

Policy Letter; County Fair Association Sales Tax Exemption; September 29, 2016

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Re: County Fair Association Sales Tax Exemption

Dear Mr. Schenkelberg:

The Iowa Department of Revenue (“Department”) has received your email regarding the applicability of a sales tax exemption to county fair associations.

Issue:

You asked whether a nonprofit county fair association organized under Iowa Code § 174 is exempt under Iowa Code § 423.3(31) from Iowa sales or use tax on its purchases of property and services for its own use in the maintenance and operations of the fairgrounds as a state instrumentality.

Analysis:

Iowa Code § 423.2(1) imposes a tax of six percent “upon the sales price of all sales of tangible personal property, consisting of goods, wares, or merchandise, sold at retail in the state to consumers or users.” Iowa Code § 423.3(31) exempts from sales tax “the sales price of goods, wares, or merchandise sold to and of services furnished and used for public purposes sold to . . . instrumentalities of state, federal, county, or municipal government which have no earnings going to the benefit of an equity investor or stockholder.”

The Department has previously decided that a county fair is not an instrumentality of a county or municipal government, but it may be an instrumentality of the state for purposes of Iowa Code section 423.3(31). *Mississippi Valley Fair, Inc., Letter of Findings* (1991), available at <http://itrl.idr.iowa.gov/Browse/OpenFile/4778-mississippi%20valley-Exact->; see also 1966 Iowa Op. Att’y Gen. 447, 1966 WL 155384. The public purpose of a county fair includes holding the annual fair event. 1966 Iowa Op. Att’y Gen. 447 (citing Iowa Code §174.2). The public purpose of a county fair does not include other for profit activities held in the interim, such as weekly auto races at the fairgrounds. *Id.*

As suggested by the paragraph above, while a county fair can qualify as an instrumentality of state government for the purposes of the exemption in Iowa Code § 423.3(31), that exemption also requires that the purchase be made to fulfill the county fair's public purpose. This means that not all purchases by the fair are necessarily exempt. When claiming the exemption the person purchasing taxable items on behalf of the fair needs to ask whether the purchase is being made in order to allow the fair board to hold the annual fair event. If so, the sale is exempt, if the purchase is for some other purpose, such as facilitating another for-profit event held on the fairgrounds, then the sale would not be exempt.

Determining whether a county fair is acting as an instrumentality of the state and making purchases to fulfill its public purpose requires a fact-intensive examination, which the Department cannot perform for this letter. Accordingly, this letter provides no opinion on whether a county fair is acting as an instrumentality of the state in any specific situation.

I hope this information has been helpful to you. Please remember that this letter is an informal opinion based only on the facts you provided and on the current law. In the future, the Department could take a position contrary to that stated in this letter. Any written advice or opinion rendered to members of the public by Department personnel that is not pursuant to a Petition for Declaratory Order under 701 IAC 7.24 is not binding upon the Department. If you have any additional questions regarding this matter please do not hesitate to contact me.

Sincerely,

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