



Georgia Department of Early Care and Learning

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MEMORANDUM

To: All Institutions Participating in the Child and Adult Care Food Program (CACFP) and the Summer Food Service Program (SFSP)

From: Falita S. Flowers, Nutrition Services Interim Director

Date: January 23, 2014

Subject: Tax Exempt Status for Private Nonprofit Organizations and Churches in the CACFP and SFSP

Legal Authority: USDA Food and Nutrition Service Memorandum CACFP 05-2013, SFSP 09-2013

The purpose of this memo is to provide guidance and clarification regarding the eligibility of private nonprofit organizations and churches seeking participation as Sponsors in the Child and Adult Care Food Program (CACFP) and Summer Food Service Program (SFSP). Please note that all nonprofit organizations, including churches, must fulfill all application requirements and demonstrate financial and administrative capability for CACFP and SFSP operations in order to participate in the Programs. This memo addresses only the requirement relating to tax exempt status.

CACFP authorizes in Section 17 of the Richard B. Russell National School Lunch (NSLA) (42 USC 1766) and Program regulations at 7 CFR 226.2 and 226.15(a) require that private nonprofit organizations must have Federal tax exempt status under the Internal Revenue Code of 1986 (IRC) in order to be eligible to participate in CACFP.

Recently, Section 111 of the Healthy, Hunger-Free Kids Act of 2010 amended Section 13 of the NSLA (42 USC 1761) by clarifying the definition of "private nonprofit" in SFSP to specify that private nonprofit organizations must now *have*, rather than simply be eligible for, tax exempt status under the IRC. This provision was implemented through SFSP 02-2011, Child Nutrition Reauthorization 2010: Eligibility Requirements and Site Limits for Private Nonprofit Organizations in the Summer Food Service Program, January 14, 2011, (http://www.fns.usda.gov/end/summer/Administration/Policy/SFSP-02_2011.pdf).

For purposes of CACFP and SFSP participation by private nonprofit organizations, only Federal tax exempt status pursuant to the IRC is relevant. Generally, the IRC requires private nonprofit organizations to apply for and receive documentation of tax exempt status. However, Internal Revenue Service (IRS) guidance provides that under certain circumstances, a church is considered automatically tax exempt under the IRC and is not required to apply for the IRS document verifying that it has tax exempt status (Form 1023). Therefore, for purposes of participation in CACFP and SFSP, churches are not required to provide the State agency with IRS Form 1023 as documentation of tax-exempt status. However, churches are required to complete Bright from the Start's form: **Certification of Tax Status for Churches and Integrated Auxiliary Organizations** as part of their application documentation and the form must be included with other application documents and submitted to Bright from the Start. The form can be accessed via the Bright from the Start web site at <http://www.dec.state.ga.us/documents/attachments/TaxExemptCertChurches.pdf>.

When determining whether an organization qualifies as a church, Bright from the Start shall refer to IRS Publication 557, "Tax Exempt Status for Your Organization" (<http://www.irs.gov/pub/irs-pdf/p557.pdf>) and "Tax Guide for Churches and Religious Organizations" (<http://www.irs.gov/pub/irs-pdf/p1828.pdf>) for guidance. Should there be concerns regarding the legitimacy of an organization's claim of tax exempt status based on being a church, Bright from the Start may contact a local or regional IRS office.

If you have any questions concerning this memo, please feel free to contact Sonja R. Adams, Policy Administrator at (404) 651-8193.