TAX FACTS 99-4

Parent-Teacher Organizations and Other School-Related Organizations

This Tax Facts provides basic information for nonprofit, school-related organizations (for example, parent-teacher organizations, athletic and band booster organizations, and school clubs). For the tax treatment of nonprofit organizations in general, see Tax Facts No. 98-3, "Tax Information for Nonprofit Organizations."

Note: Public schools are government agencies and exempt from federal and state tax requirements other than those required as an employer. **Fundraising activities conducted directly by public school organizations such as yearbook and newswriting organizations, student clubs, pep squads, and student government organizations, in which all proceeds are paid into, processed, and disbursed from the public school's non-appropriated school fund checking account are not subject to tax.** Contact school administrators about the use of the school's non-appropriated school fund checking account. For more information, see Tax Information Release (TIR) No. 89-6, "General Excise Tax on the Fund-Raising Activities of Public School Sponsored Groups."

Inside This Tax Facts

	Page
Forming a Nonprofit, School-Related Organization	1
Applying for Income Tax Exemption	2
Income Tax Filing Requirements	3
Donations	4
Applying for General Excise Tax (GET) Exemption	5
Fundraising	7
GET Registration and Filing Requirements	10
Use Tax	10
Compliance Issues	11

Section I. Forming a Nonprofit, School-Related Organization

1 How do we form a nonprofit school-related organization?

You first need to decide if the organization will be an unincorporated nonprofit association or an incorporated nonprofit organization. Then you need to prepare the appropriate organizing documents.

If you will be an unincorporated nonprofit association, you do not need to file any documents with the Department of Commerce and Consumer Affairs (DCCA). However, you need to prepare an organizing document, such as a constitution or articles of association, that explains the organization's purposes. This document must be formally adopted and executed (for example, signed and dated) by two or more persons.

To incorporate a nonprofit organization, prepare and file articles of incorporation with the DCCA's Business Registration Office. You may use Form DNP-1, Articles of Incorporation (for Domestic Nonprofit Organizations), or write your own articles of incorporation.

Your organizing documents must contain specific language if you will be applying for tax-exempt status with the Internal Revenue Service (IRS). For more information, see federal Publication 557, "Tax-Exempt Status for Your Organization."

Copies of your organizing documents, including any amendments, should be kept in your permanent records.

Note: Chapter 429, Hawaii Revised Statutes, allows unincorporated nonprofit associations to be treated as a legal entity with (a) authority to acquire, hold, and transfer real and personal property; (b) authority to sue and be sued; and (c) contract and tort liability separate from its officers and members such that the officers and members are afforded limited liability. It also allows unincorporated nonprofit associations to file a statement of authority to transfer an estate or interest in real property in the nonprofit association's name and a statement appointing an agent authorized to receive service of process with the Hawaii Department of Land and Natural Resources' Bureau of Conveyances (BOC). For more information, call the BOC at 808-587-0147.

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2 How do I apply for an identification number so we can open a bank account?

Each bank has its own requirements so it's best to ask your financial institution. It is common for a bank to require a federal Employer Identification Number (EIN) and your Hawaii Tax Identification Number (HI TAX ID). See federal Publication 1635, "Understanding Your EIN," for more information.

To apply for an EIN, complete federal Form SS-4, Application for Employer Identification Number.

If you file Form SS-4:	You will receive your EIN:
Online	Immediately
By fax	4 business days
By mail	4 weeks

You may also need to apply for a HI Tax ID. Complete Form BB-1, State of Hawaii Basic Business Application, and pay a one-time $20 registration fee.

If you file Form BB-1:	You will receive your HI Tax ID:
Online - DOTAX	5 days
By mail or drop-off	4 weeks
In person	Immediately

To apply in person, bring two copies of your completed application and the $20 registration fee to any Hawaii Department of Taxation (DOTAX) district office.

3 If we are affiliated with a larger organization, do we need our own organizing documents and EIN?

It depends on whether the larger organization is a central organization, and whether you are a subordinate organization of that central organization.

A central organization is an organization that has one or more subordinates under its general supervision or control.

A subordinate organization is a chapter, local, post, or unit of a central organization. A subordinate organization may or may not be incorporated, but it must have an organizing document and it must have its own taxpayer identification number (EIN). For more information, see federal Publication 557, "Tax-Exempt Status for Your Organization."

4 If the school sponsors student-activity groups that are part of the school, does each group need its own EIN?

No. Student clubs, teams, and other school-sponsored, student-activity groups do not need their own EIN because they are part of the school itself.

School-sponsored, student-activity groups may include the student government, athletic, math, and debate teams, band, orchestra, choir, drama, and other performing groups, foreign-language clubs, honor societies, "pep" squads, and other student-activity groups that come under the control of the school.

Parent-teacher organizations, athletic and band booster organizations, and other similar organizations are separately organized and are not school-sponsored, student-activity groups. Although these organizations may work closely with the school in support of the students and their activities, they are not part of the school itself and need their own EIN.

5 Are nonprofit organizations automatically exempt from paying all taxes?

No. You are **not** automatically exempt from all taxes. A number of requirements must be met before you can achieve tax-exempt status. See Tax Facts No. 98-3, "Tax Information for Nonprofit Organizations," for more information.

Note: Government entities such as public schools, including public school-sponsored, student-activity groups (see question 4), are exempt from federal and state tax requirements other than those required as an employer. Government entities do not need to file any applications for exemption.

6 Which taxes do nonprofit, school-related organizations usually get exemptions from?

Nonprofit, school-related organizations usually get tax exemptions from federal and state income taxes and GET on the income earned for their exempt stated purposes. They are not exempt from the pass on taxes on their purchases.

Section II. Income Tax

Applying for Income Tax Exemption

7 How do we apply for exemption from federal income tax?

Nonprofit, school-related organizations generally qualify for exemption from federal income tax as charitable or educational

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organizations under section 501(c)(3) of the federal Internal Revenue Code (IRC). To apply for an exemption from federal income tax, you should complete federal Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. Submit the form and the required user fee to the IRS.

After approving your exemption, the IRS will issue you a determination letter. Keep this letter in your permanent records.

Some organizations described in section 501(c)(3), IRC, may be considered tax-exempt for federal income tax purposes without having to file Form 1023. For more information, see federal "Instructions for Form 1023."

8 If we are a subordinate organization of a central organization that already has tax-exempt status with the IRS, do we need to submit our own exemption application to the IRS?

If your organization is a subordinate controlled by a central organization, you should check with the central organization to see if it has been issued a group exemption letter that covers your organization.

9 How do we apply for exemption from Hawaii income tax?

For income tax purposes, Hawaii automatically recognizes the tax-exempt status of nonprofit organizations that have been granted tax-exempt status by the IRS as section 501(c)(3), IRC, organizations. Hawaii does not have a separate income tax exemption application form.

Caution: The income tax exemption granted by the IRS is not applicable to GET. See question 23.

10 What is federal Form 990 and when would one be filed?

Exempt organizations, other than private foundations, must file their annual information returns on Form 990 or 990-EZ, unless excepted from filing or allowed to submit Form 990-N. For more information, see federal Publication 557, "Tax-Exempt Status for Your Organization."

11 Does Hawaii require us to file an informational return similar to Forms 990 and 990-EZ?

No. Hawaii does not require the filing of a Form 990, Form 990-EZ, or the equivalent. See the next section on "Income Tax Filing Requirements."

Income Tax Filing Requirements

12 If we are tax-exempt with the IRS, does that mean that all of our income is exempt from federal and state income taxes?

No. Getting tax-exempt status does **not** mean that all of your income is exempt from income tax. You must file an income tax return and pay federal and Hawaii income taxes if the sum of the organization's gross income from all unrelated businesses is $1,000 or more.

13 What is an unrelated trade or business?

Unrelated business income is the income from a trade or business regularly conducted by an exempt organization and not substantially related to the performance by the organization of its exempt purpose or function.

Hawaii Income Tax Laws about the taxation of tax-exempt organizations under section 501(c)(3), IRC, follow the federal tax treatment.

There are special rules about the classification of income as unrelated business income. For more information, see federal Publication 598, "Tax on Unrelated Business Income of Exempt Organizations."

14 Do most tax-exempt, school-related organizations have to file income tax returns?

It depends. Tax-exempt organizations generally must file an income tax return of their net "unrelated business income" and tax-exempt, school-related organizations often do not have unrelated business income. For example, their income is not unrelated business income because the activity is not regularly carried on or the activity is conducted by unpaid volunteers.

Example: Income from an annual fundraising sale of chicken, candies, and cookies, and income from an annual school carnival is often not considered unrelated business income because the activity is not regularly carried on in a manner similar to a for-profit business.

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15 If we need to file income tax returns, what forms do we file?

Most organizations file federal Form 990-T, Exempt Organization Business Income Tax Return, with the IRS by the 15th day of the fifth month after the tax year ends.

You must file Hawaii Form N-70NP, Hawaii Exempt Organization Business Income Tax Return, with DOTAX by the 20th day of the fourth month after the tax year ends.

16 If we are not a tax-exempt organization, what tax form must we file and what are we taxed on?

Generally, you will be treated as a for-profit corporation, whether incorporated or not, and will be required to file a corporation income tax return each year. All income, including membership dues but not donations, must be reported on the income tax return and the net profit taxed at the corporate income tax rates.

Use federal Form 1120, U.S. Corporation Income Tax Return, to file your federal income tax return. Form 1120 is due by the 15th day of the third month after the tax year ends. Use Form N-30, Corporation Income Tax Return, to file your state income tax return. Form N-30 is due by the 20th day of the fourth month after the tax year ends.

Donations

17 Can donors deduct the donations made to us on their federal and Hawaii income tax returns?

Individuals who make donations to a qualified organization such as a public school (including a public school-sponsored, student-activity group) or to a school-related organization that is recognized as a tax-exempt organization under section 501(c)(3), IRC, may claim a deduction for those donations as a charitable contribution on their federal and Hawaii income tax returns.

Individuals claiming charitable contribution deductions must have proof of their donation. For more information, see federal Publication 526, "Charitable Contributions."

18 Can a donor deduct the entire amount given to us if they receive something in return?

No. A qualifying charitable contribution is a gift to a qualified organization that is voluntarily made without receiving or expecting to receive anything of equal value in return. If the individual receives goods or services in return for their donation, then the individual may deduct only the amount of their contribution that is more than the value of the benefit received.

19 Can a donor deduct the entire amount given to us if they receive a small item as a token of appreciation?

Donors may claim the full amount of their contribution if (a) the benefit received is a small item or other benefit of token value and (b) the organization informs the donor that this is the case and that the payment may be deducted in full.

The organization must determine if the item or benefit is of token value by using the guidelines stated in IRS Revenue Procedures 90-12 and 92-49.

20 If a person purchases a fundraising ticket but does not redeem the ticket, can the person deduct the full price of the ticket?

No. If an individual purchases a ticket for goods or services but fails to redeem the ticket, the individual will not be able to deduct the amount paid for the unredeemed ticket as a charitable contribution.

However, if the individual returns the ticket to the organization for resale, then the full amount paid to the organization may be deducted.

21 Are the annual membership dues paid to us deductible on federal and Hawaii income tax returns?

Members may deduct the annual membership dues paid to a qualified tax-exempt organization as a charitable contribution on federal and Hawaii income tax returns.

If members receive any benefits, they may deduct only the amount that exceeds the value of the benefits received. However, certain membership benefits may be disregarded if the annual membership payment is $75 or less.

For more information, see federal Publication 526, "Charitable Contributions."

22 What kind of written statements must we furnish to donors?

Organizations should furnish statements to donors for cash contributions, noncash contributions, or out-of-pocket expenses when donating services. For example, a written statement should be furnished to donors who make a payment that is more than $75 and is partly a contribution and partly for goods or services.

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Section III. Hawaii General Excise Tax (GET)

Applying for GET Exemption

23 How do we apply for exemption from GET?

Nonprofit, school-related organizations generally qualify for exemption from GET under section 237-23(a)(4), Hawaii Revised Statutes (HRS).

The application for a GET exemption must be filed online. If you do not have a valid GET license, go to **hitax.hawaii.gov** to submit the application, including copies of the articles of organization, by-laws, IRS determination letter, and $20 registration fee. If you already paid the $20 fee to get a GET license, you must go to your Hawaii Tax Online account to submit the application for GET exemption (see question 56).

A letter and a certificate will be sent to you upon approval. Both the letter and the certificate should be kept as part of your permanent records.

For more information, see TIR No. 89-13, "Application for Exemption from the Payment of General Excise Taxes for Nonprofit Organizations."

24 Are high school alumni class organizations exempt from GET under section 237-23(a)(4), HRS?

No. High school alumni organizations whose membership consists of the graduates of a particular school during a particular year are considered social organizations rather than educational or charitable organizations. Social organizations do not qualify for exemption from GET.

Note: Social organizations, such as high school alumni organizations, are not organizations under section 501(c)(3), IRC. They may be exempt from income tax as an organization under section 501(c)(7), IRC. If the high school alumni organization is recognized by the IRS as a tax-exempt organization under section 501(c)(7), IRC, Hawaii also will recognize the exemption for purposes of the Hawaii income tax, but not the GET.

For more information, see federal Publication 557, "Tax-Exempt Status for Your Organization."

25 Do we need to wait until we get the IRS determination letter before submitting the application for GET exemption?

No. Submit the application as soon as possible even if the IRS has not yet issued a determination letter to you.

DOTAX can grant you a conditional exemption pending receipt of the IRS letter. The conditional exemption will be changed to a permanent exemption when you send DOTAX a copy of the IRS determination letter.

26 How long is the conditional exemption good for?

The conditional exemption is good for one year from the date of the letter notifying you of the conditional approval. During this period, you should receive the determination letter from the IRS. When you receive it, send a copy to the Technical Section, and your exemption will be changed from a conditional exemption to a permanent exemption.

If there is a delay in getting the determination letter from the IRS and additional time is needed, please contact the Technical Section, as extensions may be granted.

27 What date is the GET exemption effective?

If the application is filed within three months from the start of business in Hawaii, then the exemption will be effective as of the date you started your activities in Hawaii.

If the application is filed after the three months from the start of business, then the exemption will be effective as of the date the application is submitted to DOTAX.

28 We have never applied for a GET exemption. Can our exemption be granted retroactively to the date we began?

DOTAX may grant retroactive approval if you can show that you acted reasonably and in good faith by not filing your application sooner. For more information, see Form G-6A, which provides the instructions for applying for a GET exemption.

29 Once we have our GET exemption, will stores and other vendors stop charging us GET?

No, getting a GET exemption means that you do not have to pay GET on certain types of income that you receive. For more information, see Tax Facts No. 37-1, "General Excise Tax (GET)."

30 What is the county surcharge?

The general excise and use tax was amended to allow the counties to levy, assess, and collect county surcharge on transactions attributable to that particular county (currently 0.5% for all counties). Not all income is subject to the county surcharge. If the income is

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subject to the GET or use tax at the rate of 4% and attributable to a taxing county, then the income is subject to the county surcharge. The county surcharge does not apply to activities taxed at the 0.5% rate (for example, wholesaling) or the 0.15% rate for insurance commissions.

31 If we receive tax-exempt status for GET purposes, is all of our income exempt from GET?

No. Getting a tax exemption from GET does **not** mean that all of your income is exempt from the tax. The organization is exempt from paying GET on income that (a) is derived from its activities that fulfill its exempt function as a school-related organization and (b) does not have as a primary purpose the production of income.

Note: Gross income from activities that fail to meet one or both conditions for exemption will be subject to GET even if all of the money raised will be used to pay for school-related expenses.

32 Is the unrelated trade or business income discussed in question 13 subject to GET?

Yes, but additional income may also be subject to GET. There are differences between unrelated trade or business income and income that is subject to GET. More types of income are subject to GET than are subject to income tax. For instance, unrelated trade or business income as defined for income tax purposes, must be from activities that are regularly carried on. For GET purposes, even one fundraiser a year will be taxable.

Example: Organization A has been granted exemption from GET. Parent, teacher, and student volunteers conduct a cookie sale fundraiser. The income from the cookie sales **is not** taxable for income tax purposes (it is **not** unrelated business income) because the activity is not regularly carried on. For GET purposes, the gross income from the cookie sale **is** taxable.

33 Is the sale of donated goods exempt from GET?

No, the sale of donated goods is not exempt from GET. However, for income tax purposes, the sale of donated goods is not considered unrelated business income and is exempt from federal and state income tax.

For more information, see TIR No. 91-2, "Taxability of Gross Proceeds Received by a Nonprofit Organization From the Sale of Donated Services or Tangible Personal Property."

34 What are other examples of income subject to GET?

Generally, income from fundraising activities such as cookie, chicken, pizza, or other food product sales, car washes, auctions, and school fairs is subject to GET at the rate of 4% (plus county surcharge). Income from advertising placed in organization directories or newsletters also is subject to GET at the rate of 4% (plus county surcharge).

35 What types of income are not subject to GET?

If a school-related organization is recognized as tax-exempt for GET purposes, the following types of income may be exempt:

- membership dues
- donations
- interest earned on federally insured bank accounts, including certificates of deposit, into which the organization's funds have been placed for "safe keeping" (as opposed to a trade or business activity)
- nominal fees for parenting workshops sponsored by a parent-teacher organization
- nominal fees for athletic camps sponsored by athletic booster organizations
- nominal fees for music workshops sponsored by a band booster organization

36 If we do not apply for an exemption from GET, what are we taxed on?

If you do not get a GET exemption, then all of your income not specifically exempt from GET is taxable.

37 If a central organization has a number of subordinate organizations but also operates a number of programs itself, can the central organization file one GET exemption application?

In this case, an exemption from GET obtained by the central organization will cover all of the programs that it operates, but will not apply to any separately organized subordinate organizations.

The GET is imposed on any entity under the law (for example, corporation, limited liability company, and association). Therefore, subordinate organizations that treat themselves as entities separate and apart from the central organization must get their own GET

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exemption. Factors such as having its own organizing documents, checking account, and EIN, indicate separate entity treatment.

However, if an organization operates programs that it directly controls as integral parts of the organization itself, then there is only a single entity. In this case, when the organization applies for and gets an exemption from GET, the exemption granted will apply to the entire organizational entity.

Fundraising

38 If we are tax-exempt for GET and all of the fundraising proceeds are used to buy equipment, books, and supplies for the school, why are we subject to GET on the fundraising income?

When determining whether income is subject to GET, DOTAX must look at the activity which generated the income rather than what the organization does with the income. The GET exemption does not apply to activities conducted with the primary purpose of generating income, regardless of how the income is used.

If you engage in a for-profit business activity, then you will be taxed in the same manner in which a for-profit business would be taxed on that same activity. It is not the intent of the law for tax-exempt organizations to unfairly compete with for-profit businesses. If you sell candy at a profit as a fundraiser, it will be subject to the same GET as a for-profit retail store selling that same candy.

39 If we are tax-exempt for GET and all of the fundraising proceeds are given to the school, is the fundraising income subject to GET?

If you engage in a for-profit business activity, the organization will be subject to GET regardless of whether cash or tangible items are given to the public or private school.

40 If a school conducts a fundraiser that is run by volunteers from a school-related organization, will the school or the organization be subject to GET?

If a public school conducts a fundraiser in which all of the proceeds are paid into, processed, and disbursed from the school's **non-appropriated school fund checking account**, then no GET is due because the public school, as a government entity, is not subject to taxation. However, all advertising, tickets, contracts or agreements, and other written documents must show that the school is conducting the fundraiser. Any disbursements should be made from school accounts and all payments should be paid directly to the school (for example, checks should be made payable to the school and cash directly deposited into the school's account). Public school-related organizations may avoid federal and state tax issues by conducting their activities in the manner described above. For more information, see TIR No. 89-6, "General Excise Tax on the Fund-Raising Activities of Public School Sponsored Groups." Also see question 41.

If a private school conducts the fundraiser, then the school will be subject to GET on the gross income from the fundraiser.

41 If a school-sponsored, student-activity group conducts a fundraiser, who is subject to the GET?

If a public school-sponsored, student-activity group conducts a fundraiser in which all of the proceeds are paid into, processed, and disbursed from the school's non-appropriated school fund checking account, then no GET is due because the public school, as a government entity, is not subject to taxation. For more information, see TIR No. 89-6, "General Excise Tax on the Fund-Raising Activities of Public School Sponsored Groups."

If a private school-sponsored, student-activity group conducts a fundraiser, then the 4% GET (plus county surcharge) must be paid by the private school that sponsors the group.

42 When we sell products (such as food items, coupon books, or holiday wreaths) as a fundraiser, our profit is part of the total sales price. Could the profit be considered a sales commission?

In most cases, this is a retail sales transaction and the full sales price is subject to GET.

However, if you are **not** buying and reselling the products, but are instead acting as a sales representative of the actual seller of the product, then the amount retained by you may be a sales commission. In this case, you will be subject to GET on the commissions only.

Example 1: Organization X buys boxes of candy bars from Company A for $0.50 a bar and resells the candy bars for $0.75 each. Organization X is engaging in a retail sales activity and is subject to GET at the rate of 4% (plus county surcharge) on the full sales price of $0.75 per bar.

Example 2: Company B will be shipping holiday wreaths to Hawaii for sale at $25 per wreath. Organization Y enters into an agreement with Company B to take orders for Company B's wreaths for pick-up at Organization Y's location. Any excess wreaths delivered to Organization Y's pick-up site will be taken away by Company B. Organization Y will receive a certain percentage of the sales as a commission. Organization Y does not buy the wreaths for resale, but acts as a sales representative for Company B. Therefore,

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Organization Y will be subject to GET on the commissions earned only.

43 Some Internet sellers tell purchasers that a portion of the sales price will be donated to a school-related organization. Is this income subject to GET?

Generally, the income is considered a donation and is not subject to GET.

However, if the school-related organization acts as a sales representative on behalf of the Internet seller, then the income is a sales commission subject to GET at the rate of 4% (plus county surcharge).

44 If we have a craft fair and charge the crafters a fee to participate, are the fees subject to GET?

The fees received from the crafters are subject to GET. Report the fees as "Other Income" taxable at the rate of 4% (plus county surcharge).

45 The student council holds a Book Fair at which a book publisher displays children's books for the children to purchase. Payments are made to the publishing company. After the Book Fair, the publishing company donates books to the school based on the amount sold. Is GET due?

If the school is a public school, no GET is due because it is a government entity not subject to taxation.

A private school is subject to GET at the rate of 4% (plus county surcharge) on the fair market value of the books received (note that the student council is a school-sponsored, student-activity group and that the income is reported by the sponsoring school). The books given to the school are not considered a non-taxable donation because they were received in exchange for allowing the book company to display the books and make sales at the school.

46 If we sell pizza for $5, and the fair market value is $4, are we subject to GET on the $5 or on the $4 fair market value?

The organization is subject to GET at the rate of 4% (plus county surcharge) on the $5.

What a donor may deduct for income tax purposes is not the same as what an organization may consider a tax-exempt donation for GET purposes. In this example, the purchaser can claim a $1 charitable deduction on their federal and state income tax returns. For income tax purposes, a deductible donation is the amount of the donor's payment to a qualifying organization that **exceeds** the value of any property or service received in return. For GET purposes, a tax-exempt donation is the amount which a donor makes to a tax-exempt organization **without receiving or expecting to receive anything** in return.

47 We sell cookies for $10, but someone gives us $25. Do we pay GET on the $10 sales price or the $25?

The purchaser voluntarily paid you $15 more than what the cookies are being sold for. Therefore, you are subject to GET on the $10 sales price. The additional $15 received may be treated as a nontaxable donation to the organization for GET purposes.

48 If we hold a "free" car wash at which people are asked to give a donation, is the money donated at the car wash exempt from GET?

No. Although the car wash is advertised as a "free" service, the actual intent of the car washing activity is to raise funds. As a fundraising activity, it is reasonable to expect that those having their cars washed would pay a certain amount for that service. The income received is subject to GET at the rate of 4% (plus county surcharge).

Other examples include doing yardwork or other tasks, handing out "free" snacks, and other activities for which the organization can reasonably expect to receive monetary compensation of various amounts.

49 We sell sweet bread tickets and call the $10 sales price a "donation," is this subject to GET?

The $10 sales price is subject to GET at the rate of 4% (plus county surcharge) regardless of what it is called.

A donation is a gift that is voluntarily made without receiving or expecting to receive anything in return. By giving you $10, the purchaser receives a ticket which entitles them to receive the sweet bread, then the $10 paid to the organization is not a donation but the sales price of the sweet bread.

Note: In this situation, you may **not** call the $10 sales price a tax deductible "donation" as it misrepresents the nature of the payment made to the organization. Only the portion that exceeds the

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value of the product may be represented as a donation (see question 18). For more information on what may constitute a misrepresentation to purchasers, contact the DCCA Office of Consumer Protection at 808-587-2630.

50 We are having a fundraising drive in which we solicit donations and offer gifts to the donors. Depending on the amount of the donation, the gift could be a school sticker, T-shirt, hat, cup, or bag. Gifts can also include donated items such as gift certificates or hotel accommodations. Are we subject to GET on these donations?

If the gift is of nominal value, then the amount received by your organization is considered a nontaxable donation. If the gift is **not** of nominal value, then the donation is really a sale and is subject to GET at 4% (plus county surcharge).

"Nominal value" is not specifically defined for GET purposes. However, DOTAX will treat a gift as being of nominal value if the fair market value of the gift is less than $1.

If the gift is not of nominal value, then the transaction is classified as a retail sale in which the minimum "donation" needed to receive the gift is the sales price subject to GET at 4% (plus county surcharge).

51 We have a Read-a-Thon in which the students solicit pledges from sponsors who give us money based on the number of books the student reads. Is the income from the Read-a-Thon subject to GET?

No. The sponsors do not receive anything of monetary value in exchange for their pledges. The amount paid by the sponsors to you is a donation that is not subject to GET.

Similar fundraising events that also are not subject to GET include walk-a-thons, jog-a-thons, and jump-rope fundraisers.

52 We will sell school logo T-shirts, sweatshirts, canvas bags, and caps to parents, students, and school faculty. Are these sales subject to GET?

If you are recognized as tax-exempt for GET purposes, the income from the sales of the school logo products is not subject to GET if the sales prices are to recover your costs from these products. Such sales fulfill the organization's exempt function and do not have as a primary purpose the production of income (see question 31).

However, if the school logo products are sold as a revenue producing activity that exceeds your costs, then these sales are taxable.

53 We operate a before-school care program at the elementary school. Are fees (which we keep as low as possible) paid by the parents subject to GET?

If you are recognized as tax-exempt for GET purposes, then the fees received are exempt from GET.

Note: If you have employees, then you must withhold federal and state income taxes from the employees' wages, and comply with other employer related requirements that are not covered in this publication.

54 Is the income we receive from recycling paper, plastic, glass, and aluminum subject to GET?

Income from recycling is not exempt from GET because it is primarily an income producing activity.

However, if the organization can demonstrate that the actual recycling is part of a larger program (for example, the City & County of Honolulu's "Recycle Hawaii" program) that fulfills the organization's exempt function or purpose (other than the fact that the funds are used to further the organization's exempt purpose), and that the production of income is **not** the primary purpose of the recycling program (see question 31), then the recycling income may be exempt from GET.

55 A group of students is planning a trip and our booster organization is supporting the fundraising. Is there a problem if each student is credited with the profit that they make?

Yes. One of the requirements for being a nonprofit organization is that no part of the net earnings of the organization may benefit any of its members, trustees, officers, or other private persons except under certain limited circumstances.

If a student is credited with the profits of his or her sales, the prohibition against private inurement may be violated.

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GET Registration and Filing Requirements

56 How do we register for GET?

Complete Form BB-1, State of Hawaii Basic Business Application, and select "General Excise/Use Tax" to register for a GET license. The fee for the license is $20. When you register for GET, you will automatically be registered for use tax. Form BB-1 is available online at **tax.hawaii.gov** or may be picked up from any district tax office. Your application may be submitted online through our website at **hitax.hawaii.gov** or by mail, or in person at any district tax office.

Note: If you applied for a GET exemption at **hitax.hawaii.gov**, you will already have a GET license (see question 23).

57 How do we find out if we have a GET license?

You may call any district tax office to see if you have a GET license or search online at **hitax.hawaii.gov**. You may request a duplicate license.

It is important that the information included on the original application form be regularly updated. Use Form ITPS-COA, Change of Address Form, to change your mailing address, and Form BB-1 to make other changes to the original application, such as adding and deleting officers or changing telephone numbers.

58 What GET forms do I file and when are they due?

You must file Form G-45 periodically throughout the year and Form G-49 annually. If you are claiming any exemptions, then you must file Schedule GE.

Form G-45, the periodic tax return, is used to report and pay your GET for the period. Periodic returns must be filed monthly, quarterly, or semiannually. Your filing frequency is based on your annual GET liability.

Filing Frequency:

If your GET liability is:	Then you file:
$2,000 or less	Semiannually
$4,000 or less	Quarterly
More than $4,000	Monthly

Form G-45 is due on the 20th day of the calendar month following the end of the tax period. For example, the periodic return for the quarter of October, November, and December is due by January 20.

Form G-49, the annual GET return, is a summary of your activity for the entire year. There will be no additional tax due if the gross income, exemptions, taxable income, and taxes due were accurately reported and paid with the periodic tax returns.

The annual GET return is due by the 20th day of the fourth month after the tax year ends. For example, if an organization is a calendar year filer, the annual return is due by April 20.

If the due date falls on a weekend or legal holiday, file your GET returns by the next work day.

If your GET liability exceeds $4,000 for the taxable year, the Department requires that you must also file your monthly periodic and annual returns electronically at **hitax.hawaii.gov** unless a waiver is obtained by filing Form L-110. A penalty of 2% of the tax due will be assessed if a taxpayer who is required to file electronically fails to do so.

For more information on the GET, see the brochure, "An Introduction to the General Excise Tax."

Section IV. Use Tax

59 What is the use tax?

The use tax equalizes the tax on a transaction by requiring those purchasing goods, services, contracting, and intangibles from unlicensed out-of-state sellers to pay use tax at the same rate that a licensed in-state seller would have paid in GET if the transaction had occurred in Hawaii. The use tax is based on the landed value of the goods, services, contracting and intangibles when it is brought into the State. It includes the purchase price, shipping and handling fees, insurance costs, and customs duty.

For more information, see the brochure, "An Introduction to the Use Tax."

60 Can we get tax-exempt status for the use tax?

No. There is no exemption from the use tax for non-profit, school-related organizations.

61 What are the use tax rates?

If the goods or services are imported for:	Then the tax rate is:
Wholesale	0%
Retail	0.5%
All other situations	4% plus county surcharge

62 How do we compute the use tax?

The use tax is computed by determining what the value of the imported goods, services, contracting, and intangibles is, and then multiplying that value by the applicable rate. The value of the goods, services, contracting, and intangibles is determined as of

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the time the goods, services, contracting, and intangibles arrives in Hawaii. This includes the cost of the goods, services, contracting, intangibles, shipping, handling, and other associated costs except sales taxes paid in another state.

Example: Organization X purchases educational videos for the school library from an out-of-state seller that is not subject to GET. The cost of the videos is $300 plus $10 shipping and handling. The landed value is $310 and the use tax rate is 4% (plus county surcharge) because the videos will not be resold in a transaction subject to GET. The total use tax due is $12.40 plus county surcharge ($310 x 0.04 = $12.40 plus $310 x county surcharge rate).

Note: If the videos were purchased from a Hawaii seller, the Hawaii seller would have paid the state 4% (plus county surcharge) of its gross income from that retail sale. Therefore, the comparable use tax rate also is 4% (plus county surcharge).

63 We have a fundraiser in which we sell personalized stationery, pencils, and pens. We send the orders to an out-of-state company that does the personalization and ships the orders directly to our customers. Since the orders are shipped directly to our customers, do we have to pay any use tax?

You must pay the use tax because you caused the goods to be imported even if the goods were shipped directly to your customers.

The value of the imported items upon which the use tax is levied is the amount paid to the out-of-state company, including any shipping and handling charges, and **not** what the items were sold to your customers for.

Note: The applicable use tax rate in this case is 0.5% since the imported stationary, pencils, and pens are imported for resale, and is subject to GET at the rate of 4% (plus county surcharge).

64 We buy parenting and child development books from out-of-state sellers and sell them at a nominal cost to parents. We are reselling the books but are not subject to GET since they fall under our GET exemption. What use tax rate applies?

The use tax rate in this situation is 4% (plus county surcharge).

Gross income from the sales of the imported books are not subject to GET since the organization is tax-exempt with respect to those sales. Therefore, the 0.5% use tax rate is not applicable.

65 How do we report and pay the use tax?

Most school-related organizations that are subject to the use tax also must register for GET. Registering for GET (see question 56) automatically registers you for the use tax.

The value of imported goods and services is reported on the same tax return forms that are used to report and pay GET (see question 58).

For more information on the use tax, see the brochure, "An Introduction to the Use Tax."

Section V. Compliance Issues

66 We were not previously aware of the income tax, GET, and use tax requirements. What should we do if we don't have records for earlier years?

You should make a good faith effort to file complete and accurate tax returns for all outstanding years, and pay any tax, penalties, and interest. If the records are unavailable, then a fair estimate should be made.

67 We are unable to make a fair estimate and don't know if we are able to pay any balance due. What will happen to us if we cannot fully comply with the tax laws?

Contact your district tax office for assistance. Special accommodations may be considered on a case-by-case basis if an organization demonstrates a good faith effort to bring the organization into compliance.

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68 Which IRS office can we call for assistance with questions about tax-exempt organizations?

You can call the IRS's Tax Exempt and Government Entities Customer Account Services toll-free at 1-877-829-5500. This office can assist you with any questions you may have about tax-exempt organizations including the application form and procedures, the status of a submitted application, filing requirements, what constitutes unrelated business income, and more.

69 Where can I get additional information about nonprofit organizations?

For more information on federal income tax, see the following federal publications:

- Publication 526, "Charitable Contributions"
- Publication 557, "Tax-Exempt Status for Your Organization"
- Publication 598, "Tax on Unrelated Business Income of Exempt Organizations"
- Publication 1635, "Understanding Your EIN"

For more information on state taxes, see:

- The brochure, "An Introduction to the General Excise Tax"
- Tax Facts No. 37-1, "General Excise Tax (GET)"
- Tax Facts No. 98-3, "Tax Information for Nonprofit Organizations"
- TIR No. 89-6, "General Excise Tax on the Fundraising Activities of Public School Sponsored Groups"
- TIR No. 89-13, "Application for Exemption from General Excise Taxes for Nonprofit Organizations"
- TIR No. 91-2, "Taxability of Gross Proceeds Received by a Nonprofit Organization From the Sale of Donated Services or Tangible Personal Property"
- TIR No. 91-4, "Hawaii Tax Obligations of Nonprofit Organizations"

Where to Get Forms and Information

Website: tax.hawaii.gov
Telephone: 808-587-4242
Toll-Free: 1-800-222-3229

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