ensure the appropriate information is captured and reviewed by the retailer and will provide supporting documentation in an audit.

The *Affidavit* is to be used by any entity wishing to make a tax-exempt purchase. The purchaser should present the completed *Affidavit*, as well as other supporting documentation at the time of purchase.

While this form is standard and can be used in any Colorado jurisdiction, exemption qualifications and documentation requirements may vary. It is the seller's responsibility to be aware of the local jurisdiction's requirements. For organizations exempt at both the local and state level, only one form will need to be completed.

Purchases must be paid directly by the funds of the organization or agency in order to qualify for exemption, except for some purchases by foreign diplomats or agents of foreign governments.

Allowable forms of payment are specified on the front of the *Affidavit* for each type of purchasing entity.

The Lakewood *Affidavit* form and training materials can be found on Lakewood.org by searching for “exemption affidavit” and selecting the “Forms” tab on the search results.

Contractor Purchases or Rentals for an Exempt Organization

Upon application by a qualified organization, the Chief Financial Officer may issue a letter certifying a contractor or subcontractor tax exemption on the purchase of construction and building materials or equipment rental for use in the building, erection, alteration or repair of structures, highways, roads, streets and other public works owned or used by the qualified organization.

Contractor-owned equipment used on a project for an exempt organization is not subject to use tax. However, an *Equipment Declaration* must be filed with the City. See *Tax Compliance Guide – Construction – Equipment*

Sales by Charitable Organizations

Sales made by charitable organizations are tax exempt under the following conditions:

- ❖ The organization has a valid City of Lakewood *Certificate of Exemption*;
- ❖ No single sale of tangible personal property (TPP) or concessions exceeds \$5,000;
- ❖ The funds raised through such sales do not exceed \$250,000 in a calendar year in Lakewood; and
- ❖ The sale of TPP is not the principal use of any premises where sales are made if such premises are owned, leased or otherwise controlled by the charitable organization. For example, sales of used clothing and other used merchandise from a store location that is open to the public and is owned and operated by a charitable organization do not qualify for this exemption.

Additional clarification:

- ❖ **Admission-based sales** – Third-party vendors participating in a fundraiser have no tax liability if their services or products are included as part of the admission to the event (*i.e.*, no payment is exchanged between the third-party vendor and the attendees).
- ❖ **Separate sales** – Third-party vendors selling taxable items separate from a general admission should collect tax unless 100% of the proceeds are benefitting the charity.
- ❖ **Fundraising Meals** – Meals priced in excess of the regular selling price are subject to sales tax on the regular selling price.
- ❖ **Donations** – Cash donations to a charitable organization are not considered sales and shall not be considered as part of the \$250,000 threshold. Sales of donated items may be subject to tax if the conditions above are not met.

Events with Proceeds Donated to a Charitable Organization

For events where proceeds are donated to a charitable organization, the sales are exempt from Lakewood tax under the following conditions:

- ❖ The receiving charitable entity must hold a City of Lakewood *Certificate of Exemption*; and
- ❖ 100% of the proceeds benefit the charity

Items purchased by the hosting organization for use or sale or use at the event are taxable at the time of purchase. Donations of these items by another entity does not constitute a purchase by the hosting organization and therefore are not taxable.

Certain Exempt Transactions – Resellers/Wholesalers

Resellers and wholesalers may qualify for certain tax exempt transactions in the City. A business or sales tax license (from any jurisdiction) will be sufficient documentation for purchases of items that will be sold in the ordinary course of business.

Examples

1. A local church secretary is purchasing office supplies for the local church office. The secretary presents a valid Lakewood *Certificate of Exemption* and a completed *Affidavit*. She is paying with a personal check, but states that the amount of the purchase will be reimbursed by the

church. Because the purchase is not being paid for directly by the funds of the exempt church, the sale is not tax exempt and the retailer should charge and remit sales tax.

2. A local charitable organization, with a valid Lakewood *Certificate of Exemption*, is holding a silent auction to raise money. Funds raised to date by sales of the organization are \$240,000 in Lakewood. Expected fundraising from this silent auction event is expected to exceed \$50,000. Given that the total funds raised to date on sales is nearing the \$250,000 threshold for taxation, it would be advisable that the organization charge and remit sales tax on the silent auction sales of the evening.
3. An employee of the City of Lakewood buys office supplies from a local vendor and furnishes a copy of a purchase order to the vendor, who subsequently bills the City for the supplies. Because the purchase is billed to and paid for directly by the funds of the government, the purchase is properly exempted from sales tax. The vendor should attach the *Affidavit* and a copy of the purchase order to the invoice as proof of proper exemption.
4. An employee of a 501(c)(3) nonprofit located in Miami, FL, stays in a Lakewood hotel while attending a business conference. At check-out, she requests that the taxes be removed from the bill. Since a Lakewood-issued *Certificate of Exemption* was not presented (and is not held by the organization), Lakewood taxes (sales and accommodations) should be charged.
5. A contractor has been hired by a local church to make minor repairs (not requiring a permit) to the sanctuary. The contractor goes to a Lakewood building supply store and loads a cart with wood, screws, and a microwave. When the contractor purchases materials, he presents to the seller a completed *Affidavit* and the exemption letter issued by the City pertaining to this specific job. The seller determines that the microwave is not in the scope of the sanctuary repair and properly assesses tax on that item. The remaining construction materials related to the qualified job should not be assessed Lakewood taxes.
6. A Lakewood business holds a fundraising event for a nonprofit charity. Donations of food, alcohol and silent auction baskets are received from nearby businesses. The business holding the

event is not subject to tax on the received donations. The Lakewood business holding the event purchases tableware and appropriately pays sales tax at the time of purchase. Total sales at the event are \$25,000. Since the charity applied for and received a City of Lakewood *Certificate of Exemption* and will receive 100% of the proceeds, Lakewood sales tax should not be assessed at the event.

If the Lakewood business holding the event pulls product from its inventory, whether to be auctioned off or to aid in the auction, a use tax liability would be created for the business.

7. A Lakewood restaurant runs a promotion where 5% of sales for a specified period of time will be donated to a charity. Since 100% of the proceeds are not donated, all sales would be subject to tax.

Related Topics

Construction – Building Permit Handout
Sales Tax
Tax on Admissions

Citations

Lakewood Municipal Code

§ 3.01.230 Definitions

§ 3.01.250 Collection, Payment and Remittance of Tax

§ 3.01.410 Imposition of Tax; Rate

§ 3.01.430 Exemptions

§ 3.01.510 Recovery of Taxes; Penalty and Interest

Regulations

§ 3.01.430 Sales to the United States Government, State or Local

§ 3.01.430 Sales to Charitable Organizations / Exemptions

Special Regulations

Eating and Drinking Establishments

THIS GUIDANCE IS A SUMMARY IN LAYMEN'S TERMS OF THE RELEVANT LAKEWOOD TAX LAW FOR THIS TOPIC, INDUSTRY, OR BUSINESS SEGMENT. IT IS PROVIDED FOR THE CONVENIENCE OF TAXPAYERS AND IS NOT BINDING UPON THE CITY. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE LAKEWOOD

MUNICIPAL CODE AND APPLICABLE RULES AND REGULATIONS. THIS GUIDE DOES NOT CONSTITUTE A CITY TAX POLICY.

Contact Us

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