

Sec. 12-426-17. Casual or isolated sales

(a) Since the tax is predicated upon a sale made by a person engaged in the business of making sales at retail, certain sales which are not sufficient in number, scope and character to constitute an activity requiring a seller's permit are described as casual or isolated sales. Such sales are exempt from the tax except, however, as they involve boats, airplanes, snowmobiles and motor vehicles as hereinafter illustrated.

(b) Casual sales are: (1) Infrequent sales of a nonrecurring nature made by a person not engaged in the business of selling tangible personal property; (2) Sales of articles of tangible personal property acquired for use or consumption by a seller and not sold in the regular course of business engaged in by such seller.

(c) Examples of exempt sales: (1) A grocer selling his cash register or an insurance company selling a typewriter; (2) Sale of a business in its entirety by the owner; (3) Sales by executors, administrators, trustees and other fiduciaries, except when they continue the operation of the business as sellers; (4) Legal sales, executions, etc. under court order by a proper officer; (5) Sales of used machinery, fixtures, equipment and like items by an owner who is engaged in a business or occupation, such as manufacturing or farming, but who is not engaged in the selling of such items as a business; (6) Sales by nonprofit organizations at bazaars, fairs, picnics or similar events to the extent of two such events of a day's duration, held during any calendar year; provided, where sales are made at such events by an organization holding a sales tax permit, or otherwise required to hold such a permit because its selling events are in excess of the number permitted, such sales shall constitute sales in the regular course of business and are not exempted as casual sale, as defined above, is deemed to be the consumer of that property which it purchases for resale, and as such will pay the tax on purchases nor otherwise exempt; (7) A transfer of a motor vehicle, upon which the transferor has paid the tax, in connection with the organization, reorganization, dissolution or partial liquidation of a business entity where no gain or loss is recognized for income tax purposes.

(d) Examples of nonexempt sales: (1) Retail sales by an auctioneer under any of the examples of exempt sales given above; (2) Sales of motor vehicles (see subsection (c) (7) above), boats, snowmobiles or airplanes by any person other than the spouse, mother, father, brother, sister or child of the purchaser; (3) Retail sales by manufacturers, wholesalers, processors and jobbers even though such sales are infrequent and only comprise an insignificant fraction of their total business; (4) Sales which constitute an integral part of a business, such as the sale of repossessed fixtures or other property by a finance company, even though the sale of tangible personal property is not the primary function of such business.

(Effective April 4, 1972)