

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
100089	Sales and Use Tax Nonprofit Organizations and Government Units – Certificate of Exempt Status – Common Questions

State of Wisconsin
Department of Revenue

Sales and Use Tax Nonprofit Organizations and Government Units - Certificate of Exempt Status

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.

1. What is a Certificate of Exempt Status (CES) number?
2. What types of nonprofit organizations and governmental units qualify for a CES number?
3. What about out-of-state nonprofit organizations?
4. How do I apply for a CES number?
5. Should a nonprofit organization or governmental unit charge sales tax on its sales of taxable products and services?

1. **What is a Certificate of Exempt Status (CES) number?**

To assist retailers in identifying organizations that qualify to make purchases exempt from Wisconsin sales and use tax, the Department of Revenue will issue the qualifying nonprofit organization or governmental unit a Certificate of Exempt Status (CES) number.

2. **What types of nonprofit organizations and governmental units qualify for a CES number?**

The following types of nonprofit organizations and governmental units qualify for a CES number:

- Organizations organized and operated exclusively for religious, charitable, scientific or educational purposes, and for the prevention of cruelty to children or animals. Generally, organizations that qualify for exemption from Federal income tax under Section 501(c) (3) of the Internal Revenue Code will qualify for exemption from Wisconsin sales and use tax. These organizations are issued a Certificate of Exempt Status (CES).
- Federal governmental units and Wisconsin governmental units, including counties, cities, villages, towns and school districts, and any federally recognized American Indian tribe or band in Wisconsin, may also be granted a CES. Governmental units are not required to apply for a CES in order to receive exemption on their purchases; however, they may choose to do so.

Examples of organizations that **do not** qualify for sales tax exemption for purchases by nonprofits and will not be issued a CES are as follows:

- o Civic organizations
- o Chambers of commerce
- o Business or union organizations
- o Fraternal or recreational groups
- o Professional societies
- o Social clubs or veteran organizations and their auxiliaries
- o Governmental units of other countries and states

Purchases made by these organizations are subject to Wisconsin sales and use tax unless some other exemption applies. Information on Internal Revenue Service requirements can be found at irs.gov/charities/charitable/index.html.


3. **What about out-of-state nonprofit organizations?**

The department does not issue CES numbers to nonprofit organizations of other states, since a CES number is not required for a qualifying out-of-state organization to claim an exemption from Wisconsin sales and use tax on its purchases.


A nonprofit organization qualifies for exemption on its purchases if it is a:

- o "corporation, community trust fund, foundation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, except hospital service insurance corporations under s. 613.80 (2), no part of the net income of which inures to the benefit of any private stockholder, shareholder, member or corporation."


Note: This exemption does not apply to purchases made by state or local governmental units from other states, including non-Wisconsin public schools and school districts. It also does not apply to fraternal, professional, labor, or civic organizations, or social or recreational clubs.

To claim the exemption if you are a qualifying organization, give your seller a fully completed *Wisconsin Sales and Use Tax Certificate*  ([Form S-211](#)), with the "Other purchases exempt by law" box checked stating that your organization qualifies for exemption under sec. 77.54(9a) (f), Wis. Stats. A new electronic sales and use tax exemption certificate ([Form S-211](#)) can be customized for your specific needs.

Caution: Penalties may apply if you use an exemption certificate in a manner that is prohibited by or inconsistent with the law or provides incorrect information to a seller. The penalty is \$250 for each invoice or bill of sale related to the use of the incorrect exemption certificate.

If you are unsure whether your organization qualifies for the exemption under sec. 77.54(9a) (f), Wis. Stats., and you would like the department to make a determination, please submit a request for a private letter ruling. See  [Publication 111](#), *How to Get a Private Letter Ruling From the Wisconsin Department of Revenue* for instructions.

4. **How do I apply for a CES number?**

A CES number can be obtained by submitting a completed *Application for Wisconsin Sales and Use Tax Certificate of Exempt Status*  [Form S-103](#) and the following documentation:

- o Articles of incorporation or bylaws
- o Statement of receipts (income) and disbursements (expenses) for the organization's last accounting period

- Federal Internal Revenue Service (IRS) determination letter

Governmental units only need to submit the application

5. **Should a nonprofit organization or governmental unit charge sales tax on its sales of taxable products and services?**

A nonprofit organization or governmental unit's sales are not taxable if the nonprofit organization or governmental unit qualifies for the occasional sale exemption.

The occasional sale exemption applies if **all** of the following conditions are met:

- A. The nonprofit organization or governmental unit does not hold and is not required to hold a seller's permit.

Exception: If a nonprofit organization or governmental unit holds a seller's permit solely for the purpose of conducting bingo events, this condition is still met.

- B. The nonprofit organization or governmental unit's taxable sales are \$50,000* or less during the calendar year, **or** the nonprofit organization or governmental unit's sales of otherwise taxable sales of products and services (including admissions to amusement, athletic, recreational, or entertainment events) occur on 75* days or less during the calendar year. (For any sales of admissions or tickets, only the actual days of the events are counted, not the days of ticket or admission sales).

Note: If taxable sales exceed \$50,000* **and** occur on more than 75* days, the occasional sale exemption does not apply.

*Prior to January 1, 2017, the receipts standard as \$25,000 and the number of days standard was 20.

- C. The nonprofit organization or governmental unit does not conduct an admission event involving entertainment if the total amount paid to all entertainers is in excess of \$10,000*, including amounts paid as prize money or reimbursement of expenses.

*Prior to January 1, 2017, the entertainment standard was \$500.

Note: If, for example, the nonprofit organization or governmental unit were to pay \$15,000 in total to performers to appear at a concert for which it charges admission, the nonprofit organization or governmental unit would not meet Condition C for that event.

A nonprofit organization or governmental unit that would otherwise qualify for exempt occasional sales, except for the involvement of entertainment may do the following:

- Obtain a seller's permit from the Department of Revenue for the day or days of the event involving entertainment,
- Pay the sales tax on sales of tangible personal property and taxable services on these days, and
- Request inactivation of the seller's permit after the event by contacting the Department of Revenue.

If the above three steps are taken, the nonprofit organization or governmental unit may still make exempt occasional sales on days not covered by the permit. (**Note:** These days and receipts are included in determining if Condition B is met.)

If the nonprofit organization or governmental unit is required to hold a seller's permit, its sales do not qualify for the exemption.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of November 4, 2019: Sections 73.03, 73.035, 77.51, 77.52, 77.53, 77.54 and 77.60, Wis. Stats., and sec. 77.54, Wis. Stats. (2013), secs. Tax 11.002, 11.05, 11.14 and 11.35, Wis. Adm. Code, and 26 U.S. Code § 501.

Laws enacted and in effect after November 4, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to November 4, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

FOR QUESTIONS OR COMMENTS CONTACT:

MS 3-80

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