
29 C.F.R. § 779.369

Funeral home establishments may qualify as exempt 13(a)(2) establishments.

- (a) *General.* A funeral home establishment may qualify as an exempt retail or service establishment under section 13(a)(2) of the Act if it meets all the requirements of that section. Where the establishment meets these requirements generally all employees employed by the establishment will be exempt except any employees who perform any work in connection with burial insurance operations (see paragraph (b)) or who spend a substantial portion of their workweek in ambulance service operations, as described in paragraph (e) below.
- (b) *Burial insurance operations.* There is no retail concept applicable to the insurance business (see § 779.317). Burial associations which enter into burial insurance contracts are generally regulated by the State and the regulations governing such associations are included in State statutes under Insurance. The contracts issued are very similar in form and content to ordinary life insurance policies. Income received from such operations is nonretail income and employees engaged in such work are not employed in work within the scope of the retail exemption (see § 779.308).
- (c) *Accommodation items.* Amounts paid to funeral homes to cover the cost of “accommodation” items are part of the gross receipts of the establishment and are included in its annual gross volume of sales made or business done. Such items may include goods or services procured by the funeral home on behalf of the bereaved with or without profit but on its own credit or through cash payment by it, such as telegrams, long distance calls, newspaper notices, flowers, livery service, honoraria to participating personnel, transportation by common carrier, clothing for the deceased, and transcripts of necessary forms. For the purposes of determining the applicability of the retail or service establishment exemption, receipts of the funeral home in reimbursement for such services are considered derived from sales or services recognized as retail in the industry. Cash advances made as a convenience to a bereaved family are not included in computing the gross volume of sales made of business done when repaid. Of course, if interest is charged it would be included in the gross volume of sales and nonretail income.

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