

To: MN Federation of County Fairs

From: Minnesota Revenue, Sales and Use Tax Division

Date: June 6, 2011

Fairgrounds are recreational areas, as noted in Sales Tax Fact Sheet #[123](#), Athletic Facilities, Recreational Areas, Resorts and Campgrounds, which can be found at this link:

http://taxes.state.mn.us/sales/Documents/publications_fact_sheets_by_number_content_BAT_1100_129.pdf

Taxable Sales

Following are some examples of taxable sales made by county fairs, which are subject to the 6.875% state sales tax and applicable local sales taxes:

Admissions. Admission charges to the fairgrounds, to the grandstand for any reason, to beer gardens, to exhibits, etc., are taxable.

Racetrack Admissions. General admissions charged to watch a race and back-door admissions charged to pit crew members are taxable admission charges. Back-door admissions to the races charged to the race car drivers are taxable either as an admission charge or an entry fee (see below). These charges are taxable, whether the race is held during the fair or is held outside the county fair dates, regardless of whether the race is run by the fair or another organization.

Entry Fees. Entry fees are payments required as a condition to participate in a competitive event. Entry fees charged to compete in a tractor pull, demolition derby, talent contest, etc. are taxable for events held at fairgrounds, since fairgrounds are recreational areas. The entire charge is taxable, including any amounts that go toward prizes or trophy funds.

Building Rentals. Rental of buildings on the fair premises, whether during the fair or in the offseason, for weddings, dances, parties, flea markets, car shows, Relay for Life fundraiser walks, horse shows, circus, auction sales, etc. are taxable.

Stall Fees for Horse Shows. Fees that are charged for horse owners to keep their horses in the horse barns during a horse show are taxable. This is different than boarding a horse for a period of time, such as month to month or on an annual basis.

Lodging/Campground Fees. Charges to lease or rent lodging facilities, including campsites, mobile homes, trailers, cabins, or for site rentals, including campsites, sites to park campers, motor homes, trailers or mobile homes, for periods of less than 30 days are taxable.

Lodging or site rentals are not taxable if:

- the rental period is 30 days or more, and
- there is an enforceable written agreement requiring either the lessee or lessor to give notice before terminating the agreement.

Food Stands (Concession Sales). Prepared food, candy and soft drinks are subject to both state and any applicable local taxes. Nearly all food and drinks are taxable when sold at fairs.

Taxable prepared food. "Prepared food" means food that is sold heated or heated by the vendor, food where two or more food ingredients are mixed or combined by the vendor, or food sold with eating utensils. Bakery items, ready to eat meat and seafood sold in an unheated state, and food that is only sliced, repackaged, or pasteurized by the seller, however, are exempt.

Food and drinks, including the items previously listed, are taxable when sold by anyone providing eating utensils. Eating utensils include but are not limited to plates, knives, forks, spoons, glasses, cups, napkins, or straws.

If the vendor's practice is to physically give or hand a utensil to the customer with the food as part of the sales transaction or the vendor places the utensil on a table, counter, or similar surface for the customer to use, the sale is taxable.

Food prepared by the vendor that requires additional cooking or heating before it can be eaten is exempt.

Food prepared by someone other than the vendor. Some food concessionaires sell food prepared by someone else. If the vendor contracts with another legal entity to prepare the food, the food is not taxable if sold under the vendor's label, unless the food is otherwise taxable. For example, sales of candy and soft drinks and food sold in a heated state or with eating utensils provided by the vendor are taxable regardless of who originally prepared the food.

See Fact Sheets [102A](#), Food and Food Ingredients, [102B](#) Candy, [102C](#) Soft Drinks and Other Beverages, [102D](#) Prepared Food, and Revenue Notice [10-01](#) Prepared Food for more information.

Examples of food sales at a fair:

Example 1. A booth makes and sells cinnamon rolls. If the rolls are prepackaged (for example, in a box or paper wrapper), without eating utensils, they are not taxable. If the rolls are served on a plate, the sales are taxable because the plate is considered an eating utensil.

Example 2. A vendor sells mini donuts and coffee. No eating utensils are handed to the customer or provided with the sale of the mini donuts. The sale of the mini donuts is not taxable since they are bakery items. The sale of the coffee is taxable, whether it is sold with exempt bakery items or with taxable food items. The vendor must maintain proper records separating taxable from non-taxable sales.

Example 3. A vendor makes and sells jars of spaghetti sauce. The sauce is not taxable because the customer generally heats it after the sale.

Example 4. A vendor sells spices made by someone else who packages the spices and applies the vendor's label to the packaging. The vendor uses the spices in demonstrations and passes out free samples of spiced food. Eating utensils are used to pass out the food samples. The spices are not taxable because they are not prepared by the vendor. The eating utensils used during the demonstration do not cause the spices to be taxable. However, if the vendor *prepares* the spices (i.e., mixes his/her own spice blends), they are taxable even if the vendor doesn't provide eating utensils.

Example 5. A vendor sells pickles. The vendor uses a wooden skewer to retrieve the pickle from the container and hands the pickle to the customer on the skewer, which the customer keeps. The skewer is considered to be an eating utensil, so the pickle is taxable.

Liquor Sales. Sales of any alcoholic beverages, including beer, are taxable.

Intoxicating liquor is subject to 6.875 percent states sales tax, a 2.5 percent liquor gross receipts tax, and any applicable local taxes. If you are licensed to sell any type of intoxicating liquor, you must charge 6.875 percent state sales tax, 2.5 percent liquor gross receipts tax, and any applicable local taxes on all on-sales and off-sales of liquor, including sales of 3.2 beer and wine coolers.

3.2 beer and wine coolers. The type of liquor license determines the sales tax rate charged on 3.2 beer and wine coolers. The most common types of liquor licenses issued and the applicable rate of sales tax that applies to sales of liquor are:

- **Intoxicating liquor license:** charge 6.875 percent state sales tax, plus 2.5 percent liquor gross receipts tax, and any applicable local sales tax on all sales of alcoholic beverages including wine coolers and 3.2 beer.
- **Wine license:** charge 6.875 percent state sales tax, plus 2.5 percent liquor gross receipts tax, and any applicable local sales tax on all sales of alcoholic beverages, including wine coolers and 3.2 beer.
- **3.2 percent malt liquor license:** charge 6.875 percent state sales tax and any applicable local sales tax on all taxable sales, including 3.2 beer.

Nonalcoholic beer (O'Doul's, Sharps, etc.) is subject to the 6.875 state and any local sales tax regardless of the type of liquor license the bar or restaurant holds.

Parking. Charges for parking vehicles are taxable (except at parking meters).

Nontaxable Sales

The following are examples of exempt sales made by county fairs:

Storage Fees. Charges for storing vehicles, boats, campers, ATV's, furniture, grain, or any other item in buildings on fair premises in the offseason are not taxable. This is true for both short and long term storage.

Booth Space Rentals. Rentals of booth space are not taxable.

Boarding and Grooming of Horses. Fees for boarding or grooming horses are not taxable.

Advertising Signs Placed on the Fairgrounds. The charge for a sign to be placed in the grandstand, beer garden or other area of the fairgrounds is not taxable.

Other Issues

Donations of Money. Money donated to the fair board (for example, by the Lions Club for upgrade of a building on the fairgrounds) is not subject to sales tax. In order to be a donation, there cannot be any

conditions attached to the donation (i.e., the donation cannot be in exchange for admissions or anything else of value, which would make it a sale).

Donations of Taxable Items or Services. When taxable items or services are donated to the fair board, the organization or individual who donated the item or service owes sales or use tax on their cost of the donated item or taxable service. This is true whether the items donated are given for a silent auction or given directly to the fair board for the fair's use. In order to be a donation, there cannot be any conditions attached to the donation (i.e., the donation cannot be in exchange for admissions or anything else of value, which would make it a sale).

Example 1: A farmer donates a load of feed corn to the fair board. The farmer owes use tax on their cost of the feed corn.

Example 2: A local business donates building materials taken from their inventory to the fair, for use in repairing a building on the fairgrounds. The business owes use tax on their cost of the building materials.

Example 3: A local business "donates" building materials taken from their inventory to the fair, for use in repairing a building on the fairgrounds, and in exchange, they are given 25 admission tickets to the fair. Since the building materials were not freely donated, the local business owes use tax on their cost of the building materials and the fair must report sales tax on the value of the 25 admission tickets.

Silent Auction or Other Fundraiser. Whoever is operating the silent auction or other fundraiser is responsible for charging sales tax on any taxable items sold at a silent auction or other similar type of fundraiser, since there are no fundraiser exemptions that apply to county fairs.

Exempt Status for Sales and Use Tax. In order to qualify for sales and use tax exempt status, the fair board or other organization must be exclusively charitable, religious or educational. Whether the organization holds 501(c)(3) federal status is not a determining factor for exempt status for sales and use tax purposes. See Form [ST16](#), Application for Exempt Status, for details.

Purchases. Since fair boards or county fairs don't qualify for exempt status, they owe sales or use tax on all purchases of taxable items or services. There isn't an "exempt" letter from the county that would enable them to purchase taxable items without paying sales tax. If a fair board intends to resell items, they may claim an exemption from sales tax when they purchase those items, by providing a fully completed Certificate of Exemption, Form [ST3](#), indicating the exemption code for resale, to their suppliers.

ST19 Recordkeeping

Minnesota law requires that before an operator of a selling event, including a county fair, can rent space to a seller at the event, the operator must have either proof that:

- the seller is registered to collect Minnesota sales tax,
- a written statement from the seller that no taxable items are being sold, or
- a written statement from the seller indicating that this is the only selling event that the person will be participating in for the calendar year, that the person will be participating for three or fewer days, and that the person will make less than \$500 in total sales in the calendar year.

The written statement shall include the person's name, address and telephone number. ***Sellers are required to give the operator a completed Operator Certificate of Compliance, [Form ST19](#), or other similar written statement for this purpose.*** Form ST19 is available on our website, or you may call our office to request one.

Operators must obtain a new Form ST19 from every seller at each event (i.e., the fair board needs to obtain an ST19 from every seller each year the fair is held, and for any other selling events that are held during the year).

Operators should keep the forms for at least three and a half years. Operators who do not have Form ST19 or a similar written statement from sellers can be fined a penalty of \$100 for each seller that is not in compliance for each day of each selling event.

Operators are required to keep the forms with their business records, and provide them to the Department of Revenue upon request. In order to ensure an efficient verification that every seller at an upcoming event is properly registered, the Department of Revenue requests that each county fair:

- Keep a list of the ST19 information for each selling event on an excel or similar spreadsheet
- Approximately 2 weeks before the start of the event, e-mail the spreadsheet to the Department of Revenue. The contact for county fairs to e-mail the ST19 spreadsheet information is john.weiser@state.mn.us
- For sellers who sign up less than 2 weeks before the start of the fair or event, provide the ST19 information to the Department of Revenue as soon as possible. If necessary, copies of ST19's can be mailed to the following address: MN Revenue, Sales Tax Special Enforcement Unit, Mail Station 6360, St. Paul, MN 55146-6360

Operators should keep the documentation (ST19's and spreadsheet if one is done) available at the fairgrounds in case requested during the fair by the Department of Revenue.

This information is intended to help you become more familiar with Minnesota tax laws and your rights and responsibilities under the laws. Nothing in this document supersedes, alters, or otherwise changes any provisions of the tax law, administrative rules, court decisions, or revenue notices.

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