

MINNESOTA DEPARTMENT OF REVENUE

Revenue Notice # 05-02: Sales and Use Tax – Nonprofit Admission Exemption Voluntary Contributions

Background

Minnesota Statutes, section 297A.70, subdivision 10, provides a sales tax exemption for sales of admissions or tickets to events put on by nonprofit arts organizations provided that (1) the organization is an organization described in section 501 (c)(3) of the Internal Revenue Code and (2) a certain percentage of the organization's gross revenues comes from voluntary contributions.

Issue

What qualifies as “voluntary contributions” for purposes of subdivision 10 of Minnesota Statutes, section 297A.70?

Department Position

The department takes the position that only contributions that qualify as charitable contributions under section 170 of the Internal Revenue Code will be recognized as voluntary contributions. A voluntary contribution must be a gift that is completed, made voluntarily and with donative intent. It is well recognized that a transfer which is required from a person by law or by contract lacks the essential characteristic of a gift. In addition, if the contributor receives a benefit for the contribution, the contribution may not be deductible.

The department recognizes that a transaction may be part gift, part purchase, but in those cases special responsibilities are imposed upon the donee organization. To be entitled to a deduction for a charitable contribution where a person has made a combined purchase and contribution, it must, at a minimum, be demonstrated that the donor purposely contributed money or property in excess of the value of any benefit received in return. Also the donor must have the intention of making a gift. See, I.R.C. Reg. 1.170A-1(h)(1).

The department takes the position that in-kind contributions of services do not qualify as voluntary contributions under subdivision 10 of Minnesota Statutes, section 297A.70. I.R.C. Reg. 1.170A-1(g) provides that no charitable deduction is allowed for the value of services rendered to a charitable organization. The Internal Revenue Service requires that a charitable contribution must, among other requirements, be a payment of money or transfer of property without adequate consideration. The in-kind contributions of legal, accounting and booking entertainment services will not be considered as voluntary contributions.

John H. Mansun, Assistant Commissioner
for Tax Policy and External Relations

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