

810-6-3-.07.06. United Appeal Funds and Supported Charities

(1) The Tax Exemption Reform Act of 2017 (Act 2017-149), amends Section 40-9-12, Code of Alabama 1975, and provides that a united appeal fund and any supported charity of the united appeal fund, that holds a valid sales and use tax certificate of exemption as of July 1, 2017, are exempt from the payment of any and all state, county, and municipal taxes, licenses, fees and charges of any nature whatsoever, including any privilege or excise tax heretofore or hereafter levied by the State of Alabama or any county or municipality thereof.

(2) A united appeal fund, as defined in Section 40-9-12(d), is any nonprofit entity that demonstrates to the reasonable satisfaction of the Department of Revenue that it has all of the following characteristics:

(a) Is an Alabama nonprofit corporation, or another type of legal entity, whether formed in Alabama or in another jurisdiction, which is required by its principal governing documents to be operated as a charity.

(b) Is one of a class, donations to which are deductible for federal and Alabama income tax purposes under Section 170(c) of the Internal Revenue Code.

(c) Has as its principal purpose, as stated by its principal governing documents, the raising of funds or the aggregation or consolidation of fund-raising efforts, to support other charities which are not themselves united appeal funds, known as supported charities.

(d) The united appeal fund has been issued a Certificate of Exemption from Alabama sales, use and lodgings tax prior to July 1, 2017, and has continually maintained the Certificate of Exemption as required by Section 40-9-60.

(e) With respect to the distribution of funds raised by the united appeal fund, the entity's principal governing documents must require that no supported charity, as defined in this subsection, will receive de minimus support. (Section 40-9-12(c)(2)).

(3) A supported charity is any charitable, civic or eleemosynary institution for which a united appeal fund solicits funds. (Section 40-9-12(c)(1)).

(a) Each supported charity must be separately identified by name in the principal governing documents of the united appeal fund entity.

(b) Each supported charity must agree, in its own principal governing documents, to become or remain a member of the united appeal fund that funded the supported charity. (Section 40-9-12(d)(1)).

(4) Also effective July 1, 2017, as a condition for united appeal funds and supported charities to keep their exempt status, the united appeal fund or supported charity must:

(a) attach its respective governing documents to requests for a Certificate of Exemption renewal, and

(b) continuously maintain its Certificate of Exemption without allowing it to expire or otherwise lapse.

(5) If its Certificate of Exemption is not timely renewed, the united appeal fund or supported charity loses the exemption.

(6) The term “governing documents” as used in this rule shall mean:

(a) In the case of a corporation, that corporation’s Articles of Incorporation, Certificate of Incorporation, Certificate of Formation, Charter, or other like document, and also such corporation’s Bylaws, and Resolutions adopted by the corporation’s board of directors or other highest authority.

(b) In the case of Nonprofit Entities other than corporations, the document or certificate by which the entity was created (whatever the title of such document may be), and rules, regulations, and resolutions adopted by the person or persons with the highest or paramount authority to act on behalf of the entity, which bind the entity and all its agents and employees.

(7) No new united appeal funds will be approved for a Certificate of Exemption after July 1, 2017.

(8) All united appeal funds and supported charities must comply with requirements to file informational reports as outlined in Sales and Use Tax Rule 810-6-5-.02.02.

Author: Michele Mayberry and Ginger Buchanan
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