

4-H Development Presentation
May 11, 2007
Tele-Seminar

I. Sales Subject to Sales Tax

A. Services

1. Admissions to Amusement, Athletic, Entertainment or Recreational Events or Places e.g., admission to enter fair, musical program, swimming pool, horseback riding, dances, etc.
2. Entry Fees for Amusement, Athletic, Entertainment, or Recreational Events (e.g., runs, races, tournaments, etc.)
3. Bingo

Includes use of cards and supplies as well as admission.
4. Amusement rides and video games
5. Games of chance
6. Parking
7. Car washes

B. Tangible Personal Property

1. Food, beverages, and meals for on premises consumption
2. Candy and other confections, gum, popcorn, soda fountain type items, sandwiches, meals, heated food or beverages, soda and soft drinks (for consumption or off seller's premises)
3. Rentals of tables, equipment, partitions, etc.
4. Christmas trees and wreaths

II. Sales Not Subject to Sales Tax

- A. Occasional Sales (See Part III)
- B. Lodging provided by 501(c)(3) organization

C. Admissions to:

1. Educational events
2. Trade or fashion shows
3. Membership dues assuming that they don't entitle member to access to amusement, athletic, recreation, or amusement facilities

D. Raffles

E. Commissions from vendors

F. Space rentals

G. Certain Food Products

1. Frozen pizzas
2. Pies, cakes, or cookies
3. Cows, pigs, and other animals for use as meat

If taxable sales are made and you do not hold a seller's permit, you should obtain a permit (Form BTR-101 or online registration)

III. Occasional Sales Exemption (Publication 206)

A. Conditions for exemption

1. Does not hold a seller's permit
2. Not engaged in a trade or business
 - a. Taxable receipts are \$25,000* or less in calendar year

Do not include nontaxable sales when computing \$25,000* limit

**The taxable receipts standard was increased from \$15,000 to \$25,000, effective January 1, 2006.*

- b. Events or days of taxable sales are 20 or less in calendar year

Do not include days of ticket sales or days of nontaxable sales.

Only have to meet one of the two conditions in a. or b. to qualify for the

occasional sale exemption.

- c. Even if conditions in 2 met, the occasional sale exemption does not apply to the following receipts
 1. Bingo (can hold permit for bingo and other sales still qualify for occasional sales exemption)
 2. Taxable receipts at an event where admission is required **and** entertainment is provided. Entertainment must be paid more than \$500.*

**The entertainment standard was increased from \$300 to \$500, effective January 1, 2006.*

IV. Purchases

A. Nonprofit Organization Holding Certificate of Exempt Status (CES)

All **purchases** are exempt from tax. Must provide number to vendor or exemption certificate.

If you are 501(c)(3) organization, and do not hold a CES number, you should apply for one (Form S-103).

B. Resale

If the item is to be resold, can provide exemption certificate claiming resale to supplier to purchase without tax (Form S-211).

Includes purchases of the following:

1. Food and beverages
2. Disposable items used to serve or consume the food and beverages
3. Prizes for games of chance
4. Equipment that is used solely to rent to others

V. Operators of Temporary Events

- a. Operator/Event Information: Name and address of the operator, telephone number of the operator, e-mail address of the operator, name of the event, date or dates of the event, and location of the event.

- b. Seller Information: Legal name, business name, address, telephone number, e-mail address, social security number, and if available, the Wisconsin tax account number and federal employer identification number (FEIN) of each seller at the event.
- c. Failure of the seller to provide information to the operator does not relieve the operator of the requirement to provide information to the Department of Revenue.
- d. Operators may use Form S-240 to collect information from Sellers that needs to be reported to the Department. The Operator may print or photocopy this form for distribution to the Sellers. Both sides of the form should be printed or photocopied and given to the Sellers, because the back of the form has the instructions on it.
- e. Operators may report the required information to the department in any of the following way:
 - E-mail an Excel spreadsheet which contains the required Seller information (Form 240a).
 - Mail completed S-240 forms to the department.
 - Contact the Temporary Events Program Specialist to discuss alternative reporting methods at tempevtprg@dor.state.wi.us.

VI. Other Taxes

A. County Tax

1. Imposed in 60 Wisconsin counties.
2. Sales subject to state tax are subject to county tax; sales exempt from state tax are exempt from county tax.
3. Rate is 0.5%.
4. Reported on sales and use tax return with state taxes.

B. Baseball Stadium Tax

1. Applies to sales in Milwaukee, Ozaukee, Racine, Waukesha, and Washington Counties.
2. Sales subject to state tax are subject to baseball stadium tax; sales exempt

from state tax are exempt from baseball stadium tax.

3. Rate is 0.1%.
4. Reported on sales and use tax return with state and county taxes.

C. Football Stadium District Tax

1. Applies to sales in Brown County.
2. Sales subject to state tax are subject to football stadium tax; sales exempt from state tax are exempt from football stadium tax.
3. Rate is 0.5%.
4. Reported on sales and use tax return with state and county taxes.

D. Local Exposition District Taxes (Publication 410)

1. Applies to sales in Milwaukee County.
2. Rate is 0.25%.
3. Certain sales of food and beverages subject to state sales tax are subject to food and beverage tax:
 - f. Meals, food, and beverages for on-premises consumption;
 - g. Meals and sandwiches regardless of where consumed;
 - h. Heated food and beverages regardless of where consumed;
 - i. Soda fountain items regardless of where consumed (soda from dispenser, ice cream novelties);
 - j. Candy, chewing gum, lozenges, popcorn, and confections regardless of where consumed.
4. Not subject to tax are most items for off-premises consumption except in 3., above, including canned or bottled soda, canned or bottled alcohol beverages, bakery goods.
5. Also rental car tax and room taxes.

Materials Available

Publication 201, *Wisconsin Sales and Use Tax Information*

<http://www.revenue.wi.gov/pubs/pb201.pdf>

Publication 206, *Sales and Use Tax Exemption for Nonprofit Organizations*

<http://www.revenue.wi.gov/pubs/pb206.pdf>

Publication 228, *Temporary Events*

<http://www.revenue.wi.gov/pubs/pb228.pdf>

Publication 410, *Local Exposition Taxes*

<http://www.revenue.wi.gov/pubs/pb410.pdf>

Publication 508, *Wisconsin Tax Requirements Relating to Nonresident Entertainers*

<http://www.revenue.wi.gov/pubs/pb508.pdf>

Form BTR-101, *Application for Business Tax Registration*

<http://www.revenue.wi.gov/forms/sales/btr-101.pdf>

Instructions for Form BTR-101 <http://www.revenue.wi.gov/forms/sales/btr-114.pdf>

Online Application

<https://ww2.revenue.wi.gov/GenericFile/application?interview=1086489>

Form S-103, *Application for Wisconsin Certificate of Exempt Status (CES)*

<https://ww2.revenue.wi.gov/GenericFile/application?interview=1086489>

Form S-211, *Sales and Use Tax Exemption Certificate*

<http://www.revenue.wi.gov/forms/sales/s-211.pdf>

Form S-240, *Wisconsin Temporary Event Operator and Seller Information*

<http://www.revenue.wi.gov/forms/sales/s-240.pdf>

Form S-240a, *Wisconsin Temporary Event Operator and Seller Information (spreadsheet)*

<http://www.revenue.wi.gov/forms/sales/s-240a.xls>

Tax release on admission events sponsored by other nonprofit

From Wisconsin Tax Bulletin 94, October 1995

Nonprofit Organization's Sales — Admission Event Involves Entertainment

Statutes: Sections 77.52(2)(a)2 and 77.54(7m), Wis. Stats. (1993-94)

Wis. Adm. Code: Section Tax 11.35(6)(a), June 1991 Register

Background: Section 77.54(7m), Wis. Stats. (1993-94), provides an exemption from Wisconsin sales or use tax for:

“Occasional sales of tangible personal property or services, including but not limited to admissions or tickets to an event; by a neighborhood association, church, civic group, garden club, social club or similar nonprofit organization; not involving entertainment for which payment in the aggregate exceeds \$300 for performing or as reimbursement of expenses unless access to the event may be obtained without payment of a direct or indirect admission fee conducted by the organization if the organization is not engaged in a trade or business and is not required to have a seller's permit. For purposes of this subsection, an organization is engaged in a trade or business and is required to have a seller's permit if its sales of tangible personal property and services, not including sales of tickets to events, and its events occur on more than 20 days during the year, unless its receipts do not exceed \$15,000 during the year.”

Section Tax 11.35(6)(a), Wis. Adm. Code, provides that to qualify as an exempt occasional sale, entertainment shall not be involved at an event for which charges constitute admissions.

Facts and Question 1: Nonprofit Organization A holds a fair. Nonprofit Organization A charges an admission to enter the fair. Upon admis-

sion to the fair, a person may view animal and product exhibits, attend animal shows, and enjoy various musical and comedy performances. Nonprofit Organization A has paid more than \$300 to persons providing musical and comedy performances.

Nonprofit Organization A allows Nonprofit Organization B, a separate entity, to set up a booth at the fair. From its booth, Nonprofit Organization B sells soft drinks and popcorn for consumption on the premises of the fair. Persons will only have access to Nonprofit Organization B's booth upon paying the admission to the fair. Nonprofit Organization B does not receive any of the admission receipts from the fair and does not pay any amount for the entertainment provided at the fair.

For the calendar year in which this fair is held, Nonprofit Organization B will have taxable receipts from sales of tangible personal property and services of \$15,000 or less. Nonprofit Organization B does not hold a Wisconsin seller's permit.

Are Nonprofit Organization A's gross receipts from the sale of admissions to the fair exempt from Wisconsin sales tax as occasional sales under sec. 77.54(7m), Wis. Stats. (1993-94)?

Answer 1: No. Since Nonprofit Organization A is charging admission to enter the fair and Nonprofit Organization A pays more than \$300 for the entertainment at the fair, the gross receipts from the admission to the fair do not qualify as exempt occasional sales under sec. 77.54(7m), Wis. Stats. (1993-94). The admissions to the fair are subject to Wisconsin sales tax under sec. 77.52(2)(a)2, Wis. Stats. (1993-94).

Facts and Question 2: Assume the same facts as in Facts and Question 1.

Are Nonprofit Organization B's gross receipts from the sale of soft drinks and popcorn at the fair exempt from Wisconsin sales tax as occasional sales under sec. 77.54(7m), Wis. Stats. (1993-94)?

Answer 2: Yes. The sales of soft drinks and popcorn by Nonprofit Organization B at the fair qualify as exempt occasional sales under sec. 77.54(7m), Wis. Stats. (1993-94) because:

1. The admission charge is to an event involving entertainment (for which payment exceeds \$300) which is conducted by Nonprofit Organization A, not Nonprofit Organization B,

2. Nonprofit Organization B is not "engaged in a trade or business" because its taxable gross receipts for the calendar year are \$15,000 or less, and

3. Nonprofit Organization B does not hold and is not required to hold a Wisconsin seller's permit.

Facts and Question 3: Assume the same facts as Facts and Question 1, except that Nonprofit Organization B receives 20% of the admission receipts to the fair and pays 20% of the cost for entertainment at the fair.

Are Nonprofit Organization B's gross receipts from the sale of soft drinks and popcorn at the fair exempt from Wisconsin sales tax as occasional sales under sec. 77.54(7m), Wis. Stats. (1993-94)?

Answer 3: No. The sales of soft drinks and popcorn by Nonprofit Organization B do not qualify as exempt occasional sales because they are sold at an event conducted by both Nonprofit Organization A and Nonprofit Organization B for which admission is charged and entertainment is provided at a cost exceeding \$300. Nonprofit Organization B is considered to be conducting the event with Nonprofit Organization A since it shares in the admission receipts from the event.

Facts and Question 4: Company A, a for-profit company, owns a basketball team franchise. Company A charges an admission to enter the arena and watch a basketball game on a Saturday. The basketball team is paid a salary, exceeding \$300, to play on Saturday.

Company A allows Nonprofit Organization B, a separate entity, to sell soft drinks and popcorn for consumption on the premises of the arena. Persons have access to Nonprofit Organization B's concession stand upon paying the admission to the arena.

For the calendar year in which this basketball game takes place, Nonprofit Organization B will have taxable receipts from sales of tangible personal property and services of \$15,000 or less. Nonprofit Organization B does not hold a seller's permit.

Are Nonprofit Organization B's gross receipts from the sale of soft drinks and popcorn at arena exempt from Wisconsin sales tax as occasional sales under sec. 77.54(7m), Wis. Stats. (1993-94)?

Answer 4: Yes. The sales of soft drinks and popcorn by Nonprofit Organization B at the arena qualify as exempt occasional sales because:

1. The admission charge is to an event involving entertainment (for which payment exceeds \$300) which is conducted by Company A, not Nonprofit Organization B,

2. Nonprofit Organization B is not "engaged in a trade or business" because its taxable gross receipts for the calendar year are \$15,000 or less, and

3. Nonprofit Organization B does not hold and is not required to hold a Wisconsin seller's permit.

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