

[Article 28](#) - SALES AND COMPENSATING USE TAXES

§ 1116. Exempt organizations. (a) Except as otherwise provided in this section, any sale or amusement charge by or to any of the following or any use or occupancy by any of the following shall not be subject to the sales and compensating use taxes imposed under this article:

(1) The state of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions where it is the purchaser, user or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons;

(2) The United States of America, and any of its agencies and instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons;

(3) The United Nations or any international organization of which the United States of America is a member where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons;

(4) Any corporation, association, trust, or community chest, fund, foundation, or limited liability company, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, (except as otherwise provided in subsection (h) of section five hundred one of the United States internal revenue code of nineteen hundred fifty-four, as amended), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

(5) A post or organization of past or present members of the armed forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization:

(A) organized in this state,

(B) at least seventy-five percent of the members of which are past or present members of the armed forces of the United States as defined in section thirteen-a of the general construction law and substantially all of the other members of which are individuals who are cadets or are spouses, widows, widowers, ancestors, or lineal descendants of past or

present members of the armed forces of the United States or of cadets, and

(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(6) The following Indian nations or tribes residing in New York state: Cayuga, Oneida, Onondaga, Poospatuck, Saint Regis Mohawk, Seneca, Shinnecock, Tonawanda and Tuscarora, where it is the purchaser, user or consumer.

(7) A not-for-profit corporation operating as a health maintenance organization subject to the provisions of article forty-four of the public health law.

(8) Cooperative and foreign corporations doing business in this state pursuant to the rural electric cooperative law.

(9) A credit union, as defined in subdivision nine of section two of the banking law, where it is the purchaser, user, or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons.

(b) Nothing in this section shall exempt:

(1) (i) retail sales of tangible personal property by any shop or store operated by an organization described in paragraph (4), (5) or (6) of subdivision (a) of this section; (ii) sales, other than for resale, of services described in subdivision (b) or paragraph five of subdivision (c) of section eleven hundred five of this article by that organization, whether or not at a shop or store; (iii) retail sales of tangible personal property and sales, other than for resale, of those services by that organization, made with a degree of regularity, frequency, and continuity by remote means, such as by telephone, the internet, mail order or otherwise; or (iv) retail sales of tangible personal property by lease or rental by that organization as lessor, whether or not at a shop or store;

(2) sales of food or drink in or by a restaurant, tavern or other establishment operated by an organization described in paragraph (1), paragraph (4), paragraph (5) or paragraph (6) of subdivision (a) of this section, other than sales exempt under paragraph (ii) of subdivision (d) of section eleven hundred five, from the taxes imposed hereunder, unless the purchaser is an organization exempt under this section;

(3) sales of the service of providing parking, garaging or storing for motor vehicles by an organization described in paragraph (4) or paragraph (5) of subdivision (a) of this section operating a garage (other than a garage which is part of premises occupied solely as a private one or two family dwelling), parking lot or other place of business engaged in providing parking, garaging or storing for motor vehicles; or

(4) sales of tangible personal property or services by cooperative and foreign corporations doing business in this state pursuant to the rural electric cooperative law, unless the purchaser is an organization exempt

under this section.

(5) purchases of motor fuel or diesel motor fuel from the tax required to be prepaid pursuant to section eleven hundred two of this article and retail sales of motor fuel or diesel motor fuel subject to the tax imposed by sections eleven hundred five and eleven hundred ten of this article, except that purchases of such fuel by an organization described in paragraph one or two of subdivision (a) of this section for its own use or consumption, purchases of motor fuel by a hospital included in the organizations described in paragraph four of such subdivision for its own use and consumption, purchases of motor fuel and diesel motor fuel by a fire company or fire department, as defined in section three of the volunteer firefighters' benefit law or a voluntary ambulance service, as defined in section three thousand one of the public health law, for such department, company or service's own use and consumption for use in firefighting vehicles, apparatus or equipment, or emergency rescue or first aid response vehicles, apparatus or equipment, owned and operated by such department, company or service if such company, department or service qualifies as an exempt organization pursuant to the provisions of paragraph four of subdivision (a) of this section and purchases of diesel motor fuel by an organization described in paragraph four of such subdivision for its own heating use and consumption shall be exempt from such tax required to be prepaid and from retail sales and use taxes on such fuel.

(6) purchases of cigarettes from the tax required to be prepaid pursuant to section eleven hundred three of this article, except that no prepayment of tax shall be required on sales of cigarettes sold under such circumstances that this state is without power to impose such tax or sold to the United States or sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States, to the extent provided in such regulations and written policy statements of such agency applicable to such sales.

(7) rent received by a hotel operated by a college or university, where such hotel offers one hundred or more rooms for occupancy, and where the individual paying said rent is not doing business on behalf of any organization exempted pursuant to subdivision (a) of this section.

(c) (1) Where any organization described in paragraph four of subdivision (a) of this section carries on its activities in furtherance of the purposes for which it was organized, in premises in which, as part of said activities, it operates a hotel, occupancy of rooms in the premises and rents therefrom received by such corporation or association shall not be subject to tax hereunder.

(2) Nothing in this subdivision shall exempt any hotel operated by a college or university and which offers one hundred or more rooms for occupancy from collecting taxes imposed pursuant to section eleven

hundred five of this article from individuals who are not doing business on behalf of an organization exempted pursuant to subdivision (a) of this section.

(d) (1) Except as provided in paragraph (2) of this subdivision, any admissions all of the proceeds of which inure exclusively to the benefit of the following organizations shall not be subject to any of the taxes imposed under subdivision (f) of section eleven hundred five:

(A) an organization described in paragraph (4), (5) or (6) of subdivision (a) of this section;

(B) a society or organization conducted for the sole purpose of maintaining symphony orchestras or operas and receiving substantial support from voluntary contributions; or

(C) national guard organizations; or

(D) a police or fire department of a political subdivision of the state, or a voluntary fire or ambulance company, or exclusively to a retirement, pension or disability fund for the sole benefit of members of a police or fire department or to a fund for the heirs of such members.

(2) The exemption provided under paragraph (1) of this subdivision shall not apply in the case of admissions to:

(A) Any athletic game or exhibition unless the proceeds shall inure exclusively to the benefit of elementary or secondary schools or unless in the case of an athletic game between two elementary or secondary schools, the entire gross proceeds from such game shall inure to the benefit of one or more organizations described in paragraph (4) of subdivision (a) of this section;

(B) Carnivals or rodeos in which any professional performer or operator participates for compensation, unless the entire net profit from such carnival or rodeo shall inure exclusively to the benefit of an organization described in paragraph four of subdivision (a) of this section, and such organization shall have as its charitable or educational purpose the operation of a school and of such a carnival or rodeo; or

(3) Admission charges for admission to the following places or events shall not be subject to any of the taxes imposed under subdivision (f) of section eleven hundred five:

(A) Any admission to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the same; provided the proceeds therefrom are used exclusively for the improvement, maintenance and operation of such agricultural fairs.

(B) Any admission to a home or garden which is temporarily open to the general public as a part of a program conducted by a society or organization to permit the inspection of historical homes and gardens; provided no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

(C) Any admissions to historic sites, houses and shrines, and museums conducted in connection therewith, maintained and operated by a society or organization devoted to the preservation and maintenance of such historic sites, houses, shrines and museums; provided no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

(e) Receipts from the service of trash removal shall be exempt from the tax on such service imposed by this article, where such service is rendered by a municipal corporation of the state, other than a city of one million or more, including such service rendered on its behalf, under an agreement with such corporation.

(f)(1) For purposes of paragraph four of subdivision (a) of this section, in the case of a qualified amateur sports organization (A) the requirement of such paragraph that no part of its activities involve the provision of athletic facilities or equipment shall not apply, and (B) such organization shall not fail to meet the requirement of such paragraph merely because its membership is local or regional in nature.

(2) For purposes of this subdivision, the term "qualified amateur sports organization" means any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports.

(g) For purposes of paragraph five of subdivision (a) of this section, duly authorized representatives of any such post or organization, while acting on behalf of such post or organization, shall not be subject to the tax imposed under subdivision (e) of section eleven hundred five or the unit fee imposed by section eleven hundred four of this article, provided that such representatives provide an exempt organization certificate from such post or organization certifying that such representative is acting on its behalf.