

701—17.32(422) Food and beverages sold by certain organizations are exempt. Retroactively to July 1, 1988, the gross receipts from sales of food and beverages for human consumption by certain organizations that promote Iowa products and any other food or beverage sold in conjunction with the promoted Iowa product by the organization.

17.32(1) To claim the exemption, an organization must meet all of the following qualifications:

- a.* The organization must be nonprofit,
- b.* The organization must principally promote a food or beverage product for human consumption that is produced, grown, or raised in Iowa, and
- c.* The organization must be exempt from federal income tax under Section 501(c) of the Internal Revenue Code.

17.32(2) Claim for refunds of tax, interest, or penalty paid for the period of July 1, 1988, to June 30, 1998, must be limited to \$25,000 in the aggregate and will not be allowed unless filed prior to October 1, 1998. If the amount of the claimed refunds for this period totals more than \$25,000, the department must prorate the \$25,000 among all claims. In addition, refunds of tax, interest, or penalty paid will only be refunded to the organization that actually paid the tax and did not collect the tax from the customer for the period in which the refund is requested or to an individual that paid the tax during the authorized period and had a receipt of the transaction.

EXAMPLE 1. A nonprofit association that is also exempt from federal income tax under Section 501(c) of the Internal Revenue Code promotes the sale of turkey. In October of 1997, in Winterset, Iowa, the organization sold turkey sandwiches, chips, and beverages to patrons of a festival encouraging the touring and preservation of its historic covered bridges. The association did not separately charge sales tax to the customers for the food purchased. Instead, the association remitted the sales tax on the gross receipts from the event from its own funds. The gross receipts from the sales of the turkey sandwiches would be exempt from sales tax. The association would be entitled to submit a request for refund of the tax paid on the gross receipts from the selling event by October 1, 1998.

EXAMPLE 2. A local nonprofit organization that is exempt from federal income tax under Section 501(c) of the Internal Revenue Code promotes the sale of Iowa corn. On May 8, 1998, during a festival promoting Pella, Iowa's beautiful tulips and heritage, the association sold Iowa sweet corn on an "all you can eat" basis for one price to patrons of the festival. The organization charged its customers tax in addition to the price charged. The organization would not qualify to claim a refund for the sales tax paid on the gross receipts from the festival due to the organization's not paying the sales tax from its own funds for the May 8, 1998, event. Instead, the organization collected the tax from its customers and remitted the tax to the department. However, a customer of the organization would be entitled to a refund if the customer can produce a receipt of the transaction indicating the tax was paid by the customer for the period at issue.

This rule is intended to implement Iowa Code section 422.45 as amended by 1998 Iowa Acts, chapter 1091.