



Higher Education Law Information Memo

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Electronic Dispatch

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CHANGES IN NEW YORK TAX LAW MAY AFFECT COLLEGES AND UNIVERSITIES

Changes to the New York Tax Law, enacted as part of the budget bill that becomes effective September 1, 2008, may impact certain college and university campus operations. Most significantly, the legislation dramatically narrows the scope of the exemption from the obligation to collect and remit sales tax for institutions in New York State. Under the pre-amendment tax law, sales of tangible personal property and services by an exempt organization are exempt from sales and use tax, subject to several limited exceptions. One of the exceptions relates to sales of tangible personal property made by any "shop or store" operated by an organization, such as a college or university bookstore or convenience store. Under this exception, sales from the shop or store are subject to sales tax, but sales made by other means (such as mail order and Internet sales) are exempt from sales tax under current law.

Effective September 1, 2008, exempt organizations will be required to collect and remit sales tax on retail sales made by "remote means", such as by Internet, mail order, telephone or otherwise, if those sales are made with a degree of regularity, frequency and continuity. The amendments also impose sales tax on any lease or rental of tangible personal property by an exempt organization, whether or not from a shop or store.

In addition, the amendments impose sales tax on receipts from maintaining, servicing or repairing real property (i.e., building or property maintenance services). This change may impact colleges and universities that perform such services for a fee on behalf of subsidiary or affiliated entities.

If you have questions or would like further information regarding these changes, please contact Paul W. Reichel (315-218-8135, preichel@bsk.com) or any of the other members of our Higher Education Practice Group listed below:

In the Capital District, call 518-533-3000 or e-mail:

Gregory J. Champion gchampion@bsk.com
Nicholas J. D'Ambrosio, Jr. ndambrosio@bsk.com

In Central New York, call 315-218-8000 or e-mail:

John Gaal jgaal@bsk.com
Philip J. Zaccheo pzaccheo@bsk.com

On Long Island, call 516-267-6300 or e-mail:

Terry O'Neil toneil@bsk.com

In New York City, call 646-253-2300 or e-mail:

Louis P. DiLorenzo ldilorenzo@bsk.com

In the Rochester Region, call 585-362-4700 or e-mail:

Robert H. Kirchner rkirchner@bsk.com

In Western New York, call 716-566-2800 or e-mail:

Robert A. Doren rdoren@bsk.com

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Colleges and Universities face unique legal challenges which require a special legal expertise and breadth few law firms are equipped to provide. For more than 100 years BS&K, a 190 attorney law firm, has been providing high quality, cost effective legal services to clients, and one of our core strengths throughout that history has been servicing Higher Education institutions.

BS&K's Higher Education Practice Group, which includes our Collegiate Sports Practice Group, consists of attorneys drawn from practice areas across the firm who daily provide a full range of legal services to nearly 100 Colleges and Universities – large and small, public and private – on issues ranging from Academic Affairs to NCAA infractions and compliance services to zoning, and everything in between. The depth of our Higher Education practice gives us an unmatched understanding of the unique needs of, and demands placed on, Colleges and Universities.

Our attorneys are active members of the National Association of College and University Attorneys (NACUA), having served as President and in other leadership roles within that group. Our attorneys regularly serve as adjunct faculty members, Trustees and as members of institutional Advisory Committees. Our members have even served as interim senior administrators (including President and Dean) at several institutions. These experiences give us a unique perspective on institutional needs. Our participation on the Editorial Board of the Journal of College and University Law, our role as speakers at NACUA, NACUBO (National Association of College and University Business Officers), and CUPA (College and University Personnel Association) conferences, and our authorship of articles on a variety of subjects of special interest to Colleges and Universities ensure we are always familiar with the cutting-edge issues confronting Higher Education.

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