



*This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.*

## **Thinking about Starting a Thrift Shop? Here are the legal issues you should consider!**

Thrift shops are a popular way for nonprofit organizations to earn extra income. Whether your nonprofit is about to open the doors to your new thrift shop or you have been running one for years, below are some of the legal issues to consider.

### **1. Will you have to pay income tax?**

The first consideration for a thrift shop is whether it generates unrelated business taxable income (UBTI). As a general rule, UBTI is income derived from trade or business activities regularly carried on that are not substantially related to the tax-exempt organization's purpose. If the income does not relate to the organization's mission, it is subject to a special kind of tax called unrelated business income tax. Therefore, determining whether a thrift shop would produce UBTI is essential. Income may be taxable as UBTI if all of the following are true:

- The income is from a trade or business, meaning the income comes from an activity carried on for the sale of goods or services.
- The activity is regularly and continuously carried on in the same way a comparable commercial activity would be carried on.
- The activity is not substantially related to the mission of the organization.
  - Income is not substantially related to the organization's mission just because the income will be used to support the organization. The activity itself must contribute importantly to the purpose of the organization in order to be considered "substantially related".

Income from a thrift store will likely meet all three prongs, but there is an exclusion to UBTI that may indicate that the income is not taxable. If **substantially all the goods** sold in the thrift shop are goods donated to the organization, then the revenue from the thrift shop will not be considered UBTI. The definition of "substantially all" in the context of the exclusion is not absolutely clear. It appears, based on the definition of substantially all in other Tax Code sections and Regulations, that if 10% or more of the items are not donated, it could affect the exclusion and the income may be taxable.

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Check out [UBIT: Four Letters Your Nonprofit Needs to Know](#) for more information on the Unrelated Business Income Tax.

## **2. Sales Tax**

Unlike some states, Georgia does not provide a blanket exemption from state sales and use taxes for nonprofit organizations. Tax-exempt organizations are required to charge and remit sales tax when the organization sells tangible personal property unless the sales fall under one of several exemptions. Unless a thrift shop makes less than \$500 each year, it is unlikely to qualify for any exemptions. Be prepared to collect and remit sales and use taxes. If you already have a thrift shop but have failed to collect and remit sales tax up to this point, consult with legal counsel for guidance. For more information on paying and remitting sales tax, check out [http://www.pbpatl.org/wp-content/uploads/2012/09/Paying-Sales-and-Use-Tax\\_Sept-13-2012.pdf](http://www.pbpatl.org/wp-content/uploads/2012/09/Paying-Sales-and-Use-Tax_Sept-13-2012.pdf).

## **3. Background Checks**

Thrift shop workers in charge of handling money for the organization have a large responsibility. If an organization is not careful, such trust could result in theft, fraud, or other dishonest behavior. Background checks can help nonprofits avoid this risk and are vital when someone is going to be working a cash register or otherwise handling money. There are several degrees of background checks.

- Work history and reference checks
- Criminal record checks
- Credit history checks

Before conducting background checks, be sure to ask for the worker's written consent. Also, avoid discrimination claims by not singling anyone out. If it is important for one cashier to have a background check, it is important for all of them. See [Background Screening for Employee and Volunteers](#) for more information on how to conduct background checks and other important information about screening workers.

## **4. Proper Donation Receipts**

It is important that your thrift shop provide receipts to those who donate items so that your donors can take a tax deduction. There are several things to be aware of when acknowledging these types of donations. If the donation is for goods, do not provide an estimate for the value. It is up to the donor to determine the value. In certain circumstances, the donor will need to get an appraisal and complete certain tax forms which may need to be signed by charity. If a donor requests additional substantiation

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information from your organization, consult an accountant. For all donations, include the following in the acknowledgement:

- Name and address of the charity
- Date of contribution
- Description of the property donated
- A statement that “no goods or services were provided in exchange for your contribution” if that statement is true

See [Guide to Sending Acknowledgements for Donations](#) for more information and sample acknowledgments. For information on donations of cars, boats or airplanes, see [Vehicle Donations](#)

## 5. Leasing Space

Whether your nonprofit will lease a new space for this thrift shop or will use space it already leases, you need to make sure the lease will suit your purposes. Before you get too far in, think about the physical space and the modifications you will have to make, if any. Make sure the landlord understands how you will use the property. If you own the space, consider zoning restrictions which may limit how you are allowed to use the property. Also consider the parking nearby and make arrangements as necessary. Finally, have your lease reviewed by an attorney before signing or as issues come up.

For more information on leasing, including how to negotiate, renegotiate, and terminate lease, take a look at [The Ins and Outs of Leases](#) webcast.

## 6. Business License

Many counties and cities require nonprofit organizations to register for a business license, also referred to as a Business Occupational Tax Certificate. Consult your local government to make sure that your organization is in compliance with all the appropriate requirements. Organizations that do not have a valid and current business license when one is required could be subject to citations, penalties, and fines. Selling goods at a thrift shop may require you to apply for a business license even if your ordinary operations do not.

Each county has its own requirements and procedures. For more tips and information on business license requirements in the Atlanta Metro area, check out [Does Your Nonprofit Need a Business License?](#)

## **7. Insurance**

Whenever a nonprofit takes up a new activity, it must make sure that the new venture is covered by adequate insurance to protect the organization. A thrift shop is no exception. Consult with an insurance broker about modifying an existing policy and consider adding special types of insurance like theft or vehicle insurance.