

# 5 Financial Management & Fundraising Guidelines

## 5.1 Fundraising

1. Each organization can hold ONE TAX-FREE fundraiser per calendar month. Additional ones can be held, but sales tax must be collected and paid for each one (see 17.2.1 Student Organizations, p. 76, above for more information).
2. Fundraising request forms must be turned 5 days prior to start of fundraiser.
3. The selling of individually wrapped items is taxable (except for the one sale per month). This is per the Food Sales Tax Rule set by the State of Texas (immediately consumable goods are taxable). If quantities of 6 or more items are sold together, they are not taxable. The sale of quantities of 5 or less IS taxable. For example, 3 cookies are taxable, but 6 cookies are not; a pie is not taxable, but a slice is.
4. You **cannot** bake/cook food at home to sell! It is against the Department of Health's rules. If you wish to prepare items in a certified kitchen and then sell them, please see *Food Handler's Permit* section above in 17.4.3, p.78.
5. Tournament fees or other entry fees/ticket costs are *not* taxable. Therefore, they can be sold more than once per month.
6. Rummage/garage sales may only be held one day per month or tax must be collected.
7. Proceeds from fund raising activities (i.e., resale of retail merchandise, food, and ticket sales) are subject to state sales tax laws, please refer to "State Sales Tax" on p.77.
8. Fundraisers may not be conducted for private gain of individuals or for for-profit business.
9. To collect sales tax, each organization must register with the State of Texas Comptroller's Office.
10. No DATE or SERVICE AUCTIONS are permitted.
11. Selling food OUTSIDE is not permitted.
12. All fundraising activities, and especially planned sales of t-shirts, mugs, caps, or any items that use the name of Texas A&M University-Corpus Christi or any trademark of its symbols, must be reviewed by University Services staff to ensure compliance with university regulations. This includes the "big wave" (colorful one that looks like a tidal wave), the "small wave" (3 blue wave lines), and Izzy the Islander. Products that violate trademark or licensing regulations will not be approved for sale or distribution. Products in violation of copyright or trademark regulations may be confiscated. Early review and advice from staff members is highly recommended.

## 5.2 Raffles

Raffles involve paying money for the chance to win a prize of great value, which is considered gambling. Instead of raffles, Student Activities suggests that student organizations hold "Free Drawings" in which no money is exchanged.

The Charitable Raffle Enabling Act, effective January 1, 1990, permits "qualified organizations" to hold up to two raffles per calendar year.

There are four basic types of entities that qualify to hold raffles:

1. Religious organizations that have been existence in Texas for at least 10 years.

2. Volunteer emergency medical service organizations
3. Volunteer fire departments;
4. Nonprofit organizations that meet **ALL** of these criteria:
  - Existed for at least the 3 years preceding the raffle;
  - during which it has had a governing body duly elected by its members;
  - **and is exempt from federal income tax under Section 501(c) of the Internal Revenue Code (proof of status must be submitted to University and Student Activities);**
  - do not distribute income to its members, officers, or governing body, AND do not engage in political campaigning or lobbying. Does not devote a substantial part of its activities to attempting to influence legislation and does not participate or intervene in any political campaign on behalf of any candidate for public office in any manner, including by publishing or distributing statements or making campaign contributions.

Student organizations may conduct raffles on campus for qualified off-campus organizations. Any organization conducting a raffle on campus must complete a fundraising request form. Raffle tickets may not be advertised statewide through paid advertisements. Each raffle ticket must state the name and address of the organization holding the raffle, the name of an officer of the organization, the price of the ticket, and a general description of each prize to be awarded that has value of over \$10. A prize may not be money. Only members of the organization may sell tickets. No one may be compensated directly or indirectly for organizing or conducting a raffle or for selling raffle tickets.

For further information on raffles, refer to [www.oag.state.tx.us/AG\\_Publications/txts/raffle.shtml](http://www.oag.state.tx.us/AG_Publications/txts/raffle.shtml) or contact Student Activities.

## 5.3 Food Sales

**5.3.1 Tax-free Sales: Meals and Food Products** Sales tax does not need to be collected on meals and food products (including candy and soft drinks) if (**please note that NONE** of these apply to college/university student organizations):

- Sold by churches or at church functions conducted under authority of a particular church;
- Sold or served by a public or private school, school district, student organization, or Parent-Teacher Association in an elementary or secondary school during the regular school day by agreement with proper school authorities; or
- Sold by a person under 19 years of age who is a member of a nonprofit organization devoted exclusively to education or to physical or religious training or by a group associated with private or public elementary and secondary schools, as part of a fund-raising drive sponsored by the organization, when all net proceeds from the sale go to the organization for its exclusive use.

### 5.3.2 Food, Food Products, Meals, and Food Service

Food sales by a university are taxable. These taxable sales include: the sale of food, meals and drinks prepared, served, or sold ready for immediate consumption; university-owned vending machines; catered events to non-exempt organizations; and concession stand operations at sporting events. Thus meals served by the university to students, visitors, or employees are all taxable.

A nonprofit organization may hold a tax-free annual banquet or other food sale provided:

- the affair is not professionally catered;
- not held in a restaurant, hotel or similar place of business;

- not in competition with a retailer required to collect tax; and
- the food is prepared, served and sold by members of the organization.
- Alcohol sales must be taxed.

### **5.3.3 Food Handler's Permits**

Any time food is being prepared or re-packaged, those coming in contact with the food must have a current food handler's permit. Baked/cooked items to be sold may only be cooked in a kitchen that is certified by the Health Department. Anyone preparing, cooking or packaging the food must have a Food Handler's permit. If your organization is cooking or packing food for a sale, the Food Sale Guidelines form must be submitted to Student Activities along with the Fundraising Request.

To obtain a permit, contact the Corpus Christi-Nueces County Public Health Department at 851-7273. As of August 2006, classes are offered every Monday at 5pm, Tuesday at 2:00pm, and Thursday at 8:30am and cost \$10. The Health Department is located at 1702 Horne Road, between Greenwood and Crosstown Expressway.

### **5.3.4 Health Department Permit**

If an organization wishes to prepare and sell food off-campus, a Temporary Health Department permit is needed (permit is valid for 14 days). The estimated cost is \$35 and \$15 for each additional day and must be obtained prior to the event. Contact the Health Department at least a month prior to the event in order to ensure enough time to meet all requirements and to qualify.

## **5.4 Solicitations and Donations**

Student Organizations are required to contact the Development Office, Noel Vella, USC 212, at 825-2352, prior to soliciting or asking for donations from companies. Student organizations should be prepared to show a list of businesses they will be approaching to gain approval. Once approval has been given, student organizations are also responsible for reporting gifts to the Development Office via the online reporting form at <http://kanga.fw.tamucc.edu/AdvServices/Forms/GiftProcessing.aspx> .

## **5.5 Rules from the Texas A&M Tax Manual**

### **5.5.1 Student Organizations**

Student organizations are **not allowed** to use the sales tax exemption certificate granted to the University by the Comptroller's Office.

Student Organizations are NOT automatically exempt from paying state sales tax and they cannot use the university's EIN to make tax-exempt purchases or to collect tax-deductible donations. If an organization would like to obtain tax-exempt status, the appropriate forms must be completed and approved by the IRS. To find out if your organization may file to become sales tax exempt, refer to Comptroller of Public Accounts, State Sales and Use Tax, Rule 3.322 (Texas Tax Code 151.309, 151.310: Texas Civil Statutes, Article 342-908). For more information go to [www.irs.gov](http://www.irs.gov) or call 1-800-829-5500 and ask for Publication 557. To fill out an application online go to [https://sa.www4.irs.gov/sa\\_vign/newFormSS4.do](https://sa.www4.irs.gov/sa_vign/newFormSS4.do).

### **5.5.2 Auctions, Rummage Sales, and Other Fund Raisers (rules from the Texas Comptroller)**

College or university student organizations affiliated with an institution of higher education may hold a *one-day, tax-free sale each month*. The college or university student organization must have a primary purpose other than engaging in business or performing an activity designed to make a profit. The primary purpose of the one-day sale must be to raise funds for the college or university student organization. The

exemption does not apply to items sold for more than \$5,000, unless the item is manufactured by the organization, or the item is donated to the organization and is not sold to the donor.

### **5.5.3 Sales**

Generally, exempt groups must obtain sales tax permits and collect and remit sales tax on all items they sell (exception is the one tax free day per month). The organization is responsible for collecting and remitting tax on all sales of taxable items made by the organization unless such sales are otherwise exempt from tax. Examples of taxable sales include bookstore items, computers, telecommunications, food services, amusement services, printing services, and sale of seedlings. For additional clarification of the state tax law on these or other taxable items, see the State Comptroller <http://www.window.state.tx.us/m23taxes.html>.

## **5.6 Obtaining a Sales Tax Permit and Resale Certificate**

### **5.6.1 Sales Tax Permit**

Generally, exempt groups must obtain sales tax permits and collect and remit sales tax on all items they sell. In order to obtain a copy of the application, we suggest you go to the website listed below, print it out, then take the application to the field office listed below. You will immediately obtain a sales tax number. You must also take a copy of the organization's EIN determination letter sent after the organization applied for its EIN. The Sales Tax Permit allows each organization to collect sales tax and report all taxes collected to the Comptroller's Office. When the application is approved, the organization will also be issued a Resale Certificate that is used when purchasing items for **RESALE** only. When the certificate is presented to the cashier, tax will not be charged on those items. Remember, this is only for items that will be SOLD and not for supplies. The official permit will be mailed in about four weeks.

<http://www.cpa.state.tx.us/taxinfo/taxforms/01-forms.html>

#### *Field Office*

5155 Flynn Parkway, Suite 106  
854-2600

College and university student organizations must continue to pay sales tax when buying taxable items for their own use unless the organizations qualify for exemption under IRS Section 501(c)(3).

Questions regarding sales, including tax rates and the taxability of items, should be directed to the Comptroller's Tax Assistance Section of the Telephone Bank Operations at 512/463-4600, or 800/ 531-5441, extension 3-4600.

Questions regarding deposits, document preparation, or transaction entry should be directed to a staff member of the Statewide Fiscal Section in the Fund Accounting Division 512/463-4992.

### **5.6.2 Reporting Requirements**

For those required to file, sales tax returns are due on or before the 20th of the month after the reporting period. The "reporting period" may be a month, a calendar quarter, or a calendar year depending upon the dollar value collected. Taxpayers who collect \$500 or more in sales tax a month should file monthly. In order to file quarterly, collections of sales tax should be less than \$500 per month or \$1500 per quarter. Yearly filers are taxpayers who collect less than \$1000 in sales tax per year.