**Arkansas Gross Receipts Regulation**

Source: Ark. Code Ann. §§ 26-52-401; 26-52-430

A. The gross receipts or gross proceeds derived from the sale of tangible personal property or services by churches or charitable organizations are exempt from the tax except where such organizations may be engaged in business for profit. Additionally, sales made by charitable organizations that sell new tangible personal property and their sales compete with sales made by for-profit businesses are not exempt. (See GR-39(C).)

B. 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. In order to claim the sale-for-resale exemption, a church or charitable organization must have either a resale certificate or a letter opinion issued by DFA certifying that it is a church or charitable organization and that it intends to resell the items purchased.

C. WHEN SALES BY CHARITABLE ORGANIZATIONS ARE NOT EXEMPT:

1. The exemption for charitable organizations shall not extend to sales of new tangible personal property by the organization if the sale competes with sales by for-profit businesses.

2. A sale by a charitable organization does not compete with a sale by a for-profit organization if:

a. The sales transaction is conducted by members of the charitable organization and not by any franchisee or licensee;

b. All of the proceeds derived from the transaction go to the charitable organization;

c. The transaction is not a continuing one and is held not more than three (3) times a year; and

d. The dominant motive of the majority of purchasers of the items sold is the making of a charitable contribution, with the purchase of the item being merely incidental and secondary to the dominant purpose of making a gift to the charity.

3. The limitations of this section do not apply to sales made by a nonprofit hospital, a cafeteria at a nonprofit hospital, or a gift shop at a nonprofit hospital, whether operated by the hospital, a hospital auxiliary, or other nonprofit organization; or to sales by gift shops operated by charitable organizations at for-profit hospitals.

4. The following activities shall not be deemed to compete with sales by for-profit organizations:

a. Sales of tangible personal property by charitable organizations at county fairs;

b. Sales at concession stands operated by a non-profit little league or soccer association or other similar athletic association;

5. The sale of fireworks by a non-profit charitable organization shall be deemed to compete with for-profit organizations.

D. DEFINITIONS.

1. See GR-37(E)(6) for definition of charitable organization.

2. The phrase “engaged in business for profit” means that the income or receipts of the church or charitable organization inures to the benefit of an individual, corporation organized for profit, trust organized for profit or partnership organized for profit. A charitable organization or church that has obtained a ruling from the United States Internal Revenue Service or Arkansas Department of Finance and Administration, Income Tax Section, which certifies the organization for income tax purposes is presumed to be a non-profit organization.

<http://www.dfa.arkansas.gov/offices/policyAnd>Legal/Documents/et2008\_3.pdf