



STATE OF ARKANSAS
**Department of Finance
and Administration**

REVENUE LEGAL COUNSEL
P.O. Box 1272 – Room 2380
Little Rock, Arkansas 72203
Phone: (501) 682-7030
Fax: (501) 682-7599
www.arkansas.gov/dfa

January 27, 2021



RE: Gross Receipts Tax – Taxability of Sales of Property at Club Picnic
Opinion 20200303

Dear [REDACTED]:

Your request for a legal opinion concerning the taxability of sales of used property at a picnic has been forwarded to me for a response. Within your request for opinion you state that the [REDACTED] (“the Club”) hopes to have a free “welcome” picnic open to members of the public. To draw interest in the picnic, members of the Club will bring items of used property for sale to the public. The picnic welcome event will resemble a yard sale. You anticipate the picnic and sale event would be a one-time event, but the Club may explore having the picnic, at-most, annually. You ask whether the Club would be required to collect and remit gross receipts (sales) taxes on the sales made at the picnic.

RESPONSE

Based on the information that you submitted, nothing demonstrates that members of the Club regularly engage in the sale of used property, the sales of used property at the welcome picnic qualify for the “isolated sales” exemption to Arkansas sales tax. The Club would not be required to collect and remit sales tax on the sales made at the picnic.

Discussion

Arkansas sales tax generally applies to all sales of tangible personal property and certain enumerated services unless a specific exemption applies. Ark. Code Ann. §§ 26-52-301 *et seq.* (Repl. 2020), Ark. Const. amend. 75, § 2, and Ark. Const. amend. 91, §3. Tangible personal property is “personal property that can be seen, weighed, measured, felt, or touched or that is any other manner perceptible to the senses.” Ark Code Ann. § 26-52-103(30)(A) (Repl. 2020).

Arkansas Code Annotated § 26-52-401 (Repl. 2020) sets forth exemptions from the tax. One such exemption is the “isolated sales” exemption found in Ark. Code Ann. § 26-52-401(17) (Repl. 2020). The exemption applies to isolated sales not made by an established business. For the exemption to apply, the sales cannot be made by an established business or in an established manner. Arkansas Gross Receipts Tax Rule GR-49(A). The exemption does not apply to sales of motor vehicles, trailers, semi-trailers, mobile homes, airplanes, or other tangible personal property

made at special events. Arkansas Gross Receipts Tax Rule GR-49(C). A special event is defined as an entertainment, amusement, recreation, or marketing event which occurs at a single location on an irregular basis and where tangible personal property is sold. Ark. Code Ann. § 26-52-518(a)(3)(A) (Repl. 2020). The rules for special events apply only to vendors of goods who regularly engage in the sale of merchandise, but not to vendors who only occasionally sell identical merchandise.

The Club is an amateur radio club and has thirty-four (34) members. The picnic is planned to be a one-time event, but the Club may explore having the picnic, at-most, annually. It is estimated that five (5) to twenty-five (25) items of used tangible personal property belonging to members of the club might be sold and you expect that the total proceeds from the sales will be less than \$500.00. You have not provided any information that members of the Club regularly engage in the sale of used property. These facts demonstrate that the sales made at the picnic are isolated sales of tangible personal property not made by an established business. The Club would not need to collect and remit gross receipts taxes sold by members of the Club at the picnic. Please note, however, that a change in the facts identified in your request for opinion could result in a determination that sales made by, or on behalf of, the Club are subject to tax.

This opinion is based on my understanding of the facts as set forth in your inquiry and as those facts are governed by current Arkansas law. Any change in the facts, such as the frequency of the event, or law could result in a different opinion. Only the requestor may rely on this opinion, and, pursuant to Arkansas Gross Receipts Tax Rule GR-75(B), this opinion will only be binding on the Department for three (3) years from the date of issuance.

A copy of the Arkansas Gross Receipts Tax Rules referenced in this letter is available online at http://www.dfa.arkansas.gov/offices/policyAndLegal/Documents/et2008_3.pdf.

Sincerely,

Michelle L. Baker, Managing Attorney
Revenue Legal Counsel