

Sales Tax Exemptions for Nonprofit Organizations

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IMPORTANT CHANGES

- **Updates for Streamlined Sales Tax.** The Wisconsin Legislature has passed the legislation necessary to conform Wisconsin's sales and use tax laws to the requirements of the Streamlined Sales and Use Tax Agreement as part of 2009 Wisconsin Acts 2 and 28. The conforming legislation, known as the Main Street Equity Act, became effective in Wisconsin on October 1, 2009. Changes include:
 - **What is subject to tax?** The tax treatment of tangible personal property, items, property, goods, and taxable services is explained. Part III.A. to D. on pages 1 and 2.
 - **“Gross receipts” replaced with “sales price.”** Sales tax is imposed on a seller's taxable “sales price” rather than “gross receipts.” Part IV.A. on pages 2 and 3.
- **Youth Sports Exemption.** An exemption was created for certain admissions sold by a nonprofit organization to participate in any sports activity in which more than 50% of the participants are 19 years old or younger (effective July 1, 2009). Part III., Note on page 2 and Part VII.A., Exception in *Example 1* on pages 7 and 8.
- **Standards that are Exceeded.** A note and example were added to explain which sales are subject to tax when the occasional sale exemption standards are first exceeded. Note and example in Part IV.A. following *Example 3* on page 3.
- **Sales by a Third Party at an Admission Event Where Entertainment is Provided.** An example has been added to illustrate that sales by a nonprofit organization may still qualify for the occasional sale exemption, even though another party charges a fee for admission to the event and pays more than \$500 for entertainment at the event. Part IV.B., *Example 5* on pages 4 and 5.
- **Purchases by Out-of-State Nonprofit Organizations.** Information added to address

purchases by an out-of-state nonprofit organization. Exception 2 in Part VI. on page 7.

- **Other Sales by Nonprofit Organizations.** A new section was added to explain the tax treatment of certain fundraising sales by nonprofit organizations. Part VII. on pages 7 through 9.

I. INTRODUCTION

A nonprofit organization is required to charge Wisconsin sales tax on sales of taxable products, unless such sales are exempt occasional sales or are otherwise exempt. (See Part III., “What is Subject to Tax?”) This publication explains the standards for determining whether sales by nonprofit organizations qualify for the occasional sales exemption. This publication also explains, in Part VI., whether purchases by nonprofit organizations are exempt.

II. WHAT IS A NONPROFIT ORGANIZATION?

A nonprofit organization includes a neighborhood association, church, civic group, garden club, social club, or similar organization not organized for profit where no part of the net earnings inures to the benefit of any private shareholder or individual.

For purposes of the occasional sale exemption, a governmental unit is considered a nonprofit organization.

III. WHAT IS SUBJECT TO TAX?

Sales, licenses, leases, and rentals of the following property, items, and goods are subject to Wisconsin sales tax:

- A. Tangible personal property;
- B. Coins or stamps of the United States that are sold, licensed, leased, rented, or traded as collector's items above their face value;
- C. Leased tangible personal property that is affixed to real property, if the lessor has the right to remove the leased property upon breach or termination of

the lease agreement, unless the lessor of the leased property is also the lessor of the real property to which the leased property is affixed.

D. Specified digital goods, additional digital goods, and digital codes. These digital goods are characterized by the fact that they are transferred electronically to the purchaser (i.e., accessed or obtained by the purchaser by means other than tangible storage media). Specified digital goods” means “digital audio works,” “digital audiovisual works,” and “digital books.” “Additional digital goods” means greeting cards, finished artwork, periodicals, video or electronic games, and newspapers or other news or information products. See [Publication 240](#), *Digital Goods*, for additional information about.

Certain services (e.g., parking, certain lodging, and admissions to amusement, athletic, entertainment, or recreational events) are also subject to sales tax.

Note: Effective July 1, 2009, there is an exemption from sales tax for a nonprofit organization’s sales of admissions to participate in any sports activity in which more than 50% of the participants are 19 years old or younger (e.g., participation fees paid to a nonprofit organization to play in a youth soccer league).

For more information about which products are taxable, including a complete list of taxable services, see Part X. of [Publication 201](#), *Wisconsin Sales and Use Tax Information*.

IV. STANDARDS FOR THE OCCASIONAL SALE EXEMPTION

All of the three standards listed below must be met by a nonprofit organization for its sales to qualify as exempt occasional sales:

Standard 1: The organization is not engaged in a “trade or business.”

Standard 2: Entertainment is not involved at an event for which charges by the organization constitute admissions, except as noted in Part IV.B.3.

Standard 3: The organization does not have and is not required to have a seller’s permit, except as noted in Part IV.C.1. to 3.

A more detailed explanation of each standard follows:

A. **Standard 1: The organization is not engaged in a “trade or business.”**

Two standards are used to determine whether a nonprofit organization is engaged in a “trade or business”: (a) a 20-day standard, and (b) a \$25,000 receipts standard. Both of the standards must be exceeded before a nonprofit organization is considered to be engaged in a trade or business.

A nonprofit organization is **not** considered to be engaged in a “trade or business” if:

1. Its sales of otherwise taxable tangible personal property; items, property, and goods described in Part III.B. to D.; and taxable services and its events occur on 20 days or less during the calendar year, regardless of the dollar amount of sales. For events involving the sales of tickets, only the actual days of the events are counted, not the days of ticket sales, **or**

Example: Boy Scout Troop takes orders for Christmas wreaths from October 1 through November 1. The wreaths are delivered by the Troop on December 15 and 16. For purposes of determining whether its events meet the 20-day test, Boy Scout Troop should use the days of delivery, rather than days orders are taken.

2. Its “receipts” for the calendar year are \$25,000 or less, regardless of the number of days on which its sales or events occur. (For this purpose, “receipts” means the sales price* from all sales in Wisconsin of otherwise taxable products after subtracting allowable exemptions.)

*Sales tax is imposed on a seller’s taxable “sales price” rather than “gross receipts,” effective October 1, 2009.

Example 1: Church B sells fresh vegetables (that are not prepared food) that are grown by church members in their gardens. Since the sale of the fresh vegetables is exempt from sales tax, Church B’s sale of these items is not counted as receipts for purposes of the \$25,000 receipts test.

Example 2: Nonprofit Organization C, which sells hundreds of Christmas trees, sells five Christmas trees for \$100 to a Wisconsin public school. Although Christmas trees are taxable tangible personal property, a Wisconsin public school may purchase tangible personal property exempt from sales tax. As a result, this \$100 exempt sale to the school is not counted as receipts for purposes of the \$25,000 receipts test.

Example 3: Nonprofit Organization D sells 1,000 raffle tickets at \$5 each for a total of \$5,000. Since the sale of raffle tickets is not subject to sales tax, the \$5,000 that Nonprofit Organization D receives from its sale of raffle tickets is not counted as receipts for purposes of the \$25,000 receipts test.

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

Example: Church A holds sales on 23 days every year, in which its total sales of otherwise taxable products have continually increased from \$10,000 to \$20,000 each year. No entertainment is involved. Church A's sales have never exceeded \$25,000 and it did not anticipate its sales to exceed \$25,000. Therefore, Church A does not hold a seller's permit. In 2011, Church A's total sales of otherwise taxable products exceeded the \$25,000 standard on its 22nd day of sales. Its total amount of otherwise taxable products for the entire 23 days was \$27,000. Only the sales after Church A exceeded both the 20-day standard and the \$25,000 standard are subject to tax (i.e., the first \$25,000 of otherwise taxable sales are not taxable, but the \$2,000 in taxable sales that occurred after both the 20-day standard and the \$25,000 standard were exceeded are taxable). Church A has no reason to believe that this increasing sales trend will not continue. Since Church A's sales have continually been increasing and its sales have now exceeded the standards for the occasional sale exemption, Church A should continue to hold its seller's permit for future years. In 2012 and subsequent years, all of Church A's sales of taxable prod-

ucts are subject to tax. See Part V.B. for more information about changes in activities.

B. Standard 2: Entertainment is not involved at an event for which charges constitute admissions.

1. Entertainment defined

For this purpose, "entertainment" means entertainment provided at an "admission" event by all persons or groups (e.g., band or singers) who are paid in the aggregate more than \$500 per event by all persons for performing, for reimbursement of expenses, or prize money. See Part IV.B.2. for the definition of "admissions."

Example 1: Four different bands are paid \$200 each to perform at various times during a 3-day event. There is an admission charge for access to the event. Since the total payment for entertainment (\$800) exceeds \$500, entertainment is deemed to be involved. As a result, receipts from the event are taxable.

Example 2: Two nonprofit organizations co-sponsor an admission event at which a band is hired to perform. Each organization pays the band \$300. Since the total payment for entertainment (\$600) exceeds \$500, entertainment is deemed to be involved. As a result, receipts from the event are taxable.

Example 3: Nonprofit Organization E holds an admission event in which a celebrity is paid \$800 to appear. Nonprofit Organization E does not pay the celebrity. Sponsor F pays the \$800 fee to the celebrity on behalf of Nonprofit Organization E. Since the total payment for entertainment (\$800) by all persons exceeds \$500, entertainment is deemed to be involved. As a result, receipts from the event are taxable.

2. Admissions defined

For purposes of Standard 2, "admissions" are involved if access to the event involving entertainment is generally restricted to only those who pay a required fee, make a "required donation*," or who must make a purchase of some kind (e.g., meal or raffle ticket).

* A donation is considered a “required donation” unless the payment is totally voluntary and no restriction whatsoever is placed on the entrance of persons not making a donation. To be considered a true donation, it must be obvious that admittance is not restricted to those making a donation. A set amount for the donation indicates that the charge is not a donation, but that the payment is required.

Note: Admissions to amusement, athletic, entertainment, or recreational events or places where entertainment is provided are subject to tax. Admissions to events that are primarily educational in nature are not taxable, even though some entertainment may be provided. Sales of tangible personal property; items, property, and goods described in Part III.B. to D.; and taxable services at an admission event where entertainment is provided, whether for amusement, athletic, entertainment, recreational, or educational purposes, are subject to tax. See *Example 4* below.

Example 1 – Entertainment Involved; Admission Restricted to Those Purchasing a Meal: Nonprofit Organization F sponsors a dinner and dance in the high school gymnasium. The dance band is paid \$750. There is no separate admission charge; however, access to the dance is restricted to those who have purchased the meal. The “meal” charge constitutes an admission charge to an event involving entertainment; therefore, sales of tangible personal property; items, property, and goods described in Part III.B. to D.; and taxable services by Nonprofit Organization F at this event are taxable.

Example 2 – Entertainment Involved; No Admission Charge: Nonprofit Organization G holds a pig roast at the city park and pays a band \$600 to play at the park gazebo, so that patrons, if they so wish, can be entertained while they eat. There is no admission charge and access to the band is open to anyone, whether they purchase the meal or not. Sales of tangible personal property; items, property, and goods described in Part III.B. to D.; and taxable services by Nonprofit Organization G may still qualify as exempt occasional sales.

Example 3 – Entertainment Involved; Suggested Donation Posted: Nonprofit Organization H holds a carnival at the high school football stadium. A carnival company is paid \$1,000 to operate rides and games. Upon entrance to the stadium, a sign is posted that states “Suggested Donation \$10.” The \$10 “suggested donation” is considered to be a required payment, since it sets the amount of the payment by the attendee. The “donation” constitutes an admission charge to an event involving entertainment. Therefore, sales of the admission (i.e., the \$10 “suggested donation”); tangible personal property; items, property, and goods described in Part III.B. to D.; and other taxable services by Nonprofit Organization H at this event are taxable.

If an attendee chooses to pay a higher amount for admission (i.e., more than the \$10 suggested donation), the amount over the \$10 suggested donation is considered a donation that is not subject to sales tax.

Example 4 – Entertainment Involved; Admission Not Taxable: Nonprofit Organization I holds an educational seminar to train counselors in crisis prevention. Each participant pays a fee to attend. Nonprofit Organization I hires a musical group for \$650 to play during a 30-minute intermission between speakers. The admissions to the educational seminar are not subject to Wisconsin sales and use tax because the event is not an amusement, recreational, entertainment, or athletic event.

However sales of taxable food and beverages, T-shirts, books, tapes, and any other taxable products, including taxable services (e.g., parking for motor vehicles), at the seminar are taxable.

Example 5 – Entertainment Involved; Admission Charged; Sales by a Third-Party: Nonprofit Organization J holds a fair. Nonprofit Organization J charges an admission to the fair. Upon admission to the fair, a person may view animal and product exhibits, attend animal shows, and enjoy various musical and comedy performances. Nonprofit Organization J paid a total of \$1,000 to persons providing musical and comedy performances.

Nonprofit Organization J allows Nonprofit Organization K, a separate entity, to set up a booth at the fair to sell drinks and popcorn. Persons will only have access to Nonprofit Organization K's booth upon paying the admission to the fair. Nonprofit Organization K does not receive any of the admission receipts from the fair and does not pay any amount for the entertainment provided at the fair.

Nonprofit Organization K's sales of drinks and popcorn may still qualify for the occasional sale exemption if Standards 1 and 2 described in Part IV.A. are not both exceeded. The admission charge is to an event involving entertainment which is conducted by Nonprofit Organization J, **not** Nonprofit Organization K.

3. Exception

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 of Revenue 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 of Revenue. (See Part VIII.)

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

Note: Days and receipts from events involving admissions to entertainment for which a seller's permit was obtained **are** included with all other sales in determining the 20-day test and the \$25,000 taxable receipts 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 sales of tangible personal property; items, property, and goods described in

Part III.B. to D.; and taxable services subsequent to the event, regardless of the number of days and dollar amount of its sales.

Example: For the year 2011, Nonprofit Organization J plans five events covering three days each (total of 15 days). Entertainment will be involved at one event only. Sales by Nonprofit Organization J would qualify as exempt occasional sales, except for the involvement of entertainment at the one event. Nonprofit Organization J should obtain a seller's permit for the one event involving entertainment (3 days) and inactivate the seller's permit immediately after the event. Its sales at the other four events qualify as exempt occasional sales.

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

A nonprofit organization is not required to hold a seller's permit if its sales are exempt from sales and use tax (that is, it meets Standards 1 and 2).

A nonprofit organization qualifies for the occasional sales exemption on nonbingo sales, even though it holds a seller's permit, if it otherwise meets Standards 1 and 2, and the nonprofit organization meets one of the following:

1. It is required to hold a seller's permit solely for the purpose of conducting bingo games.
2. It obtains a seller's permit solely for an admission event involving entertainment, if the seller's permit is inactivated immediately after the event. (See Part IV.B.3. for additional information.)
3. It holds a seller's permit solely for the purpose of conducting bingo games and making taxable sales at an admission event involving entertainment.

Note: A nonprofit organization's bingo receipts **are not** included with all other sales in determining the 20-day test and the \$25,000 taxable receipts test in Standard 1.

Example: Nonprofit Organization K has receipts of \$30,000 per year from bingo sales. It holds a seller's permit solely for conducting bingo games.

Nonprofit Organization K's only other sales throughout each year are \$5,000 of food and soda sales at a concession stand. Nonprofit Organization K held no admission event involving entertainment. Nonprofit Organization K's sales of food and soda qualify for the occasional sale exemption, because its taxable sales, except bingo, are \$25,000 or less. The \$30,000 of bingo receipts are not included in determining the \$25,000 taxable receipts test in Standard 1.

V. SELLER'S PERMIT INFORMATION

A. General

If a nonprofit organization makes sales of tangible personal property; items, property, and goods described in Part III.B. to D.; or taxable services that do **not** qualify as exempt occasional sales, the nonprofit organization is required to obtain a seller's permit and pay sales tax on its taxable sales.

A nonprofit organization may apply for a seller's permit using one of the following methods:

- Use the Department of Revenue's online [Business Tax Registration](#) function and submit the application electronically.
- Complete [Form BTR-101](#), *Application for Business Tax Registration*, and mail it to the Department of Revenue. Keep a copy of the completed application for your records.

B. Change in Activities

1. If a nonprofit organization holds a seller's permit in the current year but intends and believes "in good faith" that its activities in the following year will qualify as exempt occasional sales, except for its holding of a seller's permit, it may request inactivation of its seller's permit and have its sales in the following year qualify as exempt occasional sales.

The requested inactivation of its seller's permit must be made "in good faith." The answers to two questions will help in the examination of good faith: (1) what did the organization do in the current calendar year, and (2) what does it expect to do differently in the following year and why?

Example: Nonprofit Organization L has held seven 3-day events for a total of 21 days each year for the past five years. Receipts were always over \$30,000, and there were no admissions to professional entertainment. One event has lost money for the past two years. Nonprofit Organization L intends to discontinue that event for the year 2012 and anticipates coming under the 20-day standard. It may request inactivation of its seller's permit in good faith.

2. If a nonprofit organization requested inactivation of its seller's permit in good faith but later, due to unforeseen circumstances, exceeds the standards, only the sales occurring after the standards are exceeded are subject to sales tax.

Example: Church M held 18 days of events or sales in 2011 (receipts equaled \$30,000 and no entertainment was involved). It expects to hold the same 18 days of events in 2012. Church M requested inactivation of its seller's permit effective December 31, 2011; however, in mid-2012, Church M's garage is destroyed by fire. An additional 4-day event is held to raise funds to help replace the garage. After 20 days of sales in 2012, Church M's receipts from otherwise taxable sales are \$35,000. Only the receipts from days 21 and 22 (the days exceeding the standard) are subject to sales tax.

3. If a nonprofit organization holds a seller's permit and then requests inactivation of its seller's permit, any sales made **before** requesting inactivation of its seller's permit do not qualify as exempt occasional sales, even if all of the other standards for the occasional sale exemption are met.

Example: Nonprofit Organization N holds 15 days of sales in 2011. Nonprofit Organization N holds a seller's permit and files and pays sales tax on its sales of tangible personal property; items, property, and goods described in Part III.B. and D., and taxable services. At the end of 2011, the organization realizes that its sales would have qualified as exempt occasional sales except for its holding of a seller's permit. Nonprofit Organization N may not claim a refund of taxes paid while it held a seller's permit.

VI. PURCHASES OF ITEMS BY A NONPROFIT ORGANIZATION

Nonprofit organizations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, are exempt from Wisconsin sales and use tax on all purchases of tangible personal property or taxable services. Such organizations must apply on [Form S-103](#), *Application for Wisconsin Sales and Use Tax Certificate of Exempt Status*, with the Department of Revenue for a Certificate of Exempt Status (CES), and, if approved, will be issued a CES number by the department. (See *Exceptions*, below.) An organization should provide its CES number to sellers when making purchases, and may [Form S-211](#), *Wisconsin Sales and Use Tax Exemption Certificate*, or Form [S-211-SST](#), *Streamlined Sales and Use Tax Exemption Certificate*, when claiming exemption. See [Publication 201](#), *Wisconsin Sales and Use Tax Information*, Part XI.D., for additional information.

Exceptions: (1) Federal governmental units and Wisconsin state and municipal governmental units are not required to obtain a CES number. See Part XI.D.2. and 5. of [Publication 201](#), *Wisconsin Sales and Use Tax Information*, for additional information about sales to governmental units.

(2) An out-of-state organization that is organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, qualifies for exemption on its purchases to the same extent that a Wisconsin organization would qualify. The out-of-state organization does not need a Wisconsin CES number; however, it must provide the seller with a fully completed exemption certificate ([Form S-211](#) or [Form S-211-SST](#)) indicating that it qualifies for exemption under [sec. 77.54\(9a\)\(f\)](#), Wis. Stats.

Other nonprofit organizations are subject to Wisconsin sales or use tax on their purchases of tangible personal property; items, property, and goods described in Part III.B. and D., or taxable services, unless some other exemption applies (for example, resale). Tangible personal property; items, property, and goods described in Part III.B. and D., or taxable services that will be resold by a nonprofit organization may be purchased without Wisconsin sales or use tax, assuming the nonprofit organization makes no use of the product other than retention, demonstration, or display while holding it for

sale. The products may be purchased without tax even if the nonprofit organization's sale of the products qualifies as an exempt occasional sale. The nonprofit organization should provide the seller with a properly completed exemption certificate indicating resale.

Example: Nonprofit Civic Organization N sells cans of soft drinks at parades. The sales of the soft drinks are not subject to Wisconsin sales or use tax, because they are exempt occasional sales. Nonprofit Civic Organization N does not hold a Certificate of Exempt Status issued by the Department of Revenue. Since the soft drinks are resold by Nonprofit Civic Organization N, the nonprofit organization may purchase the soft drinks without Wisconsin sales or use tax by providing the soft drink supplier with a fully completed exemption certificate ([Form S-211](#) or [Form S-211-SST](#)) indicating resale. In the space for the seller's permit number, Nonprofit Civic Organization N should state that it is not required to hold a seller's permit because all of its sales are exempt.

VII. FUNDRAISERS AND OTHER SALES BY NONPROFIT ORGANIZATIONS

The sales and use tax treatment of some common types of fundraisers conducted by nonprofit organizations is provided below. **Note:** The occasional sale exemption may still apply to the nonprofit organization's sales at the fundraisers. The tax treatment provided below does not address whether this exemption applies.

A. Entries to Runs, Walks, and Races (and Other Participation Events)

Entry fees to runs, walks, races, and other customer participation events (e.g., golfing, dancing, card playing) are subject to tax. Tax is imposed on admissions to amusement, athletic, entertainment or recreational events or places. Admissions includes the furnishing for dues, fees, or other consideration, the privilege of access to clubs or the privilege of having access to or the use of amusement, entertainment, athletic, or recreational devices or facilities.

Admissions to events that are not amusement, athletic, entertainment or recreational in nature are not taxable as admissions. **CAUTION:** Although a charge is not taxable as an admission charge, it may be taxable for some other reason. For example, a \$5

charge that permits a person to park their car for an event is subject to tax as a service.

Example 1: Nonprofit Organization A holds a 5K run to raise money. Each entrant is required to pay \$50 to participate. The \$50 may be paid by the runner or may be donated by a third party on behalf of the runner. The mandatory \$50 participation fee is a taxable admission.

Exception: Admissions sold by a nonprofit organization to participate in any sports activity in which more than 50% of the participants are 19 years old or younger are not taxable admissions.

Example 2: Nonprofit Organization B holds a religious revival. Each attendee is required to pay \$50 to be admitted. Since the religious revival is not amusement, athletic, entertainment or recreational in nature, the mandatory \$50 admittance fee is not a taxable admission.

The tax treatment of participation fees is further explained in the tax release titled "[Entry Fees for Runs and Races](#)," which was published on page 22 of *Wisconsin Tax Bulletin* #74 (October 1991).

B. Silent Auctions – Sales of Gift Certificates and Other Products

Sales at silent auctions of tangible personal property; items, property, and goods described in Part III.B to D.; and taxable services are subject to tax. It does not matter whether the product that is auctioned off was donated to or purchased by the nonprofit organization.

The sale of a gift certificate or gift card (i.e., certificate or card that indicates a certain amount that the bearer can use as cash), however, is not subject to Wisconsin sales or use tax. When the gift certificate is redeemed, the applicable sales tax will be computed by the retailer at the time of redemption.

If the certificate is redeemable for a specific item, rather than being a certificate that can be used as cash, the sale of the certificate is considered the sale of the specific item and is subject to Wisconsin sales or use tax. The certificate merely represents a receipt showing that the item has been paid for.

Example 1: Nonprofit Organization C auctions off a \$20 gift certificate that can be redeemed at Pizza Place X. Individual D purchases the gift certificate for \$22. Nonprofit Organization C's sale of the gift certificate to Individual D is not subject to tax. Individual D may use the gift certificate **in lieu of** cash at Pizza Place X. Individual D redeems the gift certificate with Pizza Place X for a large pizza (prepared and sold in a heated condition) with a selling price of \$22.00. The taxable amount of Pizza Place X's sale to Individual D is \$22.00. The law allows Pizza Place X to collect the tax from Individual D on its \$22.00 sale to Individual D.

Example 2: Nonprofit Organization E auctions off a certificate that can be redeemed at Pizza Place X for one large pizza prepared and sold in a heated condition. Individual D purchases the gift certificate for \$22. The regular retail selling price of the pizza is \$20. Individual F may only redeem the gift certificate for a large pizza at Pizza Place X (i.e., Individual F may not use the certificate in lieu of cash at Pizza Place X). Nonprofit Organization E's sale of the pizza to Individual B is subject to tax. The taxable amount of Nonprofit Organization E's sale to Individual F is \$22.00. No additional sales or use tax liability is incurred when Individual F redeems the certificate with Pizza Place X for the large pizza.

C. Sales that Bear Little or No Relation to the Value Received

When a charge by a nonprofit organization for a product bears little or no relation to the actual value that the purchaser is receiving, the tax may be based on the reasonable value of the tangible personal property; item, property, or good described in Part III.B. to D.; or taxable service received.

The burden of determining and showing that the amount charged for an item "bears little or no relationship to the actual value received" is on the nonprofit organization that is making the sale. In order to do so, the nonprofit organization must be able to (1) reasonably determine what the actual value received by the buyer is, and (2) document and reasonably determine that the charge bears little or no relationship to the actual value that the buyer received. The nonprofit organization's cost (or a donor's cost) of the product may not be the "actual value received."

Example 1: Nonprofit Organization G is holding a fundraising dinner at Restaurant Y. The cost to attend the dinner is \$150 for a steak dinner. Persons purchasing the dinner from Nonprofit Organization G only receive the steak dinner (i.e., no other products or services are provided to the purchasers). Restaurant Y's regular menu has the same steak dinner listed for \$35, but Restaurant Y is selling each steak dinner to Nonprofit Organization G for \$20. Since Nonprofit Organization G can (1) reasonably determine what the actual value is (i.e., \$35), and (2) can document and reasonably determine that the charge (i.e., \$150) bears little or no relationship to the actual value that the buyer receives (i.e., \$35), Nonprofit Organization G may base the tax on the actual value received (i.e., \$35).

Example 2: Nonprofit Organization H is holding a silent auction. The items being auctioned off are donated to Nonprofit Organization H. Individual J is a season ticket holder for the local professional hockey team and donates two tickets to the team's final game of the season for which he paid \$25 per ticket. The hockey team is doing well and other tickets for this sold-out game are being sold for \$100-\$200 per ticket. The tickets are sold at the silent auction for a total of \$300. The tax is based on Nonprofit Organization's sales price of the tickets (\$300). Nonprofit Organization H may not base the tax on the donor's purchase price of the tickets, since Nonprofit Organization H cannot show that the charge bears little or no relationship to the actual value that the buyer received.

VIII. IF YOU HAVE QUESTIONS OR NEED ASSISTANCE

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

Visit our web site www.revenue.wi.gov

E-Mail.....DORSalesBusinessTaxandWithholding@wisconsin.gov

Write Wisconsin Department of Revenue
P.O. Box 8949, Mail Stop 5-77
Madison, WI 53708-8949

Telephone(608) 266-2776

Fax(608) 267-1030

You may also contact any of the Department of Revenue offices. For a listing of offices and their current hours, please see the department's web site at www.revenue.wi.gov/faqs/ise/address.html.