

1 **BY AUTHORITY**

2 ORDINANCE NO. _____

COUNCIL BILL NO. CB17-0930

3 SERIES OF 2017

COMMITTEE OF REFERENCE:

4 Finance & Governance

5 **A BILL**

6 **For an ordinance amending Articles I through IV, Article VI and Article VII of**
7 **Chapter 53 (Taxation and Miscellaneous Revenue) of the Revised Municipal**
8 **Code, to replace the City's tax exemption for charitable and religious**
9 **corporations with a new tax exemption for non-profit organizations exempt**
10 **under Internal Revenue Code 501(c)(3).**

11 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

12 **Section 1.** Ordinance No. 20170529 filed in the office of the Clerk and Recorder, Ex-Officio
13 Clerk of the City and County of Denver, under City Clerk's Filing No. 2017085634 is hereby
14 repealed in its entirety.

15 **Section 2.** Section 7, Article I (General), Chapter 53 (also known and cited as Section 53-
16 7) of the Revised Municipal Code is amended by adding the language underlined to read as
17 follows:

18 **Sec. 53-7. - Definitions.**

19 The following words and phrases, when used in this chapter, shall have the meanings given
20 to them in this section, except where the context in which they are used indicates clearly and requires
21 a different meaning according to customary usage.

22 (6) "Charitable organization" means any organization that has been exempted from federal
23 income tax as a nonprofit organization in good standing under section 501(c)(3) of the United
24 States Internal Revenue Code of 1986, as amended, and that has applied for and received
25 a valid letter of exemption from the Manager.

26 **Section 3.** Section 9, Article I (General), Chapter 53 of the Revised Municipal Code (also
27 known and cited as Section 53-9) is enacted and added to read as follows:

28 **Sec. 53-9. – Charitable Organization Letters of Exemption.**

29 (1) **Application.** An application for letter of exemption from the taxes imposed in this Chapter
30 shall be made to the Manager, on forms provided by the Manager, and shall include
31 evidence of the following:

32 (a) That the organization is exempt from federal income tax under section 501(c)(3) of the
33 United States Internal Revenue Code, and;

34 (b) The organization's total gross revenue complies with the following requirements:

- (i) For applications filed between July 1, 2017 and December 31, 2018, the organization's total gross revenue from all sources, as reported to the United States Internal Revenue Service, was less than \$5,000,000 for tax year 2016.
- (ii) For applications filed between January 1, 2019 and December 31, 2019, the organization's total gross revenue from all sources, as reported to the United States Internal Revenue Service, was less than \$10,000,000 for tax year 2017.
- (iii) For applications filed on or after January 1, 2020, the Manager will no longer consider the total amount of gross revenue reported to the United States Internal Revenue Service.

(2) **Applications valid for five years.** All letters of exemption issued pursuant to this section shall be valid for five years from the date of issuance.

(3) **Expiration of letters of exemption.** All letters of exemption issued by the Manager on or before July 1, 2017 shall expire at midnight, December 31, 2022.

(4) **Revocation of letters of exemption.** In the Manager's sole discretion, a letter of exemption may be revoked at any time an organization fails to remain exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code.

Section 4. Subsections 24(8) and (27), Article II (Sales Tax), Chapter 53 of the Revised Municipal Code (also known and cited as Subsections 53-24(8) and 53-24(23)) are amended by deleting the language stricken and adding the language underlined, to read as follows:

Sec. 53-24. - Definitions.

As used in this article, the following words, phrases and, where applicable, their declensional and inflectional forms shall have the meanings given to them in this section except where the context in which they are used indicates clearly and requires a different meaning according to customary usage. The words "shall" and "must" are to be construed as mandatory and not directory. In addition to the following definitions, the definitions and general provisions of Chapter 1 shall be applicable insofar as not expressly inconsistent with the provisions hereof.

(8) [Reserved]. ~~“Charitable corporation” means a corporation organized and operating exclusively for the purpose of providing a gift for an indefinite number of persons who are either residents of the city or using facilities of the city on a regular basis that lessens the economic burdens of the city by making the gift to the young, aged, poor, infirm or uneducated. Lessening the economic burden of the city by making a gift to the uneducated shall mean providing free instruction or training to a majority of enrollees on subjects useful to the individual and beneficial to the community by schools having a regularly scheduled~~

1 curriculum, a regular faculty, and a regularly enrolled body of students in attendance at a
2 place where educational activities are regularly carried on. This definition of charitable
3 corporation shall not necessarily include religious corporations, which may be exempt on a
4 religious basis whether or not they fall within the definition of a charitable corporation.

5 (27) "Retailer" or "vendor" means any person selling, leasing, renting, or granting a license
6 to use tangible personal property, products, or services at retail. Retailer shall
7 include, but is not limited to, any: (1) auctioneer; (2) salesperson, representative,
8 peddler or canvasser, who makes sales as a direct or indirect agent of or obtains
9 such property or services sold from a dealer, distributor, supervisor or employer; and
10 (3) charitable ~~corporation~~ organization or governmental entity which makes sales of
11 tangible personal property to the public, notwithstanding the fact that the merchandise
12 sold may have been acquired by gift or donation or that the proceeds are to be used
13 for charitable or governmental purposes.

14 **Section 5.** Section 26(2), Article II (Sales Tax), Chapter 53 of the Revised Municipal Code
15 (also known and cited as Section 53-26(2)) is amended by deleting the language stricken and
16 adding the language underlined, to read as follows:

17 **Sec. 53-26. - Exemptions.**

18 There shall be exempt from taxation under the provisions of this article the following:

19 ~~(2) All sales made to religious or charitable corporations when purchased for their regular
20 religious or charitable functions and activities.~~

21 (2) All sales to charitable organizations that are:

22 a. Billed directly to the charitable organization;

23 b. Paid directly from funds of the charitable organization; and

24 c. Used exclusively for the charitable organization's organizational or operational
25 purposes.

26 **Section 6.** Subsections 95(8) and (31), Article III (Use Tax), Chapter 53 of the Revised
27 Municipal Code (also known and cited as Section 53-95(8) and (31) are amended by deleting the
28 language stricken and adding the language underlined, to read as follows:

29 **Sec. 53-95. - Definitions.**

30 As used in this article the following words, phrases and, where applicable, their declensional
31 and inflectional forms shall have the meanings given to them in this section except where the context
32 in which they are used indicates clearly and requires a different meaning according to customary
33 usage. The words "shall" and "must" are to be construed as mandatory and not directory. In addition

1 to the following definitions, the definitions and general provisions of chapter 1 shall be applicable
2 insofar as not expressly inconsistent with the provisions hereof.

3 (8) [Reserved]. ~~Charitable corporation means a corporation organized and operating~~
4 ~~exclusively for the purpose of providing a gift for an indefinite number of persons who are~~
5 ~~either residents of the city or using facilities of the city on a regular basis that lessens the~~
6 ~~economic burdens of the city by making the gift to the young, aged, poor, infirm or~~
7 ~~uneducated. Lessening the economic burden of the city by making a gift to the uneducated~~
8 ~~shall mean providing free instruction or training to a majority of enrollees on subjects useful~~
9 ~~to the individual and beneficial to the community by schools having a regularly scheduled~~
10 ~~curriculum, a regular faculty and a regularly enrolled body of students in attendance at a~~
11 ~~place where educational activities are regularly carried on. This definition of charitable~~
12 ~~corporation shall not necessarily include religious corporations, which may be exempt on a~~
13 ~~religious basis whether or not they fall within the definition of a charitable corporation.~~

14 (31) "Retailer" or "vendor" means any person selling, leasing, renting, or granting a license
15 to use tangible personal property, products, or services at retail. Retailer shall
16 include, but is not limited to, any: (1) auctioneer; (2) salesperson, representative,
17 peddler or canvasser, who makes sales as a direct or indirect agent of or obtains
18 such property or services sold from a dealer, distributor, supervisor or employer; and
19 (3) ~~charitable corporation~~ organization or governmental entity which makes sales of
20 tangible personal property to the public, notwithstanding the fact that the merchandise
21 sold may have been acquired by gift or donation or that the proceeds are to be used
22 for charitable or governmental purposes.

23 **Section 7.** Subsection 97(2), Article III (Use Tax), Chapter 53 of the Revised Municipal
24 Code (also known and cited as Section 53-97(2)) is amended by deleting the language stricken
25 and adding the language underlined, to read as follows:

26 **Sec. 53-97. - Exemptions.**

27 There shall be exempt from taxation under the provisions of this article the following:
28 ~~(2) All sales made to religious or charitable corporations when purchased for their regular~~
29 ~~religious or charitable functions and activities.~~
30 (2) All sales to charitable organizations that are:
31 a. Billed directly to the charitable organization;
32 b. Paid directly from funds of the charitable organization; and

1 c. Used exclusively for the charitable organization's organizational or operational purposes.

2 **Section 8.** Subsection 172(3), Article IV (Lodger's Tax), Chapter 53 of the Revised
3 Municipal Code (also known and cited as Section 53-172(3)) is amended by deleting the language
4 stricken and adding the language underlined, to read as follows:

5 **Sec. 53-172. - Exemptions.**

6 There shall be exempt from this article the following:

7 ~~(3) All sales to religious, charitable and eleemosynary corporations, in the conduct of their~~
8 ~~regular religious, charitable and eleemosynary functions and activities.~~

9 (3) All sales to charitable organizations that are:

10 a. Billed directly to the charitable organization;

11 b. Paid directly from funds of the charitable organization; and

12 c. Used exclusively for the charitable organization's organizational or operational purposes.

13 **Section 9.** Subsection 295(2), Article VI (Business Occupational Privilege Tax), Chapter 53
14 of the Revised Municipal Code (also known and cited as Section 53-295(2)) is amended by
15 deleting the language stricken and adding the language underlined, to read as follows:

16 **Sec. 53-295. - Definitions.**

17 The following words and phrases, when used in this article, shall have the meanings respectively
18 ascribed to them:

19 (2) ~~[Reserved]. Charitable corporation shall mean a corporation organized and operating~~
20 ~~exclusively for the purpose of providing a gift for an indefinite number of persons who are~~
21 ~~either residents of the city or using facilities of the city on a regular basis that lessens the~~
22 ~~economic burdens of the city by making the gift to the young, aged, poor, infirm or~~
23 ~~uneducated. Lessening the economic burden of the city by making a gift to the uneducated~~
24 ~~shall mean providing free instruction or training to a majority of enrollees on subjects useful~~
25 ~~to the individual and beneficial to the community by schools having a regularly scheduled~~
26 ~~curriculum, a regular faculty and a regularly enrolled body of students in attendance at a~~
27 ~~place where educational activities are regularly carried on. This definition of charitable~~
28 ~~corporation shall not necessarily include religious corporations, which may be exempt on a~~
29 ~~religious basis whether or not they fall within the definition of a charitable corporation.~~

30 **Section 10.** Subsection 297(a)(1), Article VI (Business Occupational Privilege Tax),
31 Chapter 53 of the Revised Municipal Code (also known and cited as Section 53-297(a)(1)) is
32 amended by deleting the language stricken and adding the language underlined, to read as

1 follows:

2 **Sec. 53-297. - Exemptions.**

3 (a) There shall be exempt from taxation under the provisions of this article the following:

4 ~~(1) Any religious or charitable corporation engaging in its regular religious or charitable~~
5 ~~functions and activities.~~

6 (1) Any charitable organization engaging in its regular organizational or operational
7 activities.

8 **Section 11.** Subsection 347(4), Article VII (Facilities Development Admissions Tax),
9 Chapter 53 of the Revised Municipal Code (also known and cited as Section 53-47(4)) is amended
10 by deleting the language stricken and adding the language underlined, to read as follows:

11 **Sec. 53-347. - Exemptions.**

12 There shall be exempt from the provisions of this article the following:

13 ~~(4) all sales to religious, charitable and eleemosynary corporations in the conduct of their~~
14 ~~regular religious, charitable and eleemosynary functions and activities;~~

15 (4) All sales to charitable organizations that are:

16 a. Billed directly to the charitable organization;

17 b. Paid directly from funds of the charitable organization; and

18 c. Are used exclusively for the charitable organization's organizational or operational
19 purposes.

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1 COMMITTEE APPROVAL DATE: August 22, 2017 by Consent

2 MAYOR-COUNCIL DATE: August 29, 2017

3 PASSED BY THE COUNCIL: _____

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____; _____

10 PREPARED BY: Charles T. Solomon, Assistant City Attorney DATE: August 31, 2017

11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
14 §3.2.6 of the Charter.

15 Kristin M. Bronson, Denver City Attorney

16 BY: _____, Assistant City Attorney DATE: _____