
DEPARTMENT OF STATE REVENUE
Revenue Ruling #2009-02 ST
March 30, 2009

NOTICE: Under [IC 4-22-7-7](#), this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Sales/Use Tax – Food and Beverages

A company is seeking an opinion on whether it is subject to sales/use tax collection requirements on certain restaurant/catering charges.

Authority: [IC 6-2.5-5-26](#)

STATEMENT OF FACTS

The company is a not-for-profit corporation. The company has an on-site restaurant operated by a third party. As part of the company's fundraising efforts, the company sponsors events which include dinners. At the fundraising events, the company sells dinner tickets at greater than the fair market value of the food served at the event. The company's fundraising events occur less than thirty days in a calendar year.

DISCUSSION

[IC 6-2.5-5-26](#)(a) provides:

Sales of tangible personal property are exempt from the state gross retail tax, if:

- (1) the seller is an organization that is described in section 21(b)(1) of this chapter;
- (2) the organization makes the sale to make money to carry on a not-for-profit purpose; and
- (3) the organization does not make those sales during more than thirty (30) days in a calendar year.

The company is an organization described in [IC 6-2.5-5-21](#)(b)(1). The company is providing the food to the ticket holders in order to raise funds for the company's not-for-profit purpose. The company is not engaged in the fundraising activity more than thirty (30) days per calendar year. Thus, the company meets the statutory criteria for sales tax exemption on its sales of dinner tickets.

RULING

The company is entitled to a sales tax exemption on the tickets it sells for fundraising dinners.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

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