

TAX INFORMATION

There are two taxing authorities that are of concern to PTA: the Internal Revenue Service (IRS) and the State of Georgia. Structurally and politically, these tax collection agencies are totally separate entities. **It is the responsibility of each local unit's officers to learn and fulfill the obligations of the PTA to these taxing authorities.** For rules, guidelines and general information please refer to *PTA Money Matters: Quick-Reference Guide*, IRS website, www.irs.gov, and/or Georgia Department of Revenue website, <https://etax.dor.ga.gov/>. **Per Federal law any organization not filing the appropriate Form 990 for three consecutive years will automatically lose its tax-exempt status.**

FEDERAL

Protecting PTA Tax Exemption

Georgia PTA and all subordinate units in good standing are exempt from federal income tax as a charitable and educational association under the provisions of section 501(c)(3) of the Internal Revenue Code.

Strict compliance with all applicable federal, state and local laws is important to prevent even the most well intentioned effort from becoming a serious problem for the association.

The following restrictions, which apply to 501(c)(3) classification, must not be violated:

- PTAs must be organized and operated exclusively for charitable, educational or scientific purposes.
- Its resources and funds cannot be used for private benefit.
- Upon dissolution, its assets must be distributed for one or more of those defined purposes.
- It cannot engage in a substantial amount of lobbying activity.
- It cannot engage in political activity or support candidates for public office.

PTA provides the following guidelines to protect PTA funds and fundraising:

1. Fundraising is not a primary function of the PTA. The primary emphasis in PTA is the promotion of the Purposes and Mission. Raise all funds in accordance with a predetermined and budgeted purpose approved by the general membership that advances the PTA's Purposes and Mission. Excessive fundraising places an undue emphasis on money and diverts attention from the PTA's primary role as an advocacy group.
2. All PTA funds *must be raised* through activities that are substantially related to the educational and charitable purposes of the PTA in order to be tax-exempt. It is important to note that it is not how the PTA spends the funds, but rather the manner by which the funds are raised. If funds are generated because of an activity that does not meet the "substantially related" test, the funds must be listed on the association's tax return as taxable unrelated business income.
3. **If a PTA decides to conduct a fundraising activity, children should not be used or exploited as fundraisers.** Fundraising activities should reflect the principles and policies of the PTA and the fundraising activity itself should have a recreational, social or educational value. If a fundraising activity is conducted on school property, a PTA must comply with all laws regulating the use of school property and should receive prior approval from school authorities to ensure that the activity does not violate any school policies.
4. All funds raised by the PTA can only be deposited in a PTA account. All money deposited in the PTA account is considered PTA funds and can only be spent with the approval of the general membership. Payment for all approved expenditures should be made out of the PTA checking account. Every check written must be substantiated with an itemized statement, receipt, or other written authorization for the expenditure.

5. PTA may not delegate authority or control over its funds to another organization or entity. Only the PTA membership can authorize the expenditure of funds. PTA funds cannot be diverted to other organizations or individuals. PTA funds must be kept and accounted for separately from school funds. PTA funds are private monies; school funds are public monies.
6. Before approving proposals or requests for material aid to the school or the community, a PTA must determine if the expenditure is a public responsibility. PTAs should not provide funding for anything that is the responsibility of the education system (*such as salary for school employees, gym floors, school tracks, air conditioners, lawnmowers, golf carts*). PTA renders a more enduring service if it alerts public officials to assume the responsibility, rather than assuming the responsibility itself. When assuming public responsibilities, PTAs can actually contribute to the inequities that already exist in public education today and contribute to inadequate funding from public sources.
7. Before any PTA purchases school equipment, a thorough investigation of all of the ramifications of such a decision should be undertaken. Generally, the donated equipment will become the property of the school and, under certain circumstances, a gift or donation form may need to be completed. The PTA should not have any ongoing maintenance, repair, liability, or insurance obligations with respect to the donated equipment.
8. In approving fundraising activities and expenditures, the PTA membership must further the reputation of the PTA as a charitable association, protect the PTA, its officers and members from liability, and preserve the tax-exempt status of the PTA.

Federal Tax Exemption

What is a 501(c)(3) organization?

The Internal Revenue Service classifies PTAs as tax-exempt 501(c)(3) organizations. A 501(c)(3) organization must be noncommercial (does not engage in specific commercial endorsements, or make a qualitative judgment of a product or service), nonsectarian (does not promote one religious group over another) and nonpartisan (does not endorse or support candidates or parties, however PTAs may support or oppose issues). Further, the organization name or any member acting in an official capacity cannot be used to endorse or promote any commercial concern or political party or conduct activities not in keeping with the Purposes and the Mission of the PTA.

Why is it important to protect PTA's 501(c)(3) status?

PTAs are exempt from income taxes under Sections 501(c)(3) of the Internal Revenue Code. *To retain the tax-exempt status, PTAs must ensure that fundraising does not become their primary focus.* All PTAs function under the exempt status of Georgia and National PTA. In order for a PTA to maintain status as a 501(c)(3) association, specific standards must be met (see explanation of 501(c)(3) above)

What does being a 501(c)(3) association mean to my PTA?

It means your PTA is exempt from paying Federal Income Taxes on money earned by the PTA for use in its programs. This also means that donors may deduct charitable contributions to local units, councils and districts as provided in the Internal Revenue Code.

What is an EIN (Employer Identification Number)?

EIN numbers are issued by the IRS. Every 501(c)(3) organization is required to have one. When a PTA is organized, Georgia PTA applies to the IRS for the number. Your EIN number identifies your PTA as a nonprofit association. It is a nine-digit number and it looks like: 54-1236789. If you are unsure of your EIN number, please contact the state PTA office, or your district director for this information. *You must never let another organization/individual use your EIN number.*

Types of Federal Tax Forms

Form 990-N, 990, & 990EZ

Federal legislation was passed in 2006 that began requiring most nonprofits, regardless of gross income, to file at minimum a 990-N (e-postcard) annually. The law provides that any organization not filing for three consecutive years will automatically lose its tax exempt status. Per the bylaws, it is the responsibility of the current treasurer to file the appropriate IRS 990 form. Failure to do so will jeopardize your tax exemption status and your good standing with Georgia PTA.

Filing is done at the end of the fiscal year as indicated in your bylaws. 990 returns must be mailed or e-filed no later than the 15th day of the fifth month after the end of the fiscal year.

Example: If your Fiscal Year is July 1 to June 30, the 990 is due November 15.

What must be filed?

- **990-N - Electronic Postcard Return of Organization Exempt from Income Tax**
Organizations with gross receipts between \$0 and \$50,000 must file form 990-N, also known as the e-postcard.
- **990EZ - Short Return of Organization Exempt from Income Tax**
Organizations with gross receipts between \$50,000 and \$200,000 and assets less than \$500,000 must file form 990EZ.
- If a PTA makes more than \$1,000 in unrelated business income, it must file a Form 990-T.
- If a PTA has changed the fiscal year in the bylaws or changed its name, Form 1128 must be filed.
- If a PTA wishes to request an extension of time to file Form 990 or 990-EZ, it should complete and file Form 8868 with the IRS before the deadline determined by the close of the PTA's fiscal year.

If a paper copy is filed, copy page 1 of the return and attach to IRS 990 Filing Verification Form. The original should be sent registered mail to IRS service center, a complete copy to Georgia Department of Revenue, and a complete copy should be kept with PTA permanent records.

State copy mailing address:
Georgia Department of Revenue
P.O. Box 740395
Atlanta GA 30374-0395

Federal copy mailing address:
Internal Revenue Service Center
Ogden, UT 84201-0027

If the 990 is filed electronically, print 3 copies of the e-filing receipt. Keep one for your PTA permanent records, send one copy to Georgia Department of Revenue, and attach one to IRS 990 Filing Verification Form.

Automatic Tax Exemption Revocation for Non-Filing – Those in jeopardy of losing exemption are listed on the IRS website. "If an organization does not file an annual return or notice for three consecutive years, the organization is automatically revoked by operation of law, and not by a determination made by the IRS. To have its tax-exempt status reinstated, the organization must file an application for exemption." If exemption is lost, local unit will be notified in writing. Fee to reinstate is from \$200 to \$850.

These limits are subject to change. Please verify with the IRS at www.irs.gov prior to preparation of tax return.

What are gross receipts?

A gross receipt is the total income/revenue generated by your association. A net receipt is the amount remaining after all expenditures/bills have been paid. For example, if a PTA collects \$10,000 in a fundraising sale, but pays the vendor \$5,000, the entire \$10,000 is considered gross receipts. *The state and national portion of dues are not part of gross receipts.*

How do we get the forms?

For Form 990-N go to www.irs.gov/charities for the form and instructions. Locate the heading Annual Electronic Filing Requirements for Small Exempt Organization – Form 990-N (e-postcard). Form 990 or 990EZ and appropriate Schedules are requested from the IRS. To order Form 990 or 990EZ and Schedule A, call 1-800-TAX-FORM (1-800-829-3676 and follow prompts). Be sure to ask for the forms and the instructions. They will not send the instructions unless you ask for them. If you have access to the Internet, you can download and print these forms at the IRS website: www.irs.ustreas.gov.

What are the penalties for late filing or not filing?

Failure to file the Form 990 may result in a penalty of \$20 a day not to exceed \$10,000 or 5% of the organization's gross receipts for the year. Late filing, incorrect filing and/or incomplete filing can result in a fine. Remember, PTA is tax exempt, but not exempt from filing under the above conditions. There is no statute of limitations for returns that have not been filed. Failure to file 990-N, 990, or 990-EZ for three consecutive years will automatically result in loss of tax-exempt status.

Form 8868

Form 8868 is to be used in obtaining an extension of time to file Form 990. It is an automatic 3-month extension form (meaning no reason for the extra time need be provided.) It can also be used to obtain a second 3-month extension, but an explanation is required and it is not an automatic extension.

Form 1099-Misc

A PTA must file Form 1099-MISC with the IRS whenever it pays a person or an unincorporated business \$600 or more in a calendar year for services rendered.

Form 1128

Form 1128 is to be used if changing your fiscal year becomes necessary. The directions and form may be found on the IRS website.

STATE**Sales Tax**

The Georgia Sales and Use Tax Exemptions OCGA 48-8-3 (#56) states:

(56) Sales by any parent-teacher organization qualified as a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code;

If a local unit purchases items for its own use - it is taxable. If it buys something for resale, it is tax exempt. Exemption documentation required is Form ST-5 to be used as your Sales and Use Tax Certificate of Exemption. The properly completed form should be given to the vendor/supplier who is providing the **resaleable fundraising items** to your PTA/PTSA.

Complete the form as follows:

Section 1 – Enter Vendor (Supplier) Business Name, Date and Address

Section 2 – Check Box #3

Section 3 – Name of Purchaser – Enter PTA/PTSA Name

Sales Tax Number – Enter Non Applicable

Purchaser's Address – Enter School Address

Name and Signature – Print Your Name, Enter Signature and PTA Title

All vendors should be made aware of your sales tax exempt status. Do not pay sales tax on purchases for resale (i.e., wrapping paper, etc.)

Form ST-5 is located on the following page or may be requested by sending an email to gapta@bellsouth.net.

ST-5 Form

Note: All vendors should be made aware of your sales exempt status. Do not pay sales tax on purchases for resale (i.e., wrapping, etc.)

Form **ST-5** (Rev. 11/2012)



**STATE OF GEORGIA
DEPARTMENT OF REVENUE
SALES TAX CERTIFICATE OF EXEMPTION
GEORGIA PURCHASER OR DEALER**

To: _____ (SUPPLIER) _____ (DATE)
 _____ (SUPPLIER'S ADDRESS) _____ (CITY) _____ (STATE) _____ (ZIP CODE)

THE UNDERSIGNED DOES HEREBY CERTIFY that all tangible personal property purchased or leased after this date will be for the purpose indicated below and that this certificate shall remain in effect until revoked in writing. Any tangible personal property obtained under this certificate of exemption is subject to the sales and use tax if it is used or consumed by the purchaser in any manner other than that indicated on this certificate. (Check appropriate box.)

- 1. Purchases or leases of tangible personal property or services for resale. O.C.G.A. § 48-8-30.
- 2. For use by the Federal Government, The American Red Cross, Georgia State Government, any county, municipality, qualifying authority or public school system of this state. Payment must be made by warrant on appropriated Government funds. A Georgia sales and use tax number is not required for this exemption. O.C.G.A. § 48-8-3(1).
- 3. Purchases or leases of tangible personal property or services for **RESALE ONLY** by a church, qualifying nonprofit child caring institution, nonprofit parent teacher organization or association, nonprofit private school (grades K-12), nonprofit entity raising funds for a public library, member councils of the Boy Scouts of the U.S.A. or Girl Scouts of the U.S.A. **THIS EXEMPTION DOES NOT EXTEND TO ANY PURCHASE TO BE USED BY OR DONATED BY THE PURCHASING ENTITY.** A Georgia sales and use tax number is not required for this exemption. O.C.G.A. § 48-8-3(15),(39),(41),(56),(59),and(71).
- 4. Materials used for packaging tangible personal property for shipment or sale. Such materials must be used solely for packaging and must not be purchased for reuse by the shipper or seller. O.C.G.A. § 48-8-3(94). A Georgia sales and use tax number is not required for this exemption.
- 5. Aircraft, watercraft, motor vehicles, and other transportation equipment manufactured or assembled in this state sold by the manufacturer or assembler for use exclusively outside of this state when possession is taken by the purchaser within this state for the sole purpose of removing the property from this state under its own power due to the fact that the equipment does not lend itself more reasonably to removal by other means. A Georgia sales and use tax number is not required for this exemption. O.C.G.A. § 48-8-3(32).
- 6. The sale of aircraft, watercraft, railroad locomotives and rolling stock, motor vehicles, and major components and replacement/repair parts of each, which will be used principally to cross the borders of this state in the service of transporting passengers or cargo by common carriers in interstate or foreign commerce under authority granted by the United States government. Private and contract carriers are not exempt. O.C.G.A. § 48-8-3(33)(A).
- 7. For use by a federally chartered credit union, credit unions organized under the laws of this state, and credit unions organized under the laws of the United States and domiciled within this state. A Georgia sales and use tax number is not required for this exemption. 12 U.S.C.S. 1768; O.C.G.A. § 48-6-97.

PURCHASER'S BUSINESS ACTIVITY

Under penalties of perjury I declare that this certificate has been examined by me and to the best of my knowledge and belief is true and correct, made in good faith, pursuant to the sales and use tax laws of the State of Georgia.

Business Name: _____ Sales Tax Number: _____
 Business Address: _____ City: _____ State: _____ ZIP Code: _____
 Purchaser's Name: _____ Signature: _____ Title: _____

A dealer must secure one properly completed certificate of exemption from each buyer making tax exempt purchases. Certificates of exemption must be obtained by the dealer within 90 days of the exempt sale being completed. The dealer must maintain a copy of the certificate of exemption presented for audit purposes.

Raffles & Bingo

Georgia law (OCGA Section 16-12-22.1) allows certain nonprofit, tax-exempt organizations to operate raffles. PTAs interested in conducting a raffle must check with the local school administration to ensure such an activity does not violate any existing policies or rules. The PTA must apply for a license with the **sheriff of the county in which the PTA is located**, as well as verify if there is a limit on the number of raffles that each organization can operate annually.

Recreational Bingo (Free Bingo) – No license required. These are bingo games for which your PTA *does not charge* participants to play and *does not award cash prizes* or prizes worth more than \$15 per game. Also, the non-cash prizes cannot be exchanged or redeemed for money. Recreational bingo games are not considered gambling under Georgia law, so your PTA may hold them as often as you like.

Other types of bingo are considered gambling and therefore require a permit or license from the Georgia Bureau of Investigation.

Annual Bingo Fundraiser – This is a special exception for nonprofit school organizations, and PTAs are included under this exemption. The GBI will issue a one-time permit for one bingo session during the calendar year free of charge. Keep in mind that *only one* permit will be issued per school *or* PTA; *not to both* during the same calendar year. Your PTA must apply for the permit by letter on school letterhead signed by the principal and PTA president. The permit must be posted in the location where you hold the bingo. The GBI will send you instructions along with your one-time permit. Allow at least two weeks to receive the permit.

Terry Sosebee, GBI - Bingo Unit
3121 Panthersville Rd.
Decatur, GA 30034
404-244-2600 phone
404-270-8529 fax

Please note: The permit will only be issued once between January 1 and December 31, which obviously overlaps two school years. Plan ahead!