

NOTICE OF INTENT

Department of Revenue and Taxation Sales Tax Division

Nonprofit Organization Exemption (LAC 61:I.4418)

Under the authority of Revised Statute 47:305.14 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Sales Tax Division, proposes to adopt LAC 61:I.4418 pertaining to the exemption from the tax for tangible personal property sold at, or admission charges for, events sponsored by certain nonprofit organizations.

This rule is being proposed in order to explain to the public the types of organizations that qualify for the exemption, the types of events that qualify, and the procedures that must be followed to receive the exemption.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 44. Sales and Use Tax Exemptions

§4418. Nonprofit Organizations; Nature of Exemption; Limitations; Qualifications

A. General. Events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious organizations, which are nonprofit are exempt from the sales or use tax for these events, on the condition that the proceeds from these events, less applicable expenses, are used for the furtherance of the purpose for which the organization was formed.

1. This exemption applies to sales of tangible personal property, admission charges, outside gate admission charges, and parking fees.

2. The organization must apply for the exemption for each event and the application must be genuine. The application is form R-1048.

3. If the exemption is approved, the secretary will provide a certificate of exemption for the specific event.

4. If the secretary denies the exemption, the organization may appeal to the Louisiana Board of Tax Appeals.

5. An *event*, as referred to in the statute, means an occurrence of relatively short duration with a scheduled beginning and ending date and/or time.

6. The purchase of items to be sold at these events is not exempt from the advance sales tax. In order to receive a credit for the tax paid on items to be sold at one of these exempt events, the organization would register with the department as an irregular filer and then file a sales tax return taking a credit for the sales tax paid on the purchases for resale.

B. Exceptions. The statute is very specific as to the type of organizations and events that qualify for the exemptions. There are some exceptions that are referred to in the law.

1. If the event is intended to yield a profit to the promoter or to any individual contracted to provide services, or equipment, or both, for the event, the exemption shall not apply.

2. Nonprofit organizations are not exempt from sales or use taxes under this exemption, only from the collection of sales tax at certain events held by these organizations.

3. The statute does not offer an exemption from the sales and use taxes for regular commercial ventures such as, bookstores, restaurants, gift shops, commercial flea markets, and similar ventures that are operated by nonprofit organizations. The exemption applies to events that are not open on an ongoing basis.

4. Any organization which endorses any candidate for political office or is involved in political activities will not be eligible for the exemption.

5. The secretary may, at his discretion, recognize on-going activities, e.g. concession sales at schools, and allow the organization to file an annual exemption application for such activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.14.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 22:

A public hearing will be held on July 29, 1996, at 10 a.m., in Department of Revenue and Taxation Building at 330 North Ardenwood Drive, Baton Rouge, LA. Interested parties are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than July 10, 1996, at 4:30 p.m., to Patricia Porter, Sales Tax Division, Department of Revenue and Taxation, Box 201, Baton Rouge, LA, 70821-0201, or 330 North Ardenwood, Baton Rouge, LA, 70806.

smm

John Neely Kennedy
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Nonprofit Organization Exemption

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no increase in costs to implement this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no significant effect on revenue collections of state or local governmental units as a result of this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This proposed rule provides clarification to the organizations and the amount of costs or benefits to the organizations cannot be measured.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule will not affect competition or employment.

John Neely Kennedy
Secretary
9606#019

Richard England
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