

Amusement Taxes

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Amusement Taxes

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The State of Tennessee taxes certain types of amusements, and these taxes are levied in different ways and authorized under different sections of the *Tennessee Code Annotated* (T.C.A.). There is some confusion and overuse of the term “amusement tax.”

In 1984, the General Assembly passed a law extending state and local sales taxes to certain amusements. This law, labeled the “Amusement Tax,” is codified under the “Sales and Use Tax” section of T.C.A. § 67-6-212. The law levies a tax equal to the sales tax on specific sales (amusement type items or events) that were previously exempt from sales taxation. These taxable amusement events, listed on the following page, consist primarily of recreational club dues and charges for attending or participating in sporting events.

Coin-operated amusement machines are taxed differently than amusement events as defined under T.C.A. § 67-4-507. This section was repealed in 2002 and replaced by T.C.A. § 67-4-2201 - 2207, now called the “Coin-Operated Amusement Machine Tax Act.” Sales and revenues from coin-operated amusement machines are *not* subject to state or local sales taxes or to the amusement tax cited above in T.C.A. § 67-6-212.

However, coin-operated amusement machines are taxed exclusively by the state through an annual master license and sticker attached to each machine. These annual fees, listed in T.C.A. § 67-4-2204, have increased considerably. Owners of fewer than 50 coin-operated amusement machines pay \$500 each year for a master license. The fee is \$1,000 for those owning more than 50 but fewer than 200 machines. A person who owns more than 200 machines pays \$2,000 every year. Additionally, another \$10 per machine is charged for the privilege of owning and offering a machine for commercial use. After payment is received, the Commissioner of Revenue issues a decal to be affixed to each machine as evidence that the tax has been paid.

Not all coin-operated machines are amusement devices. Part of the confusion over amusement taxes stems from the taxes on vending machines. A vending machine was defined in T.C.A. § 67-4-506(a) as a machine that sells a tangible item with a market value roughly equal to the value of the money deposited in the machine. Vending machine gross receipts were taxed at a special rate of only one and one-half percent (two and one-half percent on tobacco items) in lieu of sales tax. That section was repealed and replaced in 2002 with T.C.A. § 6-102(24)(I). The new law eliminates the special tax rates (one and one-half percent) and simply makes all vending machine gross receipts subject to both state and local sales taxes.

The Amusement Tax (T.C.A. § 67-6-212), which has nothing to do with machines, has been amended several times since 1984. Currently, this law extends the sales tax to certain “amusement” activities:

- Dues and membership fees for sports and recreation clubs;
- Sales of tickets, fees, or other charges made for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display, or other recreational events or activities;
- Charges for the privilege of entering or engaging in any kind of recreational activity when no admission is charged to spectators;
- Charges made for using items for amusement, sports, entertainment, or recreational activities;
- All charges for admission to professional sporting events, including seat license, skybox, luxury suite, or any other accommodation for spectators, whether styled as a license, lease, rental or otherwise.

With T.C.A. § 67-6-212, the General Assembly was attempting to tax events in the private sector, such as concerts or spectator sports. Specific exemptions also were placed in law resulting in more listed exemptions than items taxed. Generally, these exemptions are for recreational events held by cities, schools, and nonprofit organizations. There are several exemptions from the amusement tax listed in T.C.A. § 67-6-330. Following is a summary of those exemptions:

- Events held or sponsored by schools from kindergarten through grade 12;
- Proceeds for admission to county or agricultural fairs;
- Membership application fees, dues, or contributions, except the portion attributable to admission prices, paid to federal tax-exempt entities organized under IRS code 501(c)(3), (8), and (19);
- Membership fees or dues of organizations listed in Major Group No. 86 of the Standard Industrial Classification Manual of 1972, as amended. This list is maintained by the Federal Office of Management and Budget;

- Gross proceeds derived from admissions to amusement or recreational activities conducted by:
 - Nonprofit museums, historical sites, or societies;
 - Organizations that have received an IRS determination of exemption under 501(c);
 - Organizations listed in Major Group No. 86 of the Standard Industrial Classification Manual of 1972, as amended, prepared by the Federal Office of Management and Budget;
 - Tennessee historic property preservation or rehabilitation entities defined in T.C.A. § 67-4-2004.
- Fees in any form resulting from the production of television, film, radio, or theatrical presentations. This exemption does not include charges for admission;
- Events or activities conducted upon rivers and waterways in this state whose continued use for recreational purposes is contingent upon revenue produced pursuant to agreements entered into between the state and federal governments, or an agency thereof, which provides for the establishment of a trust fund for such purposes, provided that this exemption shall prevail only if the annual distribution of funds to the state from the trust fund exceeds the amount of revenue to the state that would otherwise be produced if the amusement tax were imposed;
- All sales committed to or paid for prior to June 1, 1984;
- Athletic events for participants under 18 years of age sponsored by civic or nonprofit organizations;
- Gross proceeds from admissions to amusement or recreational activities or facilities conducted, produced and controlled by local government;
- Membership assessments for capital improvements made by a recreational club, community service organization or country club;
- Gross proceeds derived from admissions to beauty pageants or rodeos and any fees, charges, or rental fees that entitle the entrant to engage in any otherwise taxable amusement activity held therein that is conducted by a non-profit civic organization. This exemption applies only to beauty pageants and rodeos that have been held in the same city for 30 years or longer;
- Gross proceeds derived from admissions to musical concerts conducted by nonprofit community group associations if the associations promote, produce and control the concerts;
- Any event held by an employer solely for the benefit of its employees provided the event is produced and controlled entirely by the employer;
- Fishing tournament registration fees collected from tournament participants;
- Money charged for equipment that is paid to qualifying organizations offering the development or preservation of physical fitness through exercise or athletics. Certain qualifications must be met and this exemption is determined by the state on a case-by-case basis;
- Any entry fee that allows an entrant to participate in a horse show;
- Charges for hunting native wildlife paid to landowners in counties with a population of more than 31,900 and less than 32,000 based on the federal census;
- The fee paid by an establishment selling prepared food for live entertainment.

Summary

The amusement tax on certain events is equal to the state and local sales taxes. T.C.A. § 67-6-212 lists events subject to the amusement tax, and T.C.A. § 67-6-330 lists events exempted from the amusement tax. Note that the Department of Revenue has issued letter rulings interpreting the application of exemptions to specific taxpayers.

Coin-operated amusement machines are taxed exclusively by the state through an annual master license and sticker attached to each machine. Coin-operated amusement devices are taxed under T.C.A. § 67-4-2201 *et seq.*

Vending machine gross receipts are now taxed similarly to other taxable sales with both state and local sales taxes. There is no longer a special low rate.

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