

NOTICE - EXEMPT ORGANIZATIONS SELLING CARNIVAL AND CIRCUS ADMISSIONS AND TICKETS

With warm weather comes carnivals and circuses. Please be aware that all admission charges and tickets for carnivals, circuses and amusement rides are subject to the full 7% sales tax (9% in Cape May County; 13% in Atlantic City). Exempt non-profit organizations, such as churches and charities, are not exempt from sales tax when it comes to their sales of tickets and admissions to carnivals, circuses and amusement rides.

Section 9(f)(2) of the New Jersey Sales and Use Tax Act (N.J.S.A 54:32B-9(f)(2)) provides that the exemption for qualifying non-profits (non-profits having an ST-5 exempt organization certificate) does not apply in the case of admissions to “carnivals, rodeos or circuses in which any professional performer or operator participates for compensation.” Since amusement ride events and circuses typically involve an operator participating for compensation, the charges for admissions and ride tickets are subject to sales tax, even when an exempt organization is also involved.

Therefore, all parties receiving admission or ticket sale receipts must be aware of the requirement that 7% sales tax be remitted to the New Jersey Division of Taxation -- based on the entire admission and ticket receipts from the event. In other words, both the non-profit’s portion and the operator’s portion of the receipts are subject to sales tax. Under New Jersey sales tax law, the sales tax portion of the receipts is viewed as “trust” fund money belonging to the State. Failure to remit is an abuse of State trust fund monies for which there may be substantial penalties.

Sales of carnival and circus tickets involving exempt organizations is a unique situation. For example, members of the organization may be directly selling tickets and admissions to the public. For tax administration reasons, the Division will allow the admission charges to be sold “tax included.” However, the carnival or circus operator must make it clear to the organization that the ticket prices and admission charges include sales tax and that the tax portion of all such charges must be remitted to the State. Similarly, the carnival or circus operator has the responsibility to notify patrons that sales tax is included -- through a statement on the tickets or on sale flyers, the posting of a sign where admissions are sold or another effective notice to the public.

The following illustrates this “tax-included” approach (7% sales tax.) A carnival with amusement rides is held at a church. The total admission and ride ticket sale receipts (including sales tax) for the event are \$100,000 (the “gross”). The amount that may be retained by the carnival and church together is calculated by dividing the gross (\$100,000) by 1.07 ($\$100,000 \div 1.07$), which yields \$93,458. The remainder (\$6,542 in this example) is the sales tax portion (to be remitted to the state by the operator). In other words, the formula for calculating the sales tax portion of the receipts is: $\text{gross} - (\text{gross} \div 1.07)$. In this example, the amount that the parties may split is \$93,458; and if the parties had agreed that the church could keep 20% of the admissions, the church would retain \$18,691.60, the operator would retain \$74,766.40 and \$6,542 must be remitted to the State as sales tax. (Please see TB-50 for record-keeping requirements.)