

# QUESTION NO. 14

## Amendment to the Sales and Use Tax Act of 1955

Senate Bill 144 of the 68th Session

### CONDENSATION (ballot question)

Shall an exemption from the sales and use taxes be provided for items sold by nonprofit organizations created for religious, charitable, or educational purposes based on standards adopted by the Legislature?

Yes . . . . .

No . . . . .

### EXPLANATION

State law exempts from taxation sales made to many religious and charitable entities, which include churches, school support groups, youth organizations, and other charitable groups. The proposed amendment to the Sales and Use Tax Act of 1955 would provide an exemption from the sales and use taxes for items sold by nonprofit organizations created for religious, charitable, or educational purposes. If this proposal is adopted, the legislature has provided the standards for determining whether an organization is created for religious, charitable, or educational purposes and has further provided that the Local School Support Tax Law and the City-County Relief Tax Law will be amended to provide the same exemption.

### ARGUMENTS FOR PASSAGE

This amendment will exempt from taxation goods sold by nonprofit organizations in pursuit of their religious, charitable, or educational purposes. These nonprofit organizations exist to increase the quality of life, provide opportunity, and reduce the burden of government in providing service and assistance to persons in need. The current tax:

1. Reduces funds available for nonprofit organizations to carry out their missions;
2. Is expensive for nonprofit organizations to administer and collect; and
3. Discourages volunteerism by adding administrative duties to volunteers whose motivations are based on helping people.

The state should not profit from the charitable intentions of Nevada residents. For these reasons, taxes should not be imposed on sales made by such religious, charitable, and educational organizations.

### ARGUMENTS AGAINST PASSAGE

State law contains numerous exemptions from the sales tax. The exemption may create an advantage for certain retail enterprises conducted by religious, charitable and educational organizations, over enterprises conducted by similar businesses operated for profit. Taxes should be collected on retail sales, regardless of the type of entity making such sales.

### FISCAL NOTE

**Financial Impact - Cannot be determined.** The proposal would provide an exemption from the Sales and Use Tax Act of 1955 for tangible personal property sold by nonprofit organizations created for religious, charitable, or educational purposes. The collection of this tax is not currently being enforced; therefore, approval of this question would result in an indeterminate loss of potential sales tax revenue to state and local governments.

# FULL TEXT OF THE MEASURE

AN ACT relating to taxes on retail sales; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption for the gross receipts from the sale, storage, use or other consumption of tangible personal property sold by or to a nonprofit organization created for religious, charitable or educational purposes; contingently providing the same exemption from certain analogous taxes; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA,  
REPRESENTED IN SENATE  
AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** At the general election on November 5, 1996, a proposal must be submitted to the registered voters of this state to amend the Sales and Use Tax Act, which was enacted by the 47th session of the legislature of the State of Nevada and approved by the governor in 1955, and subsequently approved by the people of this state at the general election held on November 6, 1956.

**Sec. 2.** At the time and in the manner provided by law, the secretary of state shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

**Sec. 3.** The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the general election on November 5, 1996, a question will appear on the ballot for the adoption or rejection by the registered voters of the state of the following proposed act:

AN ACT to amend an act entitled "An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto." approved March 29, 1955, as amended.

THE PEOPLE OF THE STATE OF NEVADA, DO ENACT  
AS FOLLOWS:

Section 1. Section 50 of the above-entitled act, being chapter 397, Statutes of Nevada 1955, at page 771, is hereby amended to read as follows:

Sec. 50. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of any tangible personal property to:

- [(a)] 1. The United States, its unincorporated agencies and instrumentalities.
- [(b)] 2. Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.
- [(c)] 3. The State of Nevada, its unincorporated agencies and instrumentalities.
- [(d)] 4. Any county, city, district [,] or other political subdivision of this state.
- [(e)] Any organization created for religious, charitable or eleemosynary purposes, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.]

Sec. 2. The above entitled act, being chapter 397, Statutes of Nevada 1955, at page 762, is hereby amended by adding thereto a new section to be designated as section 50.1, immediately following section 50, to read as follows:

*Sec. 50.1. There are exempted from the taxes imposed by this act the gross receipts from the sale of, and the storage, use or other consumption in this state of, any tangible personal property sold by or to a nonprofit organization created for religious, charitable or educational purposes. The legislature shall establish:*

1. Standards for determining whether an organization is created for religious, charitable or educational purposes.
  2. Procedures for administering the provisions of this section.
- Sec. 3. This act becomes effective on January 1, 1997.  
Sec. 4. The ballot page assemblies and the paper ballots



to be used in voting on the question must present the question in substantially the following form:

Shall the Sales and Use Tax Act of 1955 be amended to provide an exemption from the sales and use tax for items sold by a nonprofit organization created for religious, charitable or educational purposes based on standards adopted by the legislature?

Yes  No

**Sec. 5.** The explanation of the question which must appear on each paper ballot and sample ballot and in every publication and posting of notice of the question must be in substantially the following form:

(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would exempt from the taxes imposed by this act the gross receipts from the sale, storage, use or other consumption of tangible personal property sold by or to a nonprofit organization created for religious, charitable or educational purposes as determined pursuant to standards adopted by the legislature. If this proposal is adopted, the legislature has provided the standards for determining whether an organization is created for religious, charitable or educational purposes and has further provided that the Local School Support Tax Law and the City-County Relief Tax Law will be amended to provide the same exemption.

**Sec. 6.** If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 1997. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

**Sec. 7.** All general election laws not inconsistent with this act are applicable.

**Sec. 8.** Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for in this act and by the general election laws under which this election is held must be so construed as not to invalidate the adoption of the act by a majority of the registered voters voting on the question if it can be ascertained with reasonable certainty from the official returns transmitted to the office of the secretary of state whether the proposed amendment was adopted by a majority of those registered voters.

**Sec. 9.** Chapter 372 of NRS is hereby amended by adding thereto the provisions set forth as sections 10 and 11 of this act.

**Sec. 10. 1.** For the purposes of section 50.1 of the Sales and Use Tax Act of 1955, being chapter 397, Statutes of Nevada 1955, an organization is created for religious, charitable or educational purposes if it complies with the provisions of this section.

2. An organization is created for religious purposes if:

(a) It complies with the requirements set forth in subsection 5; and

(b) The sole or primary purpose of the organization is the operation of a church, synagogue or other place of religious worship at which nonprofit religious services and activities are regularly conducted. Such an organization includes, without limitation, an integrated auxiliary or affiliate of the organization, men's, women's or youth groups established by the organization, a school or mission society operated by the organization, an organization of local units of a church and a convention or association of churches.

3. An organization is created for charitable purposes if:

(a) It complies with the requirements set forth in subsection 5;

(b) The sole or primary purpose of the organization is to:

(1) Advance a public purpose, donate or render gratuitously or at a reduced rate a substantial portion of its services to the persons who are the subjects of its charitable services, and benefit a substantial and indefinite class of persons who are the legitimate subjects of charity; or

(2) Provide services that are otherwise required to be

provided by a local government, this state or the Federal Government; and

(c) The organization is operating in this state.

4. An organization is created for educational purposes if:

(a) It complies with the requirements set forth in subsection 5; and

(b) The sole or primary purpose of the organization is to:

(1) Provide athletic, cultural or social activities for children;

(2) Provide displays or performances of the visual or performing arts to members of the general public;

(3) Provide instruction and disseminate information on subjects beneficial to the community; or

(4) Operate a school, college or university located in this state that conducts regular classes and provides courses of study required for accreditation or licensing by the state board of education or the commission of postsecondary education, or for membership in the Northwest Association of Schools and Colleges.

5. In addition to the requirements set forth in subsection 2, 3 or 4, an organization is created for religious, charitable or educational purposes if:

(a) No part of the net earnings of any such organization inures to the benefit of a private shareholder, individual or entity;

(b) The business of the organization is not conducted for profit;

(c) No substantial part of the business of the organization is devoted to the advocacy of any political principle or the defeat or passage of any state or federal legislation;

(d) The organization does not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office; and

(e) Any property sold to the organization for which an exemption is claimed is used by the organization in this state in furtherance of the religious, charitable or educational purposes of the organization.

**Sec. 11. 1.** Any nonprofit organization created for religious, charitable or educational purposes that wishes to claim an exemption pursuant to section 50.1 of the Sales and Use Tax Act of 1955 being chapter 397, Statutes of Nevada 1955, must file an application with the department to obtain a letter of exemption. The application must be on a form and contain such information as is required by the department.

2. If the department determines that the organization is created for religious, charitable or educational purposes, it shall issue a letter of exemption to the organization. The letter of exemption expires 5 years after the date on which it is issued by the department. At least 90 days before the expiration of the letter of exemption, the department shall notify the organization to whom the letter was issued of the date on which the letter will expire. The organization may renew its letter of exemption for an additional 5 years by filing an application for renewal with the department. The application for renewal must be on a form and contain such information as is required by the department.

3. To claim an exemption pursuant to section 50.1 of the Sales and Use Tax Act of 1955, being chapter 397, Statutes of Nevada 1955, for the sale of tangible personal property to such an organization:

(a) The organization must give a copy of its letter of exemption to the retailer from whom the organization purchases the property; and

(b) The retailer must retain and present upon request a copy of the letter of exemption.

4. The department shall adopt such regulations as are necessary to carry out the provisions of this section.

**Sec. 12.** Chapter 374 of NRS is hereby amended by adding thereto the provisions set forth as sections 13, 14 and 15 of this act.

**Sec. 13.** There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in this state of, any tangible



personal property sold by or to a nonprofit organization created for religious, charitable or educational purposes.

**Sec. 14. 1.** For the purposes of section 13 of this act, an organization is created for religious, charitable or educational purposes if it complies with the provisions of this section.

2. An organization is created for religious purposes if:

(a) It complies with the requirements set forth in subsection and

(b) The sole or primary purpose of the organization is the operation of a church, synagogue or other place of religious worship at which nonprofit religious services and activities are regularly conducted. Such an organization includes, without limitation, an integrated auxiliary or affiliate of the organization, men's, women's or youth groups established by the organization, a school or mission society operated by the organization, an organization of local units of a church and a convention or association of churches.

3. An organization is created for charitable purposes if:

(a) It complies with the requirements set forth in subsection

(b) The sole or primary purpose of the organization is to:

(1) Advance a public purpose, donate or render gratuitously at a reduced rate a substantial portion of its services to the persons who are the subjects of its charitable services, and benefit a substantial and indefinite class of persons who are the legitimate subjects of charity; or

(2) Provide services that are otherwise required to be provided by a local government, this state or the Federal Government; and

(c) The organization is operating in this state.

4. An organization is created for educational purposes if:

(a) It complies with the requirements set forth in subsection ; and

(b) The sole or primary purpose of the organization is to:

(1) Provide athletic, cultural or social activities for children;

(2) Provide displays or performances of the visual or performing arts to members of the general public;

(3) Provide instruction and disseminate information on subjects beneficial to the community; or

(4) Operate a school, college or university located in this state that conducts regular classes and provides courses of study required for accreditation or licensing by the state board of education or the commission of postsecondary education, or for membership in the Northwest Association of Schools and Colleges.

5. In addition to the requirements set forth in subsection 3 or 4, an organization is created for religious, charitable or educational purposes if:

(a) No part of the net earnings of any such organization inures to the benefit of a private shareholder, individual or entity;

(b) The business of the organization is not conducted for profit;

(c) No substantial part of the business of the organization is devoted to the advocacy of any political principle or the defeat or passage of any state or federal legislation;

(d) The organization does not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office; and

(e) Any property sold to the organization for which an exemption is claimed is used by the organization in this state for the furtherance of the religious, charitable or educational purposes of the organization.

**Sec. 15. 1.** Any nonprofit organization created for religious, charitable or educational purposes that wishes to claim an exemption pursuant to section 13 of this act must file an application with the department to obtain a letter of exemption. The application must be on a form and contain such information as is required by the department.

2. If the department determines that the organization is created for religious, charitable or educational purposes, it shall issue a letter of exemption to the organization. The

letter of exemption expires 5 years after the date on which it is issued by the department. At least 90 days before the expiration of the letter of exemption, the department shall notify the organization to whom the letter was issued of the date on which the letter will expire. The organization may renew its letter of exemption for an additional 5 years by filing an application for renewal with the department. The application for renewal must be on a form and contain such information as is required by the department.

3. To claim an exemption pursuant to section 13 of this act for the sale of tangible personal property to such an organization:

(a) The organization must give a copy of its letter of exemption to the retailer from whom the organization purchases the property; and

(b) The retailer must retain and present upon request a copy of the letter of exemption.

4. The department shall adopt such regulations as are necessary to carry out the provisions of this section.

**Sec. 16.** NRS 374.330 is hereby amended to read as follows:

374.330 There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of any tangible personal property to:

1. The United States, its unincorporated agencies and instrumentalities.

2. Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

3. The State of Nevada, its unincorporated agencies and instrumentalities.

4. Any county, city, district or other political subdivision of this state.

[5. Any organization created for religious, charitable or eleemosynary purposes, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.]

**Sec. 17.** Sections 9 to 16, inclusive, of this act become effective on January 1, 1997, only if the question provided for in section 3 of this act is approved by the voters at the general election on November 5, 1996.

