

Memorandum

550.1085

Mr. John Emmett
Return Review Unit

February 7, 1990

Mary C. Armstrong
Legal

S--- M--- Community
SR – XX-XXXXXX

This is in response to your memorandum of December 13, 1989. You have requested our opinion regarding whether the exemption provided under Regulation 1603 regarding meals furnished by religious organizations remains applicable given the following two situations:

1. The meals are served with an alcoholic beverage (for a separate price).
2. The meals are served without an alcoholic beverage in a place subject in a place subject to an admission charge.

We are assuming for purposes of analysis that the sales of meals by the referenced taxpayer are at a social event or other gathering, the purpose of which is for raising revenue.

In general, sales of meals or food products by religious organizations at a social event or other gathering are exempt from sales tax when the purpose of serving or furnishing the meals is to obtain revenue for the functions of the organization and the proceeds are actually used in carrying out such functions.

Hotels, restaurants and similar establishments contracting with religious organizations to provide meals and food products for fund-raising banquets conducted by the religious organizations are not required to pay sales tax on charges for the meals and food products furnished or served at the fund-raising banquet, provided the religious organization's purpose for the banquet is to obtain revenue for the functions and activities of the religious organization, and the revenue obtained by the religious organization from the banquet is actually used in carrying on such functions and activities. Such sales by the hotels, restaurants or similar establishments are sales for resale.

This exemption only applies to sales of meals and food products. Sales of alcoholic or carbonated beverages sold for a separate price are subject to sales tax. Therefore, unless the religious organization holds a seller's permit to report sales tax on its sales of alcoholic and carbonated beverages, sellers are liable for the tax on such sales to religious organizations.

If the sale of the meals or food products is not to raise revenue, then sales tax applies to charges for the meals and food products.

The fact that an admission charge may have been charged does not change the above analysis. The meals are exempt from tax regardless of whether an admission charge is made.

If you have further questions concerning this matter, we will be happy to discuss them with you.

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