

Wisconsin State Tax Reporter, Fact Sheet No. 2106-- Sales and use-- Taxability of persons and transactions-- Nonprofit organizations, private schools, and churches-- Occasional sale, Wisconsin, ¶401-751, Wisconsin Department of Revenue, (Oct. 7, 2013)

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¶401-751. Fact Sheet No. 2106, Wisconsin Department of Revenue, October 7, 2013.

Sales and use: Taxability of persons and transactions: Nonprofit organizations, private schools, and churches: Occasional sale.— A Wisconsin Department of Revenue fact sheet advises taxpayers that nonprofit organizations are not specifically exempt from sales and use tax. A nonprofit may be exempt if all of the following standards are met: (1) the nonprofit is not engaged in a trade or business; (2) entertainment is not involved at an event for which charges by the nonprofit constitute admissions; and (3) the nonprofit does not have and is not required to have a seller's permit. The fact sheet discusses how to determine when a nonprofit is not engaged in a trade or business and when entertainment is not involved at an event for which charges by the nonprofit constitute admissions. The fact sheet also provides guidance for nonprofits that would otherwise qualify for exempt occasional sales, except for the involvement of entertainment.

See ¶60-580.

Wisconsin Department of

Revenue

OCCASIONAL SALE EXEMPTION FOR NONPROFIT ORGANIZATIONS

Fact Sheet 2106

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Nonprofit organizations are often referred to as tax exempt because they are generally exempt from federal and state income tax. However, a **nonprofit organization is not specifically exempt from sales or use taxes**. This fact sheet summarizes the Occasional Sales Exemption, detailing when a nonprofit organization's sales may be exempt.

See *Publication 206, Sales Tax Exemptions for Nonprofit Organizations*, for additional information about the occasional sale exemption, including examples.

A nonprofit organization's sales may be exempt from sales tax if ALL of the following standards are met:

Standard 1: The nonprofit organization is not engaged in a “trade or business.” The nonprofit organization is not engaged in a “trade or business” if either one of the following is met:

- # Its sales of otherwise taxable products occur on 20 days or less during the calendar year.*
- # Its sales of otherwise taxable products are \$25,000 or less per calendar year.

* For events involving the sales of tickets, only the actual days of the events are counted towards the 20 day standard, not the days of ticket sales. For sales of tangible personal property, the day that the sale occurs is determined by when the purchaser receives the property, not when an order for the property is placed.

Bingo receipts are included when counting towards the 20-day and \$25,000 standards. See *Publication 206, Sales Tax Exemptions for Nonprofit Organizations*, for additional information about a nonprofit organization's bingo sales.

If the nonprofit organization does not reasonably anticipate that it will exceed both the \$25,000 standard and 20-day standard, but both standards are exceeded, only the sales occurring after the standards are exceeded are subject to sales tax.

Standard 2: *Entertainment is not involved at an event for which charges by the nonprofit organization constitute admissions.*

Entertainment is not involved (at an event for which an admission is charged by the nonprofit organization) if the total amount that ALL entertainers are paid is \$500 or less, including amounts for entertaining, reimbursement of expenses, and prize money.

Note: For purposes of *Standard 2*, mandatory or suggested donations in order to enter an event are considered charges for admissions.

Standard 3: *The nonprofit organization does not have and is not required to have a seller's permit.*

A nonprofit organization that would otherwise qualify for exempt occasional sales, except for the involvement of entertainment, may do the following:

- Obtain a seller's permit from the department for the day or days of the event involving entertainment,
- Pay the sales tax on sales of tangible personal property and taxable services on these days, and
- Request inactivation of the seller's permit after the event by contacting the department.

If the above three steps have been taken, the nonprofit organization may still make exempt occasional sales on days not covered by the permit.

Days and sales from events involving admissions to entertainment for which a seller's permit was obtained **are** included with all other sales for purposes of the 20-day test and the \$25,000 taxable sales test in *Standard 1*.

Caution: A nonprofit organization that obtains a seller's permit for an event and does not request inactivation of the seller's permit after the event **does not** qualify for the occasional sale exemption on its sales of taxable products and services after the event, regardless of the number of days and dollar amount of its sales.

QUESTIONS?

If you are unable to find an answer to your question about sales and use taxes, email, write, or call the department.

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