

§1100 SALES TAX COLLECTION AND REMITTANCE

Parishes are engaged in various activities where products such as candy, T-shirts, athletic uniforms, books, etc. are sold throughout the year. In many instances the sale of products such as these are subject to sales tax and as a result must be collected and remitted to the Illinois Department of Revenue.

1101.1. Policy The Archdiocese of Chicago shall comply with Illinois Administrative Code Section 130.2005, which mandates that charitable, religious, and educational organizations shall incur retailer's Occupation Tax liability (sales tax) when the organization engages in selling tangible personal property at retail except in:

- (1)** Sales made to members,
- (2)** Non-competitive sales, and
- (3)** Occasional dinners and similar activities

Procedures

a) Sales Made to Members

- 1)** Examples of sales that come under this exemption are sales of uniforms, insignia, and scouting equipment by scouting members. Sales of bibles by a church to its members and sales of choir robes by a church to the members of the church's choir also fall under this exemption. However, if the selling organization is engaged in selling any of these items at retail to the public, then sales tax would be required to be collected.
- 2)** The selling of school books and school supplies by schools at retail to students are not deemed to be "primary for the purpose of the school" which does the selling. As a result schools would incur sales tax when they engage in selling school books or school supplies at retail to their students or to others. Book fees that in-fact represent the rental of books are not subject to sales tax.

b) Non-Competitive Sales

- 1)** Sales that can be said as to not being competitive with business establishments would not be subject to sales tax.
- 2)** The Attorney General has laid down the following tests to determine whether such selling is non-competitive:
 - A)** The transactions are conducted by members and not by any franchisee or licensee.
 - B)** All the proceeds go to the charitable, religious or educational organization.

- C) The transaction is not a continuing one, but rather held either annually or a reasonable small number of times within a year.
 - D) The reasonably ascertainable dominant motive of the exchange or sale was that of making a charitable contribution.
 - E) The nature of the particular item being sold. For example - The sale of candy as opposed to the sale of refrigerators.
- 3) Examples of exempt sales are the infrequent sales of cookies, donuts, candy, calendars, Christmas trees, etc. by various charitable, religious, and educational organizations.
 - 4) Even if the sale to the public occurs only once a year, if it can be determined that the purpose of this sale was not for the making of a donation, but rather for the selling of property, sales tax would be required to be withheld. The dominant motive must be that the intent of the individual was to make a donation, not to acquire the property.
- c) Occasional Dinners and Similar Activities
- 1) This exception extends to occasional dinners, ice cream socials, fun fairs, carnivals, rummage sales, bazaars, bake sales etc. which are conducted exclusively by charitable, religious, or educational organizations.
 - 2) For purposes of this exception, "occasional" means not more than twice in any given one year period. Charitable or religious organizations do incur sales tax liability on the retail selling which they do in the course of operating gift shops and resale rummage stores.
 - 3) Regarding the sale of meals, charitable, religious and educational organizations would incur sales tax liability on the receipts from sales of meals to the public, unless such selling is done only occasionally, that is not more than twice in any one year period.
 - A) However, the organization does not incur sales tax liability on its receipt from the sale of meals, if the following conditions are met:
 - i) The profits, if any, are used for charitable, religious or educational purposes.
 - ii) The meals are confined to the members of the organization and their guests and are not open to the public.
 - iii) The serving of the meals is connected to some organizational function.
 - B) Under the circumstances just described, even if this type of selling of meals is done rather frequently, it is still exempt from sales tax because it falls into the category of sales to members "primarily for the purposes of a charitable, religious, or educational organization."

- 4) Sales by schools incur some special problems and are identified as follows:
- A) A school does not incur sales tax on its operation of a cafeteria or other dining facility which is conducted on the schools premises and which is confined to selling to the students and employees of the school. If however, the dining facilities are opened up for use to people other than students or employees of the school, then those sales would be subject to sales tax.
 - B) As indicated previously, a school does incur sales tax liability when selling school books and school supplies to its students, however, schools are not taxable on the sale of school “year books” because these are considered to be non competitive items.
 - C) Schools do incur sales tax liability when they sell sweaters, sweatshirts, gym shoes, jackets and other items of clothing to students and others for use.
 - D) Schools do incur sales tax liability when they sell soft drinks, candy, peanuts, popcorn, chewing gum, etc. to students or members of the public for use or consumption, where these items are sold at a school book store through vending machines or otherwise than in a restricted school cafeteria as part of the selection which the student has in buying meals. However, the proceeds from the sale of tangible personal property by school sponsored student organizations affiliated with a elementary or secondary school are exempt from sales tax.
- d) One exception to all of the above has to do with the Charitable Games Act. If the parish sells refreshments or any other items at a charitable games event such as Bingo, Las Vegas Nights, etc. it must collect and pay sales tax to the State of Illinois. This is true even though the parish sells such items on a few occasions a year; that is, more than twice in a one year period.
- e) If an activity falls into one of the categories listed above requiring collection and remittance of sales tax, the parish can obtain the registration and return forms by calling the Illinois Department of Revenue.