

Vermont Department of Taxes
TECHNICAL BULLETIN

TAX: Sales and Use

TB-19

ISSUED: March 14, 2000

SUBJECT: Sale by Tax Exempt Organizations
32 V.S.A. § 9743(3)

A nonprofit organization which qualifies under section 501(c)(3) of the Internal Revenue Code is not required to collect Vermont sales tax if the organization had no more than \$20,000 of otherwise taxable sales in the previous year. The purpose of this bulletin is to address questions which arise when an organization is determining whether it must collect tax.

What types of organizations can qualify?

Only organizations which qualify under section 501(c)(3) of the Internal Revenue Code. This section of the Code covers charitable, religious and educational organizations. Nonprofit organizations such as fraternal organizations, which have exempt status under other sections of the Code, can not use this provision and must collect sales tax when they sell taxable merchandise.

What year is used?

An organization which maintains its books on a fiscal year basis may use either a calendar year or its fiscal year.

What if the organization did not exist in the previous year?

An organization will not have to collect sales tax in the first year of its operation.

Are all of the organization's receipts considered in computing the \$20,000?

No. In computing the \$20,000 threshold, the organization considers only sales of merchandise which are not covered by another tax exemption. In other words, the only receipts considered are those which are otherwise taxable but become exempt when the organization is qualified for the \$20,000 threshold.

What types of receipts are not considered?

Receipts from activity on which the sales tax is not imposed are disregarded in the computation of the threshold. For example, investment income, income from donations and income from sales of services are not included.

Are receipts from meals subject to meals and rooms tax considered?

No. Meals and rooms tax and sales tax are different taxes and subject to different rules. Sales of meals are not considered in determining the \$20,000 threshold.

Will an organization which qualifies under the \$20,000 threshold be required to collect meals and rooms tax on sales of meals?

Organizations which are not required to collect sales tax because of the threshold may still be required to collect meals and rooms tax. To avoid collecting meals and rooms tax an organization would have to qualify for one of the meals and rooms tax exemptions. Meals and rooms tax exemptions which might apply to nonprofit organizations include:

- meals served on the premises of a religious or charitable organization in furtherance of the organization's purposes and with the net proceeds used exclusively for the purposes of the organization.

- meals served on the premises of a school.

- meals sold by nonprofit organizations at special events constituting no more than four days in a calendar year.

Are receipts from admissions charges to performances, exhibitions or recreation facilities considered?

No. These are "amusement charges" which are subject to a different rule. The \$20,000 threshold does not apply and the charges are not used in computing the \$20,000 for sales of merchandise. An organization must collect tax (even if it qualifies under the \$20,000 threshold) if the performance, exhibition or recreation is a production or co-production of another party and the organization does not bear to sole risk of loss. A qualifying 501(c)(3) organization does not have to collect tax if it is the sole producer of the event (even if it does not qualify under the \$20,000 threshold).

How are newly created exemptions considered?

The tax law of the current year is used to determine "otherwise taxable" sales during the previous year. For example, articles of clothing costing \$110 or less were taxable until December 1, 1999, when they became exempt from sales tax. An organization determining whether it must collect tax in the year 2000 would disregard any sales in 1999 of clothing with purchase prices of \$110 or less in determining whether it must collect tax in 2000.

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