



# Welcome

To the Occasional Sales  
by  
Exempt Organizations Training

Presented by The City of Pueblo Sales Tax Division



# Occasional Sales by Exempt Organizations

As of January 1, 2018 the City of Pueblo has adopted new rules regarding Occasional Sales for Exempt Organizations that are much like The State of Colorado Department of Revenue.

This presentation will assist in determining if your event sales are taxable.

## Presentation Format:

Please hold your questions until the end

Introduce Staff present from the Sales Tax Division

Q and A Session



# City of Pueblo Sales Tax Division

Having an event? Have questions? Visit the Sales Tax Division for a one on one consultation.

Hours of Operation:

Monday - Friday 8:00 a.m. - 5:00 p.m.

Location:

1 City Hall Place (City Hall or Memorial Hall) Lower Level

Not closed during lunch hour. There is always someone available to assist.

# Occasional Sales Exemption

- ▶ Occasional Sales of taxable tangible personal property by an exempt organization that holds a City of Pueblo Exempt License may be exempt of sales tax if the following criteria is met:
    - ▶ Holds a current City of Pueblo Exempt License (If you need to acquire an Exempt License contact the Sales Tax Division)
    - ▶ The Charitable Organization conducts sales for a total of twelve days or less during any calendar year
- OR**
- ▶ The “net proceeds” for all of events held in any calendar year do not exceed \$25,000
  - ▶ The funds are retained by the organization and are used in performing those exempt services
  - ▶ If sales are made 13 days or more and/or the sales exceed \$25,000 then all sales are taxable in that calendar year



# When making Purchases associated with a Fundraiser

- ▶ Completed Affidavit
- ▶ Record Keeping
- ▶ Verified Funds
  - ▶ What is verified funds?

## Donations and Taxability

- ▶ Any and All Donations will be subject to Use Tax
- ▶ When a caterer donates food it is subject to Use Tax on the “Cost” of the food.
- ▶ When a liquor store donates a bottle of wine Use Tax is due on the “Cost”.
- ▶ When a brewery donates kegs of beer for a function then Use Tax is due on the “Cost”.

# Attributable Expenses

- ▶ **Directly Attributable** means those expenses that would not have arisen but for the occurrence of the event and do not include indirect and overhead costs, such as
  - ▶ Administrative Staff Wages
  - ▶ Insurance unless specifically purchased for the event
  - ▶ Rent otherwise due even if no event was held.
  - ▶ Property Taxes
  - ▶ Other Expensed that wouldn't have been incurred in the absence of the event.
- ▶ Attributable Expense Examples...
  - ▶ Decorations
  - ▶ Food/Catering
  - ▶ Invitations
  - ▶ Room Rental etc.



**Example Event Worksheet**

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**NAME OF EVENT:** \_\_\_\_\_

**DATE OF EVENT:** \_\_\_\_\_ # of Days: \_\_\_\_\_ \*

	Cost Per Ticket	# Sold	Total
Dinner (taxable)			-
Donation (non-taxable)			-

**Total Taxable Ticket Sales:** \$ \_\_\_\_\_ -

**AUCTION ITEMS:**

_____	Taxable	\$
_____	Not Taxable	\$
_____	Taxable	\$
_____	Not Taxable	\$

Sold For:

**Total Taxable Auction Sales:** \$ \_\_\_\_\_

**EXPENSES:**

Description:
_____
_____
_____
_____

Cost:
\$ _____
\$ _____
\$ _____
\$ _____

**Expenses Total:** \$ \_\_\_\_\_

**Calculation for Threshold Purposes:**

Taxable Ticket Sales	\$0.00
Taxable Auction Sales	\$ _____
<b>Total</b>	<b>\$0.00</b>
Less Expenses	\$ _____
<b>Attributable Sales to Threshold</b>	<b>\$0.00 **</b>

\* Add the current event # of days of sales to any previous event(s) held. If you exceed the 12 days then please be aware that any/all taxable sales for preceeding, current and future events are subject to 3.7% City of Pueblo Sales Tax.

**OR**

\*\* Does this amount exceed \$25,000? If yes, all taxable sales are subject to 3.7% City of Pueblo Sales Tax. If not, please add to the annual threshold. If the threshold is met by adding current sales to past sales then any/all preceeding, current and all future sales are subject to 3.7% City of Pueblo Sales Tax.

## Donation Information

- ▶ State Regulation 39-26-718 and 1 CCR 201-4  
<https://www.colorado.gov/pacific/sites/default/files/2017.11.10%20-%20Reg%2039-26-718%20for%20filing.pdf>
- ▶ A portion of the purchase price for a sale made by an exempt organization may be a donation if the amount paid exceeds the fair market value of the goods purchased.
- ▶ The exclusion of donations from the tax base applies even if the exempt organization exceeds the 12 day / \$25K threshold of the occasional sale exemption.
- ▶ The donation amount is not included in the calculation of the \$25K net proceeds threshold for the occasional sale exemption.

# Examples

## ▶ Example #1

- ▶ A retailer donates a laptop that it sells for \$700 at retail. The charitable organization offers the laptop at a silent auction and discloses that the FMV is \$700. The winning bid is \$1K. \$300 is a donation and not subject to tax.

## ▶ Example #2

- ▶ Exempt organization sells 300 tickets for \$100 each to a dinner. This is the organizations only event that year and discloses to attendees that \$75 of the \$100 ticket price is a donation. Each dinner costs the organization \$10.
- ▶  $\$75 \times 300 = \$22,500$  donation amount (not taxable).
- ▶  $(\$25 - \$10) \times 300 = \$4,500$  net proceeds (not taxable as threshold not met).

### Example Event Worksheet

**NAME OF EVENT:** Example #2 - ATTENDEE IS GIVEN A BREAKOUT OF DONATION VS DINNER

**DATE OF EVENT:** \_\_\_\_\_ **# of Days:** \_\_\_\_\_ \*

	Cost Per Ticket	# Sold		
Dinner (taxable)	25	300	7,500.00	
Donation (non-taxable)	75	300	22,500.00	
			<b>Total Taxable Ticket Sales:</b>	<u>\$7,500.00</u>

**AUCTION ITEMS:**

	Taxable	Not Taxable	Sold For:
_____			\$
_____			\$
_____			\$
_____			\$
			<b>Total Taxable Auction Sales:</b>
			<u>\$</u>

**EXPENSES:**

Description:	Cost:
<u>Catering- \$10/person</u>	<u>\$3,000.00</u>
_____	\$
_____	\$
_____	\$
<b>Expenses Total:</b>	
<u>\$3,000.00</u>	

**Calculation for Threshold Purposes:**

Taxable Ticket Sales	\$7,500.00
Taxable Auction Sales	_____
Total	<u>\$7,500.00</u>
Less Expenses	<u>3,000.00</u>
Attributable Sales to Threshold	<u>\$4,500.00</u> **

\* Add the current event # of days of sales to any previous event(s) held. If you exceed the 12 days then please be aware that any/all taxable sales for preceeding, current and future events are subject to 3.7% City of Pueblo Sales Tax.

**OR**

\*\* Does this amount exceed \$25,000? If yes, all taxable sales are subject to 3.7% City of Pueblo Sales Tax. If not, please add to the annual threshold. If the threshold is met by adding current sales to past sales then any/all preceeding, current and all future sales are subject to 3.7% City of Pueblo Sales Tax.

## Examples (Cont.)

### ▶ Example #3

- ▶ Exempt organization sells 3,000 tickets for \$100 each to a dinner. This is the organizations only event that year and discloses to attendees that \$75 of the \$100 ticket price is a donation. Each dinner cost the organization \$10.
- ▶  $\$75 \times 3,000 = \$225,000$  donation amount (not taxable).
- ▶  $\$25 \times 3,000 = \$75,000$  taxable proceeds.

### Example Event Worksheet

**NAME OF EVENT:** Example #3 - ATTENDEE IS GIVEN A BREAKOUT OF DONATION VS DINNER

**DATE OF EVENT:** \_\_\_\_\_ # of Days: \_\_\_\_\_ \*

	Cost Per Ticket	# Sold	
Dinner (taxable)	25	3,000	75,000.00
Donation (non-taxable)	75	3,000	225,000.00

**Total Taxable Ticket Sales:** \$ 75,000.00

**AUCTION ITEMS:**

	Taxable	Sold For:
_____	\$	
_____	Not Taxable	\$
_____	Taxable	\$
_____	Not Taxable	\$

**STOP!! Sales exceed threshold. 100% taxable. Cannot apply expenses.**

**Total Taxable Auction Sales:** \$ \_\_\_\_\_

**EXPENSES:**

Description:
_____
_____
_____

Cost:
\$ _____
\$ _____
\$ _____

**Expenses Total:** \_\_\_\_\_

**Calculation for Threshold Purposes:**

Taxable Ticket Sales	\$75,000.00
Taxable Auction Sales	
<b>Total</b>	<b>\$75,000.00</b>
Less Expenses	<u>0.00</u>
<b>Attributable Sales to Threshold</b>	<b>\$75,000.00 **</b>

\* Add the current event # of days of sales to any previous event(s) held. If you exceed the 12 days then please be aware that any/all taxable sales for preceeding, current and future events are subject to 3.7% City of Pueblo Sales Tax.

OR

\*\* Does this amount exceed \$25,000? If yes, all taxable sales are subject to 3.7% City of Pueblo Sales Tax. If not, please add to the annual threshold. If the threshold is met by adding current sales to past sales then any/all preceeding, current and all future sales are subject to 3.7% City of Pueblo Sales Tax.

## Examples (cont.)

### ▶ Example #4

- ▶ Exempt organization sells 300 tickets for \$100 each to a dinner and silent auction event. This is the organizations only event that year and discloses that \$75 of the \$100 ticket price is a donation. Each dinner costs the exempt organization \$10. The auction generates \$33,000 in gross sale proceeds (\$30K in tangible personal property, \$3K non-taxable services), \$20K in net proceeds from the silent auction and \$4,500 from the sale of the dinner ( $(\$25 - \$10) \times 300$ ), for a total in net proceeds of \$24,500. Not taxable as the threshold has not been met.



**Example Event Worksheet**

**NAME OF EVENT:** Example #4 - ATTENDEE IS GIVEN A BREAKOUT OF DONATION VS DINNER

**DATE OF EVENT:** \_\_\_\_\_ # of Days: \_\_\_\_\_ \*

	Cost Per Ticket	# Sold		
Dinner (taxable)	25	300	7,500.00	
Donation (non-taxable)	75	300	22,500.00	
			<b>Total Taxable Ticket Sales:</b>	<b>\$ 7,500.00</b>

<b>AUCTION ITEMS:</b>			Sold For:	
	Taxable Items	Taxable	\$ 30,000.00	
	Services	Not Taxable	\$ 3,000.00	
	_____	Taxable	\$	
	_____	Not Taxable	\$	
			<b>Total Taxable Auction Sales:</b>	<b>\$ 30,000.00</b>

<b>EXPENSES:</b>	Description:	Cost:		
	<u>Catering - \$10/person</u>	<u>\$ 3,000.00</u>		
	<u>Purchases of auction taxable items</u>	<u>\$ 10,000.00</u>		
	_____	\$		
	_____	\$		
			<b>Expenses Total:</b>	<b>\$ 13,000.00</b>

**Calculation for Threshold Purposes:**

Taxable Ticket Sales	\$ 7,500.00
Taxable Auction Sales	\$ 30,000.00
<b>Total</b>	<b>\$37,500.00</b>
Less Expenses	13,000.00
<b>Attributable Sales to Threshold</b>	<b>\$24,500.00 **</b>

\* Add the current event # of days of sales to any previous event(s) held. If you exceed the 12 days then please be aware that any/all taxable sales for preceeding, current and future events are subject to 3.7% City of Pueblo Sales Tax.

**OR**

\*\* Does this amount exceed \$25,000? If yes, all taxable sales are subject to 3.7% City of Pueblo Sales Tax. If not, please add to the annual threshold. If the threshold is met by adding current sales to past sales then any/all preceeding, current and all future sales are subject to 3.7% City of Pueblo Sales Tax.

## Examples (cont.)

### ▶ Example #5

- ▶ Same facts as example #4, except the net proceeds from the auction are \$23K. Because the net proceeds threshold is exceeded ( $\$23\text{K} + \$4.5\text{K}$ ), sales tax applies to the gross price, not just the net proceeds, for all dinners ( $\$25 \times 300$ ) and to the gross price on all of the sales at auction ( $\$30\text{K}$ ). Sales tax is not collected on the  $\$3\text{K}$  of non-taxable services and not on the ( $\$75 \times 300$ )  $\$22.5\text{K}$  in donations.



**Example Event Worksheet**

**NAME OF EVENT:** Example #5 - ATTENDEE IS GIVEN A BREAKOUT OF DONATION VS DINNER

**DATE OF EVENT:** \_\_\_\_\_ # of Days: \_\_\_\_\_ \*

	Cost Per Ticket	# Sold	
Dinner (taxable)	25	300	7,500.00
Donation (non-taxable)	75	300	22,500.00
<b>Total Taxable Ticket Sales:</b>			<b>\$ 7,500.00</b>

**AUCTION ITEMS:**

Taxable Items	Taxable	Not Taxable	Sold For:
Services	\$ 30,000.00	\$ 3,000.00	
_____	\$ _____	\$ _____	
_____	\$ _____	\$ _____	
<b>Total Taxable Auction Sales:</b>			<b>\$ 30,000.00</b>

**EXPENSES:**

Description:	Cost:	
Catering - \$10/person	\$ 3,000.00	
Purchases of auction taxable items	\$ 7,000.00	
_____	\$ _____	
_____	\$ _____	
<b>Expenses Total:</b>		<b>\$ 10,000.00</b>

**Calculation for Threshold Purposes:**

Taxable Ticket Sales	\$ 7,500.00
Taxable Auction Sales	\$ 30,000.00
<b>Total</b>	<b>\$37,500.00</b>
Less Expenses	10,000.00
<b>Attributable Sales to Threshold</b>	<b>\$27,500.00 **</b>

**STOP!!** Threshold met. 100% of Taxable Ticket Sales are taxable and 100% of Taxable Auction Sales are taxable. Expenses do not apply!

\* Add the current event # of days of sales to any previous event(s) held. If you exceed the 12 days then please be aware that any/all taxable sales for preceeding, current and future events are subject to 3.7% City of Pueblo Sales Tax.

**OR**

\*\* Does this amount exceed \$25,000? If yes, all taxable sales are subject to 3.7% City of Pueblo Sales Tax. If not, please add to the annual threshold. If the threshold is met by adding current sales to past sales then any/all preceeding, current and all future sales are subject to 3.7% City of Pueblo Sales Tax.

## Additional Donation Information

- ▶ In order to claim a sales tax exemption for a donation included in the buyer's purchase price, the buyer and exempt organization must establish the following: (1 CCR 201-4 (iv) (A)(B) pg. 8 CDOR)
  - ▶ The fair market value of the taxable item or service, and
  - ▶ That the buyer knowingly paid in excess of the fair market value with the intent to donate that excess portion of the price to the organization.

## What is Fair Market Value (FMV)?

- ▶ The definition of Fair Market Value as taken from IRS Publication 561 is:
  - ▶ The price that property would sell for on the open market.

Items that are usually donated to an organization for a silent auction or other fundraising activity in which FMV needs to be determined:

- ▶ Gift baskets
- ▶ Paintings
- ▶ Jewelry
- ▶ Food
- ▶ Antiques or other used items

## How to determine the fair market value of an item and acceptable support for this determination?

- ▶ Cost or selling price of the item - sales receipt, letter from retailer providing retail value, menu from caterer
- ▶ Sales price of comparable items - on-line retail listing, catalog, brochure
- ▶ Opinions of experts - appraisal

## Donations for auctions:

- ▶ The Department will presume that the price paid for an item sold at auction is the item's fair market value and that the buyer did not knowingly pay in excess of the fair market value. These presumptions can be rebutted by reasonable evidence, such as the price for comparable goods sold by a retailer in its regular course of business and that the buyer knew the fair market value of the goods at the time of the purchase. For example, the fair market value of a signed professional sports jersey sold at auction will be presumed to be the price paid by the successful bidder, but the presumption can be rebutted by documentation of the sales price of a comparable signed jersey sold to the public at the professional team's or other retail store. (1 CCR 21-4 (v) pg. 8 CDOR)

## Examples (cont.)

### ▶ Example #6

- ▶ Exempt organization holds a fundraising dinner for which patrons purchase a ticket for \$100 per person. The organization compiles information that establishes the fair market value of the dinner is \$25 and the cost per meal is \$10. The organization establishes that purchasers knowingly paid in excess of the fair market value of the item by disclosing to patrons, at the time tickets are sold, that the fair market value of the dinner is \$25 (or that \$75 of the \$100 purchase price is a donation). Sales tax is due on the \$25 if the organization exceeded the \$25K net proceeds or 12 day thresholds.

### ▶ Example #7

- ▶ The fair market value of an item sold at auction is not based on the cost to the organization to acquire the item. For example, a donor may donate a set of golf clubs. The fair market value of the golf clubs is not zero even though the organization acquired the golf clubs for free. The fair market value is the price at which the item would sell on the open market. The donor either paid sales tax at the time they acquired the clubs or would owe use tax if a retailer. The auction sales would be subject to the threshold rules, as this is a separate transaction.

## Examples (cont.)

### ▶ Example #8

- ▶ A charitable organization holds a fundraising auction. The organization previously conducted concession sales and other fundraising sales for 12 days in the same year. The organization compiles information of the fair market value of each of the items sold at auction. The organization establishes that the purchaser knowingly paid in excess of the fair market value of the item by disclosing the fair market value of the auctioned items to potential bidders prior to bidding. The organization does not collect sales tax on that portion of the purchase price that exceeds the fair market value.

## Contact Information

- ▶ Main Number 553.2659; Fax 553.2657
- ▶ E-Mail: [salestax@pueblo.us](mailto:salestax@pueblo.us)
- ▶ Website [www.pueblo.us](http://www.pueblo.us)
  - ▶ License Application
  - ▶ Sales/Use Tax Return
  - ▶ Tax Guides
  - ▶ Ordinances
- ▶ 1 City Hall Place (City Hall or Memorial Hall) Lower Level
- ▶ Hours 8am - 5pm Mon - Fri

**This Presentation will be on our website under Sales Tax Training.**

# Questions?