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Nonprofit Entities

Iowa Tax

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IOWA DEPARTMENT OF REVENUE AND FINANCE

Nonprofit organizations, including churches, are *not* automatically exempt from taxes in Iowa. This booklet provides basic tax information for nonprofit organizations on income tax, sales tax, retailer's use tax, consumer's use tax, motor vehicle fuel taxes, sales tax associated with gambling activities, the local option sales tax, and hotel/motel tax.

FOR MORE INFORMATION...

If you have questions or require more information, please contact Taxpayer Services.

Taxpayer Services

Iowa Department of Revenue and Finance

PO Box 10457

Des Moines, Iowa 50306-0457

515/281-3114

from out of state and Des Moines

OR

1-800-367-3388

from elsewhere in Iowa, Omaha and Rock Island/Moline

CONTENTS

CORPORATION INCOME TAX	1
SALES TAX	2
Sales made TO nonprofit entities	2
Sales made TO parochial schools	2
Taxable services	3
Sales made BY nonprofit entities	4
What is "educational"?	4
What is "religious"?	4
What is "charitable"?	5
Relationship between activity and purpose	5
Entire proceeds	6
Sales tax and construction projects	7
A list of nonprofit entities exempt from tax	8
USE TAXES	9
What is the use tax?	9
Retailer's use tax	9
Consumer's use tax	10
Credit for taxes paid to another state	11
Motor vehicle use tax	11
SALES TAXES AND GAMBLING ACTIVITIES	12
LOCAL OPTION SALES TAX	12
HOTEL AND MOTEL TAX	13
MOTOR VEHICLE FUEL TAXES	14
ADDITIONAL INFORMATION	14
1.) Nonprofit entities do pay sales tax	14
2.) Explanation of a governmental unit	14
3.) Sales tax may apply if income tax does not ..	15
4.) Record keeping	15
5.) Responsible party	15
6.) Sales tax permit only if making taxable sales	15
7.) Special exemption numbers not given	15
8.) Audit	15
Common exempt situations	16
Common taxable situations	17

CORPORATION INCOME TAX

Nonprofit associations, corporations, and organizations incorporated or doing business in Iowa may request tax exempt status from Federal income tax from the Federal government. The State of Iowa does not determine if these types of entities are taxable. Iowa law provides that the entity is automatically exempt from Iowa corporation income tax if exempt status is granted by the IRS.

Call the Internal Revenue Service at 1-800-829-3676 and request

- IRS Form 1023 (*Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*) **or**
- IRS Form 1024 (*Application for Recognition of Exemption Under Section 502(a) or for Determination Under Section 120*)

When tax exempt status has been approved by the IRS, the entity does not have to file an Iowa corporation income tax return unless it has unrelated business income.

Unrelated business income is taxable for Iowa purposes – at the regular Iowa corporation income tax rates – to the same extent it is taxable at the Federal level. The entity may also be subject to the Iowa alternative minimum tax.

To report unrelated business income, file form IA 1120; complete form IA 4626 if subject to the alternative minimum tax.

Estimated tax payments must be made if an income tax liability of \$1,000 or more is anticipated. State return forms and schedules may be obtained by calling Taxpayer Services.

SALES TAX

Sales made TO nonprofit entities

Nonprofit entities, churches and religious organizations are *not* automatically exempt from paying State sales taxes on taxable goods and services. (See page 8 for a list of entities exempt from sales tax.)

This is true even if these entities are exempt from the payment of State and Federal income taxes.

State sales tax must be paid unless some other general sales tax exemption applies. Local option sales tax must also be paid on purchases made in jurisdictions which impose the tax.

Purchases made for resale are exempt from all sales tax.

In other words, a nonprofit corporation, church or other religious organization is treated the same as any other private citizen for sales and use tax purposes when purchasing goods and taxable services at retail.

Examples:

- A church purchases hymn books from a local merchant. The hymn books are used only by its congregation. The sales tax applies.

- A nonprofit corporation purchases heating oil and electricity from a local utility. The sales tax applies.
- A church purchases weekly bulletins from a local printer. The sales tax applies.
- The church purchases canned goods and meat from a local grocery store. The sales tax does not apply since food which does not constitute prepared meals is exempt from tax regardless of who buys it.
- A nonprofit corporation purchases its monthly newsletter from a local printer. The sales tax applies.
- A church purchases Bibles from a local book publisher to resell to its members. Since the purchase is for resale, sales tax does not apply.

Sales made TO parochial schools

Nonprofit educational institutions do not pay sales tax on the purchase of tangible personal property and taxable services which are used for educational purposes.

An educational institution is defined as a school, college or university with students, faculty, and an established curriculum.

This definition includes parochial schools but does not include church Sunday school.

When tangible personal property or services are shared by a parochial school and a church, the primary use determines if the purchase is taxable.

The following examples illustrate the exemption:

- A parochial school purchases textbooks to be used by its students. The books are not taxable.
- A parochial school purchases an air conditioner which is placed in a rental property owned by the school and rented to a local businessman. The air conditioner is taxable since the purchase is not for educational purposes.
- A convent purchases 10 new beds. The convent is used by the religious order which teaches in the local parochial school, but the convent is not part of the school. The tax applies since the beds are not being used for educational purposes.
- A parochial school and a church purchase an organ together, which is used by the school's music teacher for

student lessons and which is used during Sunday services. If the organ is used by the school more often than it is used by the church, it is not taxable.

- A church operates a day care center. Since a day care center is not considered an educational institution, purchases by the day care center are taxable.

Taxable services

Certain services are subject to the sales tax. Iowa sales tax on taxable services must be paid by nonprofit organizations.

Examples:

- The city collects garbage from a church. Garbage collection and disposal for nonresidential commercial customers is taxable.
- An organization has its building sprayed for bugs and roaches. Pest eradication is taxable.
- The church van breaks down and has to be repaired. Automobile repair is a taxable service.

For a list of taxable services, call Taxpayer Services and ask for the Iowa Sales/Use Tax on Services brochure.

Sales made BY nonprofit entities

Sales made by nonprofit corporations, churches and religious organizations are exempt if both of the following criteria are met:

- The gross receipts must come from the sales of activities which are educational, charitable or religious, AND
- The *entire proceeds* from such sales must be expended for educational, religious or charitable purposes.

NOTE: All receipts from gambling activities are subject to the sales tax, regardless of the ultimate use of the proceeds.

What is “educational”?

- The acquisition of knowledge tending to develop and train the individual.
- An activity which has as its primary purpose to educate by teaching.
- An activity which is meant to improve the individual.
- An activity which has as its primary objective to give educational instruction.
- An activity where the educational process is not merely incidental.

- An activity where the purpose is systematic instruction.

The term “educational purpose” includes recreational activities as well as activities designed to offer culture to the public.

Activities which 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 and qualify for the exemption.

Municipal or civic art and science centers and libraries are also considered educational and are, therefore, exempt.

What is “religious”?

“Religious purpose” is any activity that promotes religious worship. In the broadest of terms, religious worship includes all forms of belief in the existence of superior beings capable of exercising power over the human race. As commonly accepted, it means the final recognition of a deity. It encompasses forms of worship, reference to one’s views about the deity, or the relationship to one’s creator. It also includes the use of property by a religious society or by a body of persons as a place for public worship.

What is “charitable”?

“Charitable purpose” is applied to almost anything that tends to promote the well-doing and well-being of people. It includes the performance of services for public good or public welfare with no profit to the one performing the service or the giving of gifts by persons kindly disposed toward others, without obligation. An activity where no net earnings go to the benefit of any private shareholder or individual involved in the activity is charitable.

An activity for the benefit of the public at large which includes the relief of poverty, advancement of education or religion, promotion of health, provision of a governmental or municipal service, and other activities – the purposes of which are to benefit the community – are considered charitable. Maintenance of public parks is a valid charitable purpose.

Schools, Red Cross, Boy Scouts, and relief agencies are charitable, for example. Profit-making organizations are not charitable.

Relationship between activity and purpose

Oftentimes, an organization will conduct fund-raising activities where the entire gross receipts are used to further the organization’s purpose. In these cases, the fund-raising activity cannot be considered educational, religious, or charitable unless the organization itself is considered educational, religious or charitable.

For example: Suppose a community playhouse presents theatrical productions, play readings, children’s classes, workshops and demonstrations, children’s productions, and lectures in the field of theater. Memberships are sold which entitle the purchasers to membership in the corporation, participation in voting for directors, and admissions to all plays presented during the year. Individual and student tickets are also sold. The playhouse derives its income from these admissions, admissions to the children’s theater, and other various sources. The admissions are exempt because the activities for which admissions are paid are considered educational.

Entire proceeds

“Entire proceeds” are those remaining after direct expenses have been deducted from the gross receipts derived from the activity or event. The expenses must be necessary and have an immediate bearing or relationship to the fulfillment of the activity.

For example, the cost of food for a fund-raising meal is a direct expense; however, the cost of a victory celebration because the fund-raising dinner was a success is not a direct expense.

Other examples of when the direct expense rule is *violated* include the following:

- An educational institution invests proceeds from an art show into income-producing property and the remainder to purchase books for the library.
- A charitable organization holds a dance to reimburse its volunteers and donates the rest to a local hospital.

Examples of *valid* use of entire proceeds:

- A church holds a craft sale and uses the proceeds to purchase new pews for the church. The crafts can be purchased by the church for resale. The church does not have to collect sales tax when the crafts are sold since the proceeds from the

craft sale will be used for religious purposes (the purchase of new pews).

- A church holds a bingo night once a week. The proceeds are used to purchase new carpeting for the church. Sales tax applies to the gross bingo receipts since gambling activities are always taxable.
- A church headquarters purchases Bibles from an Iowa vendor and sells them to its member churches. The profits from the Bible sales will be placed in a missionary recruitment fund. The Bibles can be purchased by the headquarter church for resale. The church does not have to charge sales tax when it sells the Bibles since the proceeds will be used for religious purposes.
- A church holds a fair to raise money for new choir robes. An admission is charged. The church rents space to several local retail businesses to set up booths to sell items. The retailers will keep any gross receipts that are generated from the sales. The choir also has a booth at the fair and it sells books. The proceeds will also go toward the purchase of new robes. In this example, the local retail merchants are required to collect and remit

sales tax on their sales. The admission charge and the book sales are exempt from tax since the proceeds are being used for religious purposes (the purchase of the choir robes).

Sales tax and construction projects

Building materials are always subject to tax unless the purchaser, such as non-profit educational institutions, is exempt by law.

Private nonprofit museums, governmental units and private nonprofit educational institutions may receive a refund of the sales tax the contractor paid on the materials and supplies. Other entities may not.

If the contract is made with a private nonprofit museum, a governmental unit, or a private nonprofit educational institution, the contractor must give the entity a “Contractors Statement,” which is Iowa form 35-002. The entity may then complete a construction contract claim for refund (Iowa form 35-003).

Contact Taxpayer Services to learn if your organization is exempt under the Iowa Code references cited in this section or if you need forms. Contractors, subcontractors and builders are considered “consumers” of the materials and supplies they use.

When a contractor purchases building materials, building supplies or building equipment to add a new wing to a church, for example, the contractor must pay sales or use tax on the lumber, bricks, nails and other building materials, supplies and equipment when they are purchased.

Sales tax does not apply to labor charges when the labor is performed on or in connection with new construction, reconstruction, alteration, remodeling or expansion of a building or a structure.

The contractor is allowed to consider the sales tax a general overhead expense.

Sales tax does apply to materials and labor charges for repair, painting, and similar services when not connected with new construction, reconstruction remodeling or expansion.

When a contractor purchases machinery, equipment and other items which remain tangible personal property, he or she must collect sales tax from the non-profit entity on them.

Consider the following examples:

- A church has a new wing added, which includes 25 portable pews and a kitchen with a new refrigerator. The

contractor agrees to do the entire job. The contractor must pay the sales tax on the building materials when they are purchased. The contractor must buy the pews and refrigerator for resale and then collect sales tax from the church. These items are not considered building materials, and because they remain tangible personal property after the project is completed, they are taxable.

- An Elks Lodge hires a carpenter to panel the lodge basement. Tax is due on the materials purchased for the job. No tax is due on the carpenter's labor since this paneling is considered as either new construction or remodeling, which is exempt from tax.
- An American Legion Post hires a carpenter to repair the front door of the post's hall. Sales tax applies to the labor and also to any materials since this is a repair situation.
- A church hires a plumber to fix a leaky pipe in the church basement. Tax applies to both labor and materials.

A list of nonprofit entities exempt from tax

The following nonprofit entities are exempt from sales and use tax in Iowa.

- *American Red Cross*
- *Navy Relief Society*
- *U.S.O.*
- *Governmental units, subdivisions or instrumentalities of the federal government or of the state of Iowa* (This includes state, county and local subdivisions of the government of the state of Iowa and those of any other state which provide a similar sales tax exemption to Iowa and its political subdivisions.)
- *Federal corporations created by the federal government which are exempt under federal law*
- *Private, nonprofit educational institutions located in Iowa*
- *Community health centers* (as defined in 42 U.S.C.A. subsection 254c)
- *Migrant health centers* (as defined in 42 U.S.C.A. subsection 254b)
- *Residential care facilities and intermediate care facilities for the mentally retarded and residential care facilities for the mentally ill* (licensed by the Department of Health under

Iowa Code Chapter 135C)
NOTE: Not all 135C facilities are exempt.

- *Residential facilities for mentally retarded children* (licensed by the Department of Human Services under Iowa Code Chapter 237)
- *Residential facilities for child foster care* (licensed by the Department of Human Services under Iowa Code Chapter 237, except those maintained by "individuals" as defined in Iowa Code subsection 237.1[7])
- *Rehabilitation facilities which provide accredited rehabilitation services to persons with disabilities and which are accredited by the Commission on Accreditation of Rehabilita-*

tion Facilities or the Accreditation Council for Services for mentally retarded and other developmentally disabled persons and adult day care services approved for reimbursement by the Department of Human Services

- *Community mental health centers* (accredited by the Department of Human Services under Iowa Code Chapter 225C)
- *Nonprofit legal aid organizations*
- *Nonprofit private museums*
- *Nonprofit organizations organized solely for the purpose of lending property to the general public for nonprofit purposes*

USE TAXES

What is the use tax?

The Iowa use tax is complementary to the Iowa sales tax and is imposed on tangible personal property which are purchased out-of-state for use in Iowa.

The use tax rate is the same as the sales tax rate.

Retailer's use tax

Any out-of-state retailer who maintains a place of business in

Iowa or who makes sales of tangible personal property or taxable services through sales people or agents who come into Iowa is required to register with the Iowa Department of Revenue and Finance and collect and remit the tax.

If the out-of-state retailer fails to collect the tax, the Department may collect the tax from the Iowa purchaser.

Consider the following example:

XYZ, a Wisconsin publishing company, has sales people in Iowa who solicit orders for sheet music from churches. The XYZ Publishing Company should be registered with the State of Iowa for retailer's use tax purposes and should be collecting Iowa tax when it makes a sale to a church located in Iowa. If XYZ fails to collect the Iowa tax, the Department can require the church to pay the tax.

Consumer's use tax

When a nonprofit entity purchases tangible personal property or taxable services from an out-of-state retailer for use in Iowa, and the retailer does not collect Iowa tax, the entity is responsible for paying consumer's use tax.

Any time taxable services or goods are purchased, whether in-state or out-of-state, and the seller does not collect tax, the purchaser is responsible for the tax.

Credit is allowed if sales tax was paid to the state in which the purchase was made. (*See page 11, "Credit for taxes paid to another state."*)

The following examples illustrate the consumer's use tax:

- A church in Iowa purchases an organ from a music company in Chicago. A sales contract is signed in Chicago and the organ is shipped by common carrier. The church is responsible for the payment of Iowa consumer's use tax on the organ.
- A nonprofit corporation in Council Bluffs hires a Nebraska printer to print its monthly newsletter. The newsletters are shipped into Iowa by the United States Post Office. The nonprofit corporation owes consumer's use tax on the newsletters since printing is a taxable purchase under Iowa law.
- A church in Council Bluffs hires an Iowa printer to print Sunday church bulletins. The Iowa printer fails to charge the Iowa sales tax. The Department can collect the tax from the printer or from the church.

For more information on consumer's use tax, contact Taxpayer Services and ask for the Consumer's Use Tax brochure.

Credit for taxes paid to another state

When sales or use taxes have been paid to another state, a credit will be allowed.

The following examples illustrate this credit:

- An Iowa church purchases two pews in Chicago and takes delivery of the pews in Chicago. An Illinois 6 percent sales tax is collected by the vendor. No Iowa use tax is due since the payment of the 6 percent Illinois sales tax exceeds the 5 percent Iowa use tax.
- Assume the same facts in the previous example except that the Illinois sales tax rate is 3 percent. An Iowa use tax of 2 percent is due on the purchase of the pews since the Illinois tax rate is lower than the Iowa tax rate.

Motor vehicle use tax

Nonprofit corporations, churches or religious organizations are *not* exempt from paying the Iowa use tax on vehicles subject to registration. All cars, trucks, and trailers are subject to this use tax instead of the State sales tax. The tax is paid at the county treasurer's office when the vehicle is registered. If the county treasurer fails to collect the use tax, the tax is still due and is to be paid to the Iowa Department of Revenue and Finance.

Many private and nonprofit organizations mistakenly believe they are exempt from sales/use tax. The fact they may be exempt from income tax and from Federal excise tax does not make these organizations exempt from use tax on vehicles. However, any organization exempt from sales tax on its purchases is also exempt from use tax.

NOTE: For a list of nonprofit organizations which are exempt from sales/use tax on purchases, please refer to the list that begins on page 8 of this booklet.

SALES TAXES AND GAMBLING ACTIVITIES

All gambling receipts are subject to sales tax *unless* the gambling activities are conducted by cities or counties.

Raffles conducted by agricultural fairs are also exempt from sales tax.

Gambling receipts include charges paid to participate, admissions and ticket sales. Sales tax is computed on the entire gross receipts without any deductions. A sales tax permit must be obtained from the Department.

Many nonprofit organizations use gambling activities such as bingo and raffles to raise revenues. Nonprofit organizations which conduct games of skill, games of chance, raffles, bingo and other games are required to obtain a gambling license.

The fact that a church or nonprofit organization is conducting the gambling makes no difference. A gambling license and a sales tax permit are required.

For more information, contact Taxpayer Services and request the Gambling brochure.

LOCAL OPTION SALES TAX

Some communities now also impose a local option sales tax on services and goods that are sold in their jurisdictions. The local option sales tax is collected on the sale of the same services or tangible personal property that is subject to the State sales tax. There is no local option use tax; therefore, those sales that are subject to a use tax, such as motor vehicles, are not subject to the local option sales tax.

If a community imposes both the local option sales tax and the hotel/motel tax, the local option sales tax does not apply to the rental of rooms.

Organizations that have been identified as being exempt from the payment of State sales tax are also exempt from paying the local option sales tax.

Sales for resale or for processing are exempt from the local option sales tax.

HOTEL / MOTEL TAX

Certain cities and counties in the state have imposed a hotel/motel tax. The tax applies to the renting of sleeping rooms, apartments, or sleeping quarters in any hotel, motel, inn, public lodging house, rooming house or tourist court or in any place where sleeping accommodations are furnished to transient guests for rent. The tax does not apply to the renting of a room to the same person for a period of more than 31 consecutive days.

If a church rents sleeping rooms to transient guests where a hotel/motel tax is imposed, it must register with the Department, and it must collect the hotel/motel tax. However, rooms in dormitories and in memorial unions rented to persons by universities and colleges, and rooms rented to guests of a religious institution providing a place for a religious retreat or function and not generally available to transient guests, are not subject to the hotel/motel tax.

If a room charge is billed to a nonprofit corporation or church because someone conducting the organization's business rents a sleeping room as a transient guest, the organization must pay any hotel/motel tax due. The tax must also be paid by any other religious organization or by any nonprofit educational institution.

The hotel/motel tax is applied in addition to the State sales tax, which must also be paid by the nonprofit corporation, church or religious organization. If the community has both a local option sales tax and a hotel/motel tax, only the State sales tax and the hotel/motel tax apply.

The rental of banquet rooms, conference rooms, and any other non-sleeping room in a hotel, motel, apartment, inn, public lodging house, rooming house or tourist court by a nonprofit corporation, church or other religious organization for a religious retreat or other religious function is not subject to the hotel/motel tax; it is, however, subject to Iowa sales tax.

MOTOR VEHICLE FUEL TAXES

In Iowa, gasoline, gasohol, liquified petroleum gas and diesel fuel purchased for highway use are subject to a fuel tax. If a fuel tax is imposed, no State sales tax is imposed.

Nonprofit entities, churches, religious organizations, and nonprofit educational institutions are *not* exempt from motor vehicle fuel taxes.

ADDITIONAL INFORMATION

Because of misunderstandings about nonprofit organizations, the Department faces a number of recurring problems. The information below should help clear up many common misconceptions concerning the way Iowa taxes affect nonprofit organizations.

1.) Many educational, religious and charitable organizations attempt to purchase taxable goods and services without paying tax. Only goods or services purchased for resale, or otherwise specifically exempted by Code, can be purchased tax free.

2.) Governmental units and private nonprofit educational institutions can purchase goods and services free of sales or use tax. Purchases by nonprofit educational institutions must be

used for educational purposes to qualify for the exemption. All other organizations, including churches, must pay tax on tangible personal property which is not purchased for resale.

A corporation can be considered a governmental unit for purposes of receiving a sales or use tax exemption on its purchases if it meets **all** of the following criteria:

- a. It must be created by the government.
- b. It must be wholly owned by government.
- c. It must not be operated for profit.
- d. It must be primarily engaged in the performance of some essential governmental function.

e. It must show that the payment of tax will impose an economic burden upon the corporation, or that payment of tax serves to materially impair the usefulness or efficiency of the corporation or the payment of the tax materially restricts the corporation in the performance of its duties.

f. The services or merchandise purchased by the governmental unit must be used for public purposes.

(A private nonprofit educational institution is generally thought of as a school, college, or university with students, faculty and an established curriculum.)

3.) A nonprofit corporation does not have any type of "blanket" sales or use tax exemption on its purchases solely because the organization is exempted from Federal or State income taxes.

4.) Nonprofit corporations and educational, religious and charitable organizations may be audited and should keep financial records for five years which meet acceptable accounting procedures.

5.) Nonprofit corporations and educational, religious and charitable organizations can be held responsible for the payment of sales and use taxes.

6.) Nonprofit corporations and educational, religious and charitable organizations are not required to obtain a special sales tax permit or registration number if they are not making taxable sales.

7.) The Department does not automatically issue exemption letters or special certificates to organizations to prove sales tax exemption. It is the organization's responsibility to prove that its purchases or sales are exempt. Organizations and individuals should contact the Department about upcoming events to determine whether or not the event is exempt; it is best when inquiries are in writing.

8.) If the Department finds that proceeds expended by an organization were not for educational, religious or charitable purposes, the organization or individual must pay sales tax on that portion of sales not properly expended.

Common exempt situations

Listed below are some common exempt situations. Note that in *all* cases, the entire proceeds must be used for educational, religious or charitable purposes.

- The sales of food and tangible personal property by individuals and organizations at bazaars, sporting events, fairs, carnivals, and centennial organizations
- Student sales
- Sales by the Boy Scouts, Girl Scouts, YMCA, 4-H, PTA, etc., and their satellite organizations
- Receipts from tickets or admissions to amusements, fairs or athletic events conducted by elementary and secondary educational institutions (Sales tax is due, however, on receipts derived from gambling activities conducted by these institutions.)
- Receipts from church-related functions, such as the ladies auxiliary, except for gambling activities
- Activities or events where the entire proceeds are donated to

support governmental or municipal services (Examples are proceeds from the activities of the Junior Chamber of Commerce, Lions Clubs, or Kiwanis which are expended on a civic project.)

- Sales to organization members such as sales of uniforms, insignias and equipment by Scout organizations to their members; sales of Bibles by a church to its members; sales of choir robes by a church to its members
- A summer camp or ranch if it is operated to help underprivileged children or any child and educates the child in some manner
- Admissions and sales of tangible personal property at centennial events
- Sales of tangible personal property by civic and municipal art and science centers
- Activities to raise funds to send members of educational, religious or charitable organizations to conventions or other similar events which are directly related to the purposes of the organization

Common taxable situations

The following are examples of taxable situations:

- Nearly all admission charges to fairs
- Admissions to athletic events of post-secondary educational institutions (regardless of how the proceeds are used)
- Admissions to professional golf tournaments or any similar event where spectators view professional athletics
- Admissions to plays and concerts, except where there is evidence that the organization producing the event has as its primary objective, the education of its members through these productions (each situation evaluated separately)

- Renting facilities to be used by another person or group for educational, religious or charitable purposes if the facilities are in any place where sleeping accommodations are furnished to transient guests for rent
- Organizations whose function is to promote by advertising the use of a particular product for sale at retail
- A summer camp or ranch if it is operated for profit to another person or group for educational, religious or charitable purposes if the facilities are in any place where sleeping accommodations are furnished to transient guests for rent

IOWA DEPARTMENT OF REVENUE AND FINANCE ADDITIONAL SERVICES

To receive forms and publications by mail:

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800-532-1531 (Iowa only)

To receive forms and publications by fax:

800-572-3943 (Iowa only)

To access ERIN (computer bulletin board):

515/281-3248 or 1-800-972-2028 (Iowa only)

To access TDD for hearing impaired:

515/242-5942

To listen to pre-recorded tax messages:

515/281-4170 or

800-351-4658

To check on the status of your Iowa income tax refund:

515/281-4966 or

800-572-3944 (Iowa only)

To access the Department through Internet:

<http://www.state.ia.us/government/drf>

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