

[200204081L \[Tax Type: Sales\] \[Document Type: Letter/Memo\]](#)

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Texas Comptroller of Public Accounts STAR System

200204081L

April 25, 2002

Dear *****:

Thank you for your e-mail. Your email stated that your [church](#) is planning a festival later this year. The [church](#) normally sells plants, crafts, food, and tickets for children's games and has exempt status. The [church](#) has a sales tax permit, but is choosing the festival date as a tax-free sale day. The [church](#) plans to invite various vendors to rent a table or booth space to make sales in a festival sponsored by the [church](#). The invited vendors may or may not hold a sales tax permit. You asked that we address the following issues.

1. We want to begin inviting vendors to participate in the festival by setting up a table or booth and selling their own goods. If such a vendor has a sales tax permit, can that vendor be responsible for collecting and reporting its own sales tax, even though the [church](#) sponsors the event?

Response: Yes, the festival may have for-profit vendors that are responsible for collecting and remitting the tax on taxable sales. However, your [church](#) is considered the promoter of the festival and would be responsible for reporting tax on any sales made by non-permitted vendors.

Your [church](#) and any vendor that has been granted a sales tax exemption by this office may use the festival as one of the two, one-day, tax-free sales granted to exempt entities each calendar year. However, the sales tax must be collected and remitted by an exempt organization if the event is not used as a tax-free day and no other exemption were available.

This means that your [church](#) should insure that every vendor, who does not qualify to make tax-free sales, has a Texas sales tax permit and collects tax. If a vendor does not have a Texas sales tax permit, your [church](#) is responsible for insuring that the tax (if due) is collected and remitted to the state.

Please call our Tax Assistance Section at 1-800-252-5555 or 512/463-4600 if you have questions concerning the participating vendors' exempt status and whether they hold a sales tax permit.

2. What if the vendor does not have a sales tax permit?

Response: If the vendor does not qualify for a one-day, tax-free sale, the

◀church▶ is responsible for remitting tax on sales made by the vendor.

3. If the ▶church◀ collects a fee from the vendor, such as a fixed rental fee or a fee calculated on a percentage of sales, must the ▶church◀ collect sales tax on such a fee?

Response: The fee charged to the vendors (either a flat fee or percentage of sales) for a table or booth space is not taxable.

4. If the vendor's own status is non-profit, does that affect sales tax liability?

Response: A nonprofit entity is responsible for collecting tax on sales of taxable items unless the items are exempt or the entity is entitled to the one-day, tax-free sale provision.

5. How many days per calendar year may we as a non-profit ▶church◀ exempt our sales from sales tax?

Response: Your ▶church◀ may have two, one-day, tax-free sales per calendar year. The qualifications for these sales are detailed in section (g) of the enclosed Rule 3.322. Please note that if the ▶church◀ is remitting sales tax for non-permitted vendors or groups that do not qualify for the tax-free sales, these receipts must be reported even if the ▶church◀ is using the festival as one of its tax-free sales. The tax collected on these receipts must be reported and remitted because the ▶church◀ did not make the sales.

The above reference rules may be accessed on the Internet through our Window on State Government website. The address is . At this site there is a Quick Link banner on the left side; please open the link to Sales Tax. This brings up a web page of sales tax information; scroll down to the tax rules and statute and open State Sales Tax. This will bring up an numerical index of the state sales tax rules; select the rule you would like to read; and click to open.

This opinion is based on the facts presented. If there are any additional or different facts, the opinion may change.

You may call me toll free at 1-800-531-5441, ext. 5-0037. The direct line is 512/475-0037. You also may write to Tax Policy Division, Comptroller of Public Accounts.

Sincerely,

Lindey Osborne
Tax Policy Division

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