



STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
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NEW JERSEY SALES AND USE TAX EXEMPT ORGANIZATIONS

The following are descriptions of rules that affect exempt organization sales and purchases.

Certain Sales by Exempt Organizations

Any sale, amusement charge, use or occupancy by an exempt organization, in the course of a trade or business in substantial competition with privately operated nonexempt business entities, is not directly related to the purposes of the exempt organization. Such an organization shall, in the conduct of the trade or business, pay and collect sales and use taxes in the same manner required of a privately operated nonexempt business.

1. An exempt organization is considered to be engaged in a trade or business in substantial competition with privately operated nonexempt business entities to the extent sales are made as follows:

- i. From a shop or store operated by such organization;
- ii. By mail, telephone, or facsimile orders accepted by such organization on a regular, continuous or long term basis; or
- iii. By or through a nonexempt business entity on behalf of or under an agreement with such organization.

2. An exempt organization is not considered to be engaged in a trade or business in substantial competition with privately operated nonexempt business entities to the extent sales are made by such organizations through fundraising events or activities which are of relatively short duration, and are not held on a regular basis during a calendar year; provided, however, that all proceeds inure to the benefit of the exempt organization. Nothing in this paragraph shall be construed as exempting sales that are subject to sales and use taxes under 1. above

Example 1: The operation of a booth selling sandwiches and soft drinks at a state fair for two weeks a year is an activity of relatively short duration and that is not held on a regular basis during the calendar year. The exempt organization is not required to collect sales tax on the sandwiches and soft drinks.

Example 2: The operation of a coffee shop one day a week throughout the year is an activity that is conducted on a regular basis. The exempt organization must collect sales tax on the coffee shop sales.

3. A shop or store as used in 1. i above includes any place or establishment from which goods are sold with a degree of regularity, frequency and continuity.

Certain Purchases By Exempt Organizations

Receipts from the sale to exempt organizations of food and drink in or by restaurants, taverns or other establishments in this State, or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers, and rental of rooms to exempt organizations in a hotel shall be treated in the following manner:

1. Whenever there is such a sale of food or drink, the vendor shall charge and collect the sales tax thereon unless an organization furnishes the vendor with a valid properly executed exempt organization certificate (Form ST-5) which has the name, address and registration number of the exempt organization imprinted on the certificate by the Division of Taxation along with the signature of the director;

2. Whenever there is a room occupancy, the hotel shall charge and collect the sales tax thereon unless an organization furnishes the vendor with a valid properly executed exempt organization certificate (Form ST-5) which has the name, address and registration number of the exempt organization imprinted on the certificate by the Division of Taxation along with the signature of the director;

3. In all cases, the exempt organization must pay the bill with organizational funds and the organization must be a valid exempt organization as of the date of the transaction;

4. Any exempt organization which has paid the sales tax in accordance with the foregoing procedure, may apply to the New Jersey Division of Taxation for a refund of the tax if all the charges on which the tax was calculated were paid by the organization using organization funds.