



STATE OF ARKANSAS
**Department of Finance
and Administration**

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

RE: Gross Receipts Tax – Taxability of Non-Profit Purchases
Opinion No. 20160909

Dear [REDACTED],

Your letter of October 12, 2016 has been referred to me for response. According to your letter, you are seeking an opinion regarding the tax exempt status of [REDACTED] (“[REDACTED]”). Per your letter:

The organization, [REDACTED] ... is a non-profit organized for the purpose of raising funds to benefit animals at the [REDACTED] Animal Shelter, a department of the City of [REDACTED]. The goal of the organization is to use these funds to purchase items for the Shelter that are deemed important for the animals’ comfort, welfare, and quality of life.

The majority of funding pays Veterinarian bills for injured animals in order to avoid euthanization, and provides funds to spay and neuter animals allowing for their adoption. These services are already tax exempt. There are however, purchases for items which would be considered taxable such as supplies and a recent installation of ceiling fans for the kennel area.

All sales of tangible personal property are subject to gross receipts tax, unless the items are specifically exempted by law. Ark. Code Annotated § 26-52-301(1)(Repl. 2014). Arkansas law also exempts certain specified entities from paying sales tax on purchases.

Arkansas Code Annotated § 26-52-414 (Repl. 2014), provides that all sales to humane societies which are not operated for profit, and which are organized under the provisions of Ark. Code Annotated § 20-19-101 (Repl. 2014), for the prevention of cruelty to animals, are exempt from Arkansas sales and use tax. *See also* Arkansas Gross Receipts Rule GR-31(B)(14). Thus, to qualify for the exemption, an organization must show that it is a “humane society” that is: (1) not operated for profit; and, (2) that is organized under the provisions of Ark. Code Annotated § 20-19-101 (Repl. 2014), for the prevention of cruelty to animals.

The provisions of Ark. Code Annotated § 20-19-101 (Repl. 2014), provide as follows:

(a) The General Assembly finds and declares that humane societies for the prevention of cruelty to animals organized under the laws of this state now or hereafter in effect are public organizations necessary to protect the health, safety, and general welfare of the citizenry of this state and are discharging a government function.

(b) The General Assembly finds and declares that the appropriation of public funds for the use of humane societies in the maintenance and operation of shelters for stray, diseased, neglected, and other animals and in the protection of the public from disease among such animals is a public use of the funds in the discharge of a government function.

While ██████ appears to be a non-profit entity that aids the ██████ Animal Shelter, it is not a humane society that qualifies for tax exempt purchases under Ark. Code Annotated § 26-52-414 and Arkansas Gross Receipts Rule GR-31(B)(14). ██████ is also not specifically exempted from gross receipts tax by the legislature. Accordingly, all sales made to ██████ are subject to gross receipts tax (unless exempt for any other reason). It should be noted that these sales will be subject to gross receipts tax even if the purchases are intended for a Humane Society.

This opinion is based on my understanding of the facts as set out in your inquiry as those facts are governed by current Arkansas laws, rules and regulations. Any change in the facts or law could result in a different opinion. You may rely on this opinion for three years pursuant to Ark. Gross Receipts Tax Rules GR-75(B).

Sincerely,

Lauren Ballard, Attorney
Revenue Legal Counsel