



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

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December 6, 2019

[REDACTED]  
[REDACTED]  
[REDACTED]

Attn.: [REDACTED]

Re: Gross Receipts Tax - Items Purchased by a Nonprofit Organization in  
Preparation for an Annual Fundraising Event  
Opinion Number 20180507

Dear [REDACTED]:

Your request for a legal opinion regarding the above referenced topic has been referred to me for response. Your letter states that [REDACTED] (the Taxpayer), which is located in [REDACTED], has been putting on an annual fundraiser named [REDACTED] in Northwest Arkansas, and that the Taxpayer uses 100% of the proceeds from the fundraiser for metastatic breast cancer research grants. The Taxpayer is registered as a charitable organization with the Arkansas Attorney General.

According to your letter individuals purchase a ticket or table which entitles them to a sit-down dinner, live music, speakers, and the opportunity to bid on live and silent auction items. Alcohol is not provided with the purchase of a ticket; rather, the venue provides a cash bar from which the Taxpayer does not receive proceeds.

You state that the venue has been charging the Taxpayer sales tax for the use of its facility and audio-visual equipment. You have requested a determination of whether the Taxpayer would qualify for an exemption certificate for gross receipts (sales) tax for these charges.

**RESPONSE**

No. For the reasons explained more fully below, purchases of tangible personal property and taxable services in preparation for the fundraiser are not exempt from Arkansas state and local sales tax.

**GROSS RECEIPTS (SALES) TAX GENERALLY**

Arkansas gross receipts (sales) tax must be collected and remitted on sales of tangible personal property within the State of Arkansas unless a specific exemption applies. *See* Ark. Code Ann. § 26-52-301 (Supp. 2017). "Tangible personal property" means personal property which may be seen, weighed, measured, felt, touched, or is in any manner perceptible to the senses." *See* Ark. Code Ann. § 26-52-103(30)(A) (supp 2017); *see also* Arkansas Gross

Receipts Tax Rule GR-3(Q). A “sale” is defined as the transfer of title or possession of tangible personal property, specified digital property, specified digital products, or a digital code regardless of the manner, method, instrumentality, or device by which the transfer is accomplished. *See* Ark. Code Ann. § 26-52-103(26)(A). Arkansas Code Annotated § 26-52-103 further provides:

(19)(A) “Gross receipts,” “gross proceeds”, or “sales price” means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property, specified digital products, a digital code, or services are sold . . . valued in money, whether received in money or otherwise, without deduction for the following:

- (i) The seller’s cost of the property sold;
- (ii) The cost of materials used, labor or service cost, interest, any loss, any cost of transportation to the seller, any tax imposed on the seller, and any other expense of the seller;
- (iii) A charge by the seller for any service necessary to complete the sale, other than a delivery charge or an installation charge;

....

There is no general exemption for purchases made by a charitable organization. The gross receipts or gross proceeds derived from sales of tangible personal property or services to churches or charitable organizations are not exempt from tax unless the items purchased are for resale by the church or charitable organization. GR-39(B). Certain organizations enjoy an entity-based or a use-based exemption when they purchase taxable goods or services. A list of these organizations is identified in Arkansas Gross Receipts Tax Rule GR-31. The Taxpayer is not identified as a specifically exempt organization. As your inquiry only concerns purchases made by the Taxpayer, it is unnecessary to determine whether the Taxpayer qualifies as a charitable organization for sales tax purposes.

Based upon the information you have provided the Taxpayer does not qualify for a sales tax exemption for purchases made related to its annual fundraising event because it is not a specifically exempted organization.

In accordance with Arkansas Gross Receipts Tax Rule GR-75, this opinion is based upon my understanding of the facts as set out in your inquiry and as current Arkansas laws and rules govern those facts. Any changes in the facts or law could result in a different opinion. This opinion will not be binding upon the Department for any topic not specifically addressed herein. The taxpayer may seek a supplemental opinion should it desire guidance in any topic not addressed within this opinion or if the taxpayer has additional questions after reading this opinion. Please be advised that this opinion may only be relied upon by the taxpayer and will only be binding upon the Department for three (3) years from the date of issuance. *See* Arkansas Gross Receipts Tax Rule GR-75.

A copy of the Arkansas Gross Receipts Tax Rules referenced in this letter is available online at [http://www.dfa.arkansas.gov/offices/policyAndLegal/Documents/et2008\\_3.pdf](http://www.dfa.arkansas.gov/offices/policyAndLegal/Documents/et2008_3.pdf).

Sincerely,

Greg Ivester, Attorney  
Revenue Legal Counsel