

## ***Follow-up Sales and Use Tax Questions and Answers***

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**Question 1:** For an educational event such as Safety Day Camp (1 day) would the wording, "\$15 fee including registration, lunch and t-shirt" require that we pay sales tax on the \$15. There is no difference/reduction in price if someone does not want the t-shirt or the meal. Do we need to charge sales tax?

**Answer 1:** The charge for the Safety Day Camp which includes a t-shirt and lunch (but not lodging) is not subject to Wisconsin sales or use tax.

**Question 2:** My understanding is that frozen pizza sales (fundraiser) would be exempt. So, if our total annual sales of ALL items (cookbooks, candy bars, T-shirts, pizzas...) total \$80,000, but \$65,000 is in pizza sales, are we still under the \$25,000 standard? Or, do the pizza sales also count toward the standard?

**Answer 2:** The exempt pizza sales do not count towards the \$25,000 standard used to determine whether an organization qualifies for the occasional sale exemption. Only sales of otherwise taxable tangible personal property and taxable services are counted towards the \$25,000 standard.

**Question 3:** Do individual club fundraising activities also count toward the cumulative \$25,000? Would it be better for each club to hold its own exempt status rather than applying it to one county-wide exemption?

**Answer 3:** In order to determine whether sales made at fundraisers conducted by clubs or other organizations count towards the \$25,000 standard, a determination must be made whether the club is independent of the organization. This is determined by whether the club is subject to the control and supervision of the organization (that is, does the club control and direct its own funds?).

### Club is Part of the Organization

If a club is subject to the control and supervision of the organization, the club is not separate from the organization.

- ❖ The club's sales follow the tax treatment of the organization (that is, if the organization holds a seller's permit or is required to hold a seller's permit, the club's sales of taxable services are subject to tax).
- ❖ The club's purchases are exempt from sales tax.

Club is NOT Part of the Organization

Sales made by independent, nonprofit clubs which control their own funds and are not otherwise required to hold a seller's permit, may be exempt from sales tax if their sales qualify as occasional sales.

- ❖ The club *may not* use the organization's exempt status when making purchases.
- ❖ The club may qualify for a Certificate of Exempt Status (CES) number, which would allow the club to make purchases exempt from tax. The club must apply for its own CES number with the Department of Revenue.
- ❖ If the club is making sales of tangible personal property or taxable services, it may purchase such property and services *that it sells* without tax for resale, even if its sales qualify for the occasional sale exemption.
- ❖ If the club's sales do not qualify for the occasional sale exemption, its sales are subject to tax in the same manner as any other business. For example, its sales of tangible personal property would be subject to sales tax.

**Question 4:** Advertising and media space is exempt, so if we sold advertising for cookbooks, but gave the books away, would that eliminate the issue of sales tax on the books?

**Answer 4:** Yes. The sale of advertising is not subject to tax. If there is no charge for the cookbooks to recipients, there are no receipts that are subject to sales tax.

**Question 5:** (As mentioned on the Wisline) a county 4-H program collects a \$3 fee per youth fair exhibitor. The payment is made payable to the 4-H program, and 4-H then turns the money over to the fair association (who operates the fair), and who pays tax on this collection. (Is this taxable?)

Related to this question, another county collects the fee, but the check is written to the fair association, not 4-H. Does the tax status change depending upon who the check is written to?

**Answer 5:** This is not a taxable charge.

**Question 6:** Are camp fees taxable? A 4-H program collects a fee that (partially) covers the cost of educational program, lodging, food, and transportation to:

- ✓ Camp Upham Woods (4 days/3 nights summer camp at Wisconsin 4-H's camp "Upham Woods" facility)
- ✓ Camp Susan (2 days/1 night summer camp at Langlade County 4-H's "Camp Susan" facility).

- ✓ Teen Weekend (2 days/1 night winter weekend program at the Wisconsin Lion's Camp facility in Rosholt.

**Answers 6 and 7, combined after Question 7.**

**Question 7:** At the Fair, we sponsor what is called "Fair Camp". Youth exhibitors can stay at the UW-Marathon County Dorm during the fair. They also receive meals prepared by the UW-Marathon County food service. The 4-H program collects a fee (\$65, payable to Marathon County 4-H), and directly pays for the meals that are consumed by the participants. The Camp supervisors are employees of the Wisconsin Valley Fair, which pays the stipend, FICA, and files the Workman's comp. We reimburse the Fair for the cost of those employees. Are these "fair camp" fees taxable?

**Answers 6 and 7:** In each of the situations listed (Camp Upham Woods, Camp Susan, Teen Weekend, and Fair Camp), the charge for the meal(s) is subject to tax, unless the organization qualifies for the occasional sale exemption. If a single, combined charge is made for all the privileges extended by a camp, an allocation between taxable and exempt receipts must be made. Adequate records shall be maintained to enable the proper allocation; otherwise, the total charge shall be taxable. For purposes of allocating, the following shall apply: If there is no separate charge for meals, gross receipts from the sale of meals may be determined by adding 10% to the cost of the food and labor for food preparation to cover the overhead costs.

Please refer to sec. Tax 11.46, Wis. Adm. Code (December 1996 Register), for additional information about the tax treatment of charges by summer camps. This regulation can be accessed on the Internet at <http://nxt.legis.state.wi.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=Wl:Default&d=code&jd=tax%2011.46>.

**Question 8:** In addition to the meals served to the youth participating in Fair Camp, the meals that are provided for the "campers" can be purchased for consumption by 4-H Junior Fair Families (who are not staying in the dorm). In the past, they have paid \$6 per meal ticket or 5 for \$28. (This is slightly less than the actual cost of the meal.) The checks are written to Marathon County 4-H. 4-H pays UW-Marathon County for the actual cost of the meals that have been served. Are these meals taxable? We have not been charged tax by UW-MC because we are a tax exempt organization.

**Answer 8:** The sale of the meals to the non-campers is subject to Wisconsin sales tax, unless an exemption applies (e.g., occasional sale exemption).