

S&U-11 Admission Charges

Introduction

This bulletin explains how New Jersey sales and use tax applies to charges for admission to places of amusement, entertainment and sports activities in this State. It also explains the registration and sales tax collection obligations of amusement activity and entertainment event producers, promoters and ticket agents.

General Information

The New Jersey Sales and Use Tax Act imposes a tax on any admission charge in excess of \$0.75 to or for the use of any place of amusement in New Jersey or to any entertainment event or sporting activity which takes place in this State. The sales and use tax rate is currently 6%.

Places, events and activities to which admissions are taxable include, but are not limited to, amusement parks; motion picture theaters; dramatic or musical arts performances; race tracks; baseball games, basketball games, football games and other similar exhibitions performed for the benefit of spectators. Charges by a roof garden, cabaret or other similar establishment in this State are also subject to sales tax if such charges have not been taxed pursuant to the provision of the Sales and Use Tax Act which imposes tax on the sale of food and drink.

Certain admissions, such as those charged to a patron for admission to, or for the use of facilities for sporting activities in which the patron will be a *participant*, are exempt from tax. Also exempt are charges for admission where all of the proceeds are for the exclusive benefit of a qualified New Jersey exempt organization (except admissions to carnivals, rodeos or circuses in which a professional performer or operator participates for compensation). Admissions to boxing matches and other combative sports contests or exhibitions that are subject to tax under any other law of this State are exempt from sales tax also.

Taxable Admissions

It is usually easy to distinguish between a taxable and a nontaxable admission charge. However, the distinction may be more difficult to make if the term “Place of amusement” is not accurately understood. For New Jersey sales tax purposes, a place of amusement means any privately or publicly owned and operated place within New Jersey where facilities for entertainment, amusement or sports are provided, such as a theater, stadium, museum, arena, racetrack or other place where performances, concerts, exhibits, games, contests or other activities are held, and for which an entry fee is charged.

Furthermore, transactions which contain charges for items that are merely related or ancillary to admission charges are sometimes confused with the actual admission charges themselves.

Equipment Rentals

Charges for admission to sporting activities in which the patron will be a participant are sometimes confused with charges for the rental of equipment or accessories used in such activities (e.g., bicycles, boats and canoes, bowling shoes, fishing equipment, horses (for horseback riding), skates, golf carts, jet skis, slot cars, etc.). Rentals of tangible personal property are taxable transactions in New Jersey even when the rented property is used to engage in a participatory activity the admission to which is exempt.

Example

Claudette Kiley pays \$75 for a lift ticket at a ski resort in New Jersey. The ticket entitles her to unlimited access to the resort’s slopes, trails and lifts for two days. Claudette does not have her own equipment so she rents skis, boots and poles at the resort’s ski shop for \$55.

As an admission charge to a participatory sporting activity, the cost of the lift ticket is exempt from sales tax. However, Claudette is required to pay sales tax on the equipment rental charge since rentals of tangible personal property in New Jersey are taxable.

Atlantic City Luxury Tax

Admission charges to any theater, show, pier, exhibition, place of amusement or ride located in Atlantic City are subject to Atlantic City Luxury Tax in addition to sales tax, for a total tax of 12%.

NOTE: Some charges in Atlantic City are subject only to the 9% Luxury Tax and not to sales tax (e.g., rolling chair and tram rides, and horoscope/fortune machines).

For more information on Atlantic City Luxury Tax, request publication ANJ-17, *Atlantic City Luxury Tax and New Jersey Sales Tax*.

Amusement Equipment

Purchases of amusement ride equipment are purchases of tangible personal property and are subject to sales tax when purchased in New Jersey. If purchased out-of-State for use in New Jersey from a vendor who is not registered to collect New Jersey sales tax, the purchaser owes New Jersey use tax. If use tax is due, credit may be taken for any sales tax that was legally due and paid to the state where the equipment was purchased provided that state has reciprocity with New Jersey. For more information on use tax, request publication ANJ-7, *Use Tax in New Jersey*.

Nontaxable Admissions

Charges paid by a patron to enter and/or use facilities for *sporting activities* in which the patron will participate are exempt from sales tax as are admissions to boxing matches and other combative sports contests or exhibitions held in New Jersey that are subject to tax under any other law of this State. Admissions sold by a qualified exempt organization are also tax exempt (subject to the exceptions described below) provided all of the proceeds are for the exclusive benefit of the exempt organization.

Participatory Sporting Activities

Charges for admission to facilities such as bowling alleys, swimming pools, golf courses, baseball batting cages, billiard parlors, etc., where the patron actively participates in a *sporting activity*, qualify for exemption from sales tax. The mere fact that the patron is active rather than passive is *not* relevant to the exemption unless the activity is considered a sport.

Example

Shannon pays \$5 for one half-hour at an indoor play gym/house. Since Shannon is not participating in a sporting activity, the admission charge is subject to sales tax.

Combative Sports

Charges for admission to boxing matches or other combative sports contests or exhibitions are not subject to sales tax if they are taxed under any other law of this State. For example, the New Jersey Boxing Commission is required by law (N.J.S.A. 5:2A-20) to tax all boxing matches originating in this State. Since they are taxed under the provisions of a New Jersey stat-

ute other than the Sales and Use Tax Act, admission charges to these events are *not* subject to sales tax. However, admissions charged for the privilege of viewing a combative sports contest which originates out-of-State, *are* subject to New Jersey sales tax. Such events are typically viewed by means of a subscription to a closed circuit or pay-for-view television outlet.

Admission charges to *professional wrestling matches* are, however, subject to sales tax. These events are not regulated or taxed by the State Athletic Control Board because they are deemed to be activities in which the primary purpose of the participants is to provide entertainment for spectators, not to engage in a bona fide athletic contest.

Exempt Organizations

Charges for admission to events are not taxable when all of the proceeds from the admissions are for the exclusive benefit of a qualified New Jersey exempt organization conducting the event and do not personally benefit any individual stockholder or other member of that organization. This exemption does not apply in the case of admissions to carnivals, rodeos or circuses in which any professional performer or operator participates for compensation. This exemption does apply to:

Agricultural fairs – provided *all* of the proceeds of the admissions are used for the improvement, maintenance and operation of the fair.

Athletic games or exhibitions – where the admission proceeds exclusively benefit an elementary or secondary school, or the admission charge is to an athletic contest between two elementary or secondary schools and the entire

gross proceeds benefit one or more exempt organizations.

Historical sites – such as houses, shrines, etc., as well as any museums conducted in connection therewith, which are maintained and operated by a society or organization devoted to the preservation and maintenance of such historic sites, houses, shrines and museums.

Symphony orchestras and operas – where the proceeds exclusively benefit a society or organization conducted for the sole purpose of maintaining symphony orchestras or operas and which receives substantial support from voluntary contributions.

Arcade Games

Coin-operated arcade-type games such as video games, pinball machines or virtual reality type games are not considered to be “places of amusement.” Therefore, charges for their use are exempt from sales tax.

Aircraft/Balloon Rides

Airplane, helicopter and balloon rides sold at fairs, carnivals, etc., are nontaxable transportation charges. However, in cases where the balloon remains tethered, the activity is considered a ride and the charge is a taxable admission.

Examples of Taxable Admissions

- Amusement parks
- Amusement rides
- Animal shows
- Antique shows
- Automobile races
- Automobile shows
- Balloon rides (where the balloon is tethered)
- Baseball games
- Basketball games
- Bumper cars
- Cabarets
- Children’s play gyms/houses
- Children’s rides
- Circuses
- Concert halls
- Craft shows
- Dance performances
- Dramatic performances
- Exhibitions
- Expositions
- Fairs
- Football games
- Hockey games
- Ice shows
- Motion picture theaters
- Museums
- Musical performances
- Opera houses
- Pony rides
- Race tracks
- Roof gardens
- Soccer games
- Sports arenas and stadiums
- Sports collectibles shows
- Tennis exhibitions
- Theaters (or other place of assembly where live dramatic, choreographic or musical performances are presented)
- Trade shows
- Wrestling matches (professional)
- Zoos

Examples of Nontaxable Admissions

- Baseball batting cages
- Basketball courts (when patron participates)
- Billiard parlors (pool halls)
- Bowling alleys
- Bungee jumping
- Fishing piers
- Go cart rides/speedway
- Golf courses (including miniature golf)
- Golf driving ranges
- Health clubs or spas, (membership dues and fees)
- Laser tag
- Parachute jumping
- Paintball
- Skating rinks
- Skeet shooting ranges
- Skiing facilities
- Speedways
- Swimming pools
- Tennis courts (when patron participates)
- Water slides

Promoters and Ticket Agents

A promoter is anyone who holds, produces or sponsors an event, the admission to which is subject to sales tax. A ticket sales agent is any person who sells tickets or receives admission charges for a promoter. A promoter or ticket sales agent can be either a private or public entity and may operate for or without profit.

Registration

Promoters, ticket sales agents and other ticket sellers are required to register as vendors with the State of New Jersey to obtain a Certificate of Authority (Form CA-1) for sales tax. An Application for Registration must be filed with the State at least 15 business days prior to beginning business in New Jersey.

Collection and Remittance of Tax

Tickets which state the price of admission must also state the amount of New Jersey sales tax due. The tax must be collected by the person who sells the tickets or collects the admission charge. However, a ticket sales agent for a promoter may turn the tax collected over to the promoter (who is then responsible for remitting it to the State) provided *all* of the following conditions are satisfied:

1. Both the ticket sales agent and the promoter agree in writing that the promoter will remit the tax to the State.
2. The promoter provides the ticket sales agent with a photocopy of his New Jersey Certificate of Authority (Form CA-1) for sales tax.
3. The ticket sales agent has no reason to believe that the promoter will not remit the sales tax.
4. The ticket sales agent maintains proper records showing: the number of tickets or admissions sold; the gross receipts from ticket sales; the amount of sales tax collected; the promoter's name, address and telephone number; and a copy of the promoter's New Jersey Certificate of Authority for sales tax. This information must be available to the Division of Taxation upon request.
5. The Division of Taxation has not advised the ticket sales agent in writing to remit the tax directly to the State in the case of a particular promoter.

Tickets Sold Above Face Value

If a ticket dealer purchases tickets for a taxable event and pays sales tax on the face value of the tickets, no tax need be charged when the tickets are resold. If the tickets are resold at a premium, the amount in excess of the face value is considered a nontaxable charge for the service of making tickets more conveniently available to customers. It is understood that the premium does not go to either the sponsor or promoter of the event. The service charge of a retail ticket outlet such as Ticket Master is not considered part of

the taxable admission price and is also not subject to tax.

Permanent Seats and Boxes

For any person having the permanent use or possession of a box or seat or lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee.

Taxpayers' Bill of Rights

The New Jersey Taxpayers' Bill of Rights ensures that taxpayers are accorded fair and equitable treatment and receive the information and assistance they need to understand and meet their State tax responsibilities. To find out more, contact the Division of Taxation.

For More Information

For more information about admission charges, contact the Division's Tax Hotline at 609-588-2200, or write to:

NEW JERSEY DIVISION OF TAXATION
TECHNICAL SERVICES
TAXPAYER SERVICES BRANCH
PO BOX 281
TRENTON NJ 08646-0281

Many State tax forms and publications are now available, both by fax and through the World Wide Web. Call NJ TaxFax at 609-588-4500 from your fax machine's phone, or access the Division's home page via your computer's modem at: <http://www.state.nj.us/treasury/taxation/>