

701—212.1(423) Taxability of profits used by or donated to an educational, charitable, or religious entity. For purposes of the exemption provided in Iowa Code section 423.3(78), the following definitions apply:

212.1(1) Educational. An activity has an “educational purpose” if the activity has as its primary objective to give instruction. The term “educational purpose” includes recreational or cultural activities. Activities that are directly related to the educational process such as intramural sports and tests given to students or prospective students to measure intelligence, ability, or aptitude are considered educational for purposes of this exemption. Municipal or public or nonprofit science centers and libraries are also considered educational for purposes of the exemption.

EXAMPLE 1: A local nonprofit preschool that is exempt from federal tax under Internal Revenue Code (IRC) Section 501(c)(3) has a chili supper to raise money for playground equipment, educational materials, and classroom furniture. The sales transactions from the supper are exempt from sales tax because the total amount of the profits from the chili supper will be used for educational purposes. In addition, purchases made by the preschool may be exempt from tax if the preschool can meet the qualifications to be classified as a private nonprofit educational institution. Rule 701—212.5(423) contains additional information regarding the sale of tangible personal property and performance of services to certain nonprofit corporations.

EXAMPLE 2: A local nonprofit ballet company, which is exempt from federal income tax under IRC Section 501(c)(3), promotes the arts, provides classes and instruction on various types of dance, and sponsors and performs at numerous recitals that are free to the public. At its location, the ballet company has a gift shop in which patrons can purchase T-shirts, dance wear, and costumes. All profits are utilized by the ballet company to pay for its operational expenses and to perform the activities previously mentioned. The sales from this gift shop are exempt from Iowa sales tax to the extent that the profits therefrom are utilized to pay for the stated educational activities.

212.1(2) Religious. “Religious purpose” includes all forms of belief in the existence of superior beings or things capable of exercising power over the human race. It also includes the use of property by a religious society or by a body of persons as a place for public worship.

EXAMPLE 1: A local church, which is exempt from federal income tax under IRC Section 501(c)(3), has a bake sale. All of the bake sale profits are returned to the church for religious purposes. Bake sales are generally exempt from sales tax unless the product is sold for “on-premises consumption” (rule 701—220.5(423) contains more information on the sale of prepared food), but the bake sale profits are exempt from tax in any event because they are to be used for religious purposes. However, generally, any purchases made by the church that are not for resale are subject to sales tax. Iowa Code section 423.3(2) contains the exemption for the sales price of sales for resale.

EXAMPLE 2: Another local church, exempt from federal income tax under IRC Section 501(c)(3), conducts bingo games every Thursday. The profits from the bingo activities will be used for religious purposes. However, bingo and other gambling activities are subject to sales tax regardless of the manner in which the profits are going to be used.

212.1(3) Charitable. A charitable act is an act done out of goodwill, benevolence, and a desire to add or improve the good of humankind in general or any class or portion of humankind, with no pecuniary profit inuring to the person performing the service or giving the gift.

EXAMPLE 1: A local, nonprofit animal shelter that is exempt from federal income tax under IRC Section 501(c)(3) provides shelter, medical care, socialization, and adoption services for homeless animals and, as a fundraiser, sells T-shirts and sweatshirts depicting rescued animals. All of the profits from the sales will go to and be used by the animal shelter to defray the costs it incurs. Sales of the T-shirts and sweatshirts would be exempt from sales tax since the profits from the sales would be expended on a charitable purpose. Items purchased by the shelter for resale would also be exempt from sales tax. Items purchased by the shelter that are not for resale, such as dog or cat food that will be used by the shelter, would be subject to sales tax.

EXAMPLE 2: A nonprofit hospital, which has received exemption from federal income tax under IRC Section 501(c)(3), operates a gift shop. All of the profits are used to defray costs of hospital care for indigent patients who are unable to pay for such care. Due to the fact that all of the profits from the gift shop are used for a charitable purpose, the sales price would be exempt from sales tax.

a. Profits. The sales price from sales at issue in this exemption is exempt from sales tax to the extent that the profits are used by or donated to a qualifying organization and used for a qualifying activity. For purposes of this rule, “profits” means proceeds remaining after direct expenses have been deducted from the sales price derived from the activity or event. The expenses should be necessary and have an immediate bearing or relationship to the fulfillment of the activity.

Even though an activity or an organization has been recognized as one which could avail itself to the exemption provided by Iowa Code section 423.3(78), it can still be held responsible for sales tax on gross receipts sales price if the department finds, upon additional investigation, that the proceeds expended by the organization were not for educational, religious, or charitable purposes.

At the time of the selling event, a presumption is made that sales tax will not be charged to and collected from the consumer on the property or service sold. This particular exemption is dependent upon how the profits from the sale are expended, which follows the selling event. If after the event a portion of the profits is expended for a noneducational, nonreligious, or noncharitable purpose, tax is due on that portion of the sales price in the tax period in which that portion was expended.

EXAMPLE 1: The cost of food for a fundraising meal would be a direct expense. However, the cost of a victory celebration because the fundraising dinner was a success would not be a direct expense.

EXAMPLE 2: An educational institution hosts an art show. It invests profits from the art show into income-producing property and uses the remainder of the profits to purchase books for the library.

EXAMPLE 3: A nonprofit organization hosts a concert to raise money for neighborhood improvements. The cost of entertainment, if the entertainment is the principal source of proceeds for the activity or event, is a direct expense of the concert.

Unless a specific exemption applies to the entity, purchases by qualifying organizations that are not for resale cannot be purchased free of sales tax.

b. General information. The following is general information that is important to organizations involved in educational, religious, or charitable activities:

(1) There is no authority in the Iowa Code to grant a nonprofit corporation any type of blanket sales or use tax exemption on its purchases because the organization is exempted from federal or state income taxes.

(2) Nonprofit corporations and educational, religious, or charitable organizations are subject to audit and should keep for three years financial records that meet acceptable accounting procedures.

(3) Nonprofit corporations and educational, religious, or charitable organizations can be held responsible for the payment of sales and use taxes as would any other individual, retailer, or corporation.

(4) Nonprofit corporations and educational, religious, or charitable organizations are not required to obtain a sales tax permit or any type of registration number if they are not making taxable sales. There is no provision in the Iowa Code that requires that such organizations have a special sales tax number or registration number and none are issued by the department of revenue. However, if such organizations are making sales that are subject to tax, then a sales tax permit must be obtained.

(5) The mere renting of facilities to be used by another person or organization for educational, religious, or charitable purposes is not an educational, religious, or charitable activity.

(6) When profits from an activity are used to reimburse individuals for the cost of transporting their automobiles to an antique car show, the profits are not considered to be expended for educational purposes, and the gross receipts sales price from the car show are subject to tax.

(7) Activities to raise funds to send members of qualifying educational, religious, or charitable organizations to conventions and other similar events that are directly related to the purposes of the qualifying educational, religious, or charitable organization are within the exemption requirements provided in Iowa Code section 423.3.

(8) An organization whose function is to promote by advertising the use of a particular product that can be purchased at retail does not qualify for the exemption provided by Iowa Code section 423.3(78), even though promotion by advertising may educate the public.

(9) Sales of tangible personal property or specified digital products by civic and municipal art and science centers are of an educational value and the gross receipts therefrom are exempt to the extent the profits are expended for educational, religious, or charitable purposes.

(10) All proceeds from games of skill, games of chance, raffles, and bingo games as defined in Iowa Code chapter 99B are subject to sales tax regardless of who is operating the game and regardless of how the proceeds therefrom are expended, except that those games operated by a county or a city are exempt from collecting the sales tax. When organizations operate such games, they are required to have a sales tax permit and a gambling license.

This rule is intended to implement Iowa Code section 423.3(78).

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