

## REG-1-022, Occasional Sales

022.01 Occasional sales are exempt from sales tax. Occasional sale means a sale, but not a lease or rental, of property in a transaction described in Reg-1-022.02 through Reg-1-022.09.

022.02 An occasional sale includes transactions where the property is the subject of an intercompany sale from a subsidiary to the parent, from a parent to a subsidiary, from one subsidiary to another subsidiary of the same parent, or between brother-sister companies.

022.02A This applies to corporations that have at least 50% common ownership, and other entities that would be considered a parent, subsidiary, or brother-sister if they were corporations.

022.02B Sole proprietorships are not entities separate and apart from the owners and do not qualify for this exemption.

022.03 An occasional sale includes sales of property:

022.03A From one corporation to another corporation pursuant to a reorganization. Reorganization means a statutory merger or consolidation; or the acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation or of its parent or subsidiary corporation;

022.03B From one limited liability company to another limited liability company pursuant to a reorganization;

022.03C In connection with the winding up, dissolution, or liquidation of a corporation, partnership, or limited liability company if there is a distribution of the property of the corporation, partnership, or limited liability company to the owners substantially in proportion to their share of stock or securities in the corporation, or interests of the owners of the partnership or limited liability company;

022.03D To a corporation, partnership, or limited liability company for the purpose of organizing the corporation, partnership, or limited liability company or contributing additional capital to a corporation when the former owners of the property are in control of the corporation, partnership, or limited liability company immediately after the transfer, and the stock, securities, or interest received by each is substantially in proportion to his or her interest in the property prior to the transfer; or

022.03E Any other transaction that qualifies as a tax-free transaction under the Internal Revenue Code.

022.04 The transactions described in Reg-1-022.02 and Reg-1-022.03 may involve new or used property, motor vehicles, or motorboats. Persons claiming the occasional sale exclusion for purchases of motor vehicles or motorboats must provide the county treasurer, or other designated county official, with evidence that the transfer falls within Reg-1-022.02 or Reg-1-022.03, at the time of registration of the motor vehicle or motorboat.

022.05 Occasional sale includes the sale of either new or used business assets, where a person liquidates his or her business in a single transaction to a single buyer. The liquidation must be all or substantially all of the property of the trade or business.

022.06 Occasional sale includes a sale of used business or farm machinery or equipment which was productively used by a seller or the seller's predecessor as a depreciable capital asset for at least one year in the business. The purchaser must obtain an exempt sale certificate or other documentation from the seller demonstrating that the sale was sales tax exempt. See Reg-1-014.

022.07 The transactions described in Reg-1-022.02 through Reg-1-022.06 may include aircraft, and are occasional sales only if the seller or the seller's predecessor previously paid sales or use tax, the seller purchased the property

prior to June 1, 1967, or the sale was exempt from sales and use tax when the property was purchased.

022.08 Occasional sale includes a sale of household goods and personal effects by an individual when the property was originally acquired and used for personal use. These sales must occur at an individual's residence, and may include the property of more than one person, or be carried out by an individual on an online auction site.

022.08A These sales may not be held on more than three days during a calendar year at any residence or on an online auction site.

022.08B These sales may not include property which is similar to property that is sold by the individual or any member of his or her household in a trade or business.

022.08C Household goods and personal effects do not include motor vehicles, motorboats, or aircraft.

022.09 Occasional sale includes one sale activity during a calendar year by a nonprofit religious organization.

022.09A The sale must be during an activity of the nonprofit religious organization, but it does not have to take place at a location owned by the nonprofit religious organization.

022.09B The sale may last up to three consecutive days.

022.09C The nonprofit religious organization may have the assistance of an auctioneer at this sale without having to collect sales tax on the property or services sold.

022.09D The nonprofit religious organization may sell anything it owns at its sale. The property or services sold may be made especially for the sale, purchased for the sale, or donated to the nonprofit religious organization for the sale. Sales of motor vehicles, trailers, or semi-trailers made at the sale are not occasional sales.

022.10 Occasional sale does not include:

022.10A Any sale that is made, supervised, or aided by an auctioneer, or agent or employee of an auctioneer, except for a sale by a nonprofit religious organization as provided in Reg-1-022.09C;

022.10B Any sale of inventory or property purchased for resale or for lease;

022.10C Any sale of a motor vehicle or motorboat, except a sale described in Reg-1-022.02 or Reg-1-022.03; or

022.10D Any sale of new property, except a sale described in Reg-1-022.02, Reg-1-022.03, Reg-1-022.05, or Reg-1-022.09.

*(Neb. Rev. Stat. §§ 77-2701.24 and 77-2704.48, and Attorney General Opinion Number 252, June 16, 1978, June 24, 2017.)*