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Technical Bulletins: Update: The Amusement Tax

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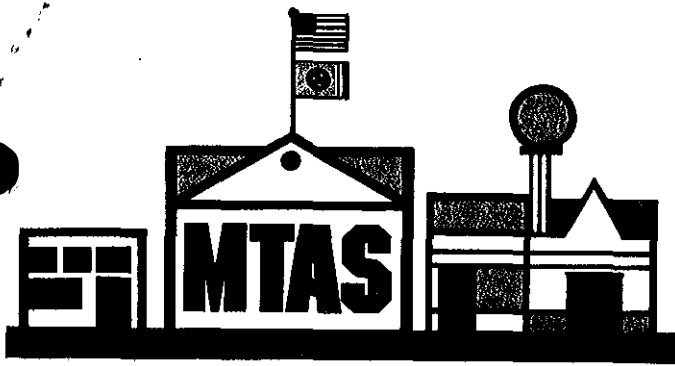
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TECHNICAL BULLETIN

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THE UNIVERSITY OF TENNESSEE
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December 13, 1984

UPDATE: The AMUSEMENT TAX

By Dennis Huffer, Intergovernmental Affairs Consultant

Public Chapter 13 of the 1984 Extraordinary Session of the General Assembly extended the state sales tax to certain amusements listed in the Act:

- (1) Dues or fees to membership sports and recreation clubs;
- (2) 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;
- (3) Charges for the privilege of entering or engaging in any kind of recreational activity when no admission is charged spectators;
- (4) Charges made for using items for amusement, sports, entertainment, or recreational activities; and
- (5) Fees for use of cable television services in excess of basic service.

These are exempt from the sales tax on amusements:

- (1) Events conducted or sponsored by public or private schools, grades K-12;
- (2) Complimentary admission of groups to county or agricultural fairs;
- (3) Membership fees to recreational clubs or community service organizations, if the fees are \$150.00 or less per year;
- (4) Membership application fees or dues paid to religious, scientific, literary, charitable, or educational organizations;
- (5) Receipts from bingo;
- (6) Fees resulting from the production of television, film, radio, or theatrical presentations;
- (7) Fees for rafting the Ocoee River;
- (8) Receipts from coin-operated amusement devices subject to tax under 67-4-504;
- (9) Sales contractually committed and for which money had been paid prior to June 1, 1984; and
- (10) Athletic events for participants 18 years of age or younger, sponsored by civic or nonprofit organizations. This exemption does not apply to interscholastic sports conducted or sponsored by private or public colleges or universities.

Since passage of the Act, the Department of Revenue has promulgated rules which aid in implementation of the Act. A copy of these rules is available from the Department upon request.

The Attorney General also has ruled upon several questions relative to the sales tax on amusements:

- (1) **The Act** extending the state sales tax to amusements grants local governments the authority to levy a local sales tax on amusements. Op. Atty. Gen. 84-088 (March 15, 1984).
- (2) **The sales tax** on amusements applies to agricultural fairs, even if they have received a 501(c) (3) ruling under the Internal Revenue Code. Op. Atty. Gen. 84-107 (March 29, 1984).
- (3) **County fairs** are not exempt from the sales tax on amusements. Op. Atty. Gen. 84-123 (April 17, 1984).
- (4) **Chapter 779** of the 1984 Public Acts, which exempted sales of tangible personal property by nonprofit organizations such as Girl Scouts and county fairs from the sales tax, does not have the effect of exempting admissions to county fairs from the sales tax on amusements. Op. Atty. Gen. 84-219 (July 11, 1984).
- (5) **1984 Public Chapter 779** exempts sales of tangible personal property by such non-profit organizations as county fairs and Girl Scouts from sales tax but does not exempt them from amusement tax. Op. Atty. Gen. 84-263. (Sept. 20, 1984).
- (6) **Docking fees** for a houseboat would be subject to sales tax on amusements if the houseboat is being used for recreational purposes, but not if the houseboat is the owner's permanent residence. Op. Atty. Gen. 84-274. (Sept. 27, 1984).

The Department of Revenue has ruled that these areas are taxable even if they are a municipal function:

- (1) **Golf courses** (green fees, equipment rentals, locker fees).
- (2) **Swimming pools.**
- (3) **Baseball diamonds.**
- (4) **Ice skating rinks** (admissions and equipment rentals).
- (5) **Concessions.**
- (6) **Boat slips** and boat rentals.
- (7) **Rental of auditoriums** or facilities for sports or recreation events.
- (8) **Admissions to historical homes** and museums.
- (9) **Rental of camp sites.**
- (10) **Admission to fairs.**
- (11) **Beauty pageants.**
- (12) **Admissions to exhibits or displays.**

This is the present status of the amusement tax. There will be attempts in the upcoming session of the General Assembly to amend the tax and even to repeal it. Serious attempts are expected to make the tax not applicable to charitable organizations and to county fairs.

If you have questions about the amusement tax, call your MTAS Municipal Consultant or the Sales and Use Tax Division of the Department of Revenue (615/741-3581 in Davidson County or 1-800-342-1003 for the rest of the state).

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