



Admission Charges for Events Benefitting Nonprofit Entities

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Tax: Sales and Use Tax

The New Jersey Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.) imposes tax on any admission charge to, or for the use of, any place of amusement in the state, including charges for admission to race tracks, sporting events and exhibitions, dramatic or musical arts performances, and movie theaters. N.J.S.A. 54:32B-3(e) (1). If the price of admission is stated on the admission ticket, the amount of Sales Tax collected must be separately stated on the ticket.

Admission charges for events held to benefit a charity or similar nonprofit organization are exempt from Sales Tax if certain requirements are met.

EXEMPTION FOR ADMISSION CHARGES TO QUALIFYING EVENTS

N.J.S.A. 54:32B-9(f) (1) provides an exemption from Sales Tax for admission charges to an event if all of the proceeds from the admissions exclusively benefit one or more of the following types of organizations:

- IRC 501(c) (3) and similar nonprofit organizations described in N.J.S.A. 54:32B-9(b) that have a valid New Jersey Exempt Organization Certificate (Form ST-5);
- New Jersey State or local government agencies;
- An opera or symphony orchestra society or organization that receives substantial support from voluntary contributions; or
- A police or fire department of a political subdivision of the State, or a volunteer fire company, ambulance, first aid, or emergency company or squad, or to a retirement, pension, or disability fund solely for policemen or firemen, or a fund for their heirs.

In order to forego collecting Sales Tax, the seller must know at the time the admission is sold whether it is exempt from tax.

The exemption does not apply to admission charges for: carnivals, rodeos or circuses in which a professional performer or operator participates for compensation; and certain athletic competitions, even if the proceeds are exclusively for one or more qualified nonprofit organizations. N.J.S.A. 54:32B-9(f) (2).

Example – A 501(c)(3) college has a valid Exempt Organization Certificate (Form ST-5) and sells admissions to productions, such as plays featuring drama students and concerts featuring musicians who receive per diem compensation, that are held in the college's theater. The theater admissions sold by the college are exempt from Sales Tax as long as all proceeds are exclusively for the benefit of the college, which is a qualified nonprofit organization. The college is not required to collect Sales Tax on the admissions. N.J.S.A. 54:32B-9; N.J.A.C. 18:24-9.11.

QUALIFYING EVENTS RUN BY PROMOTERS

A “promoter” is a person or business entity that contracts, agrees to, or otherwise arranges to hold, produce, or sponsor an event, entertainment, or amusement where the admission is subject to Sales Tax and is required to collect Sales Tax on the receipts from sales of taxable admissions. N.J.A.C. 18:24-2.16. However, admissions sold by a promoter may be exempt from tax if:

1. Before admissions are sold, the promoter has a written, signed contract concerning the disposition of the admission receipts; and
2. The contract provides a clear indication that all of the admission proceeds will benefit the named nonprofit organizations; and
3. The named nonprofit organizations that will receive the admission proceeds are of the types listed in N.J.S.A. 54:32B-9(f) (1) (see above); and
4. The contract provides that all parties, such as promoters and entertainers, either will waive compensation or will receive it on an hourly, per diem, or flat-fee basis, and not as a specific percentage of the gross or net admission receipts. Net admission receipts means gross admission receipts minus expenses (e.g., rental fee for performance hall, technical lighting and sound).

All of the above criteria must be satisfied for the admission charges to be exempt from Sales Tax. If any of the criteria are not met for an event run by a promoter, the admission charges will not be exempt and the promoter must collect and remit Sales Tax.

For admission charges that are exempt as described above, the Division of Taxation recommends that the admission tickets and any receipts issued to buyers state that the admissions are “Sales Tax exempt” or “exempt from Sales Tax.”

Example 1 – An entertainer, with assistance from a promoter, holds an impromptu concert with the intention of giving the proceeds to a charitable organization helping victims of a recent natural disaster. The concert is held without a written contract concerning the disposition of the admission receipts. Even though the proceeds will go to a qualified nonprofit organization, the sellers must collect Sales Tax on the admission charges because the promoter did not have a written contract signed prior to admission sales.

Example 2 – A promoter contracts for a concert, the admission proceeds of which will be given to a 501(c) (4) environmental lobbying organization. Because the organization substantially attempts to influence legislation, it is not a qualified nonprofit organization as described in N.J.S.A. 54:32B-9(f) (1). As a result, the seller must collect Sales Tax on the admission charges.

Recordkeeping Requirements

To document the basis for exemption of admission charges, the promoter must retain a copy of:

- The contract that meets the above-described criteria;

- A Form ST-5 for any 501(c)(3) or veterans organization or association of parents and teachers named in the contract as a beneficiary of the admission proceeds; and
- Records demonstrating and/or acknowledging the transfer of the admission proceeds to the named nonprofit organizations.

The promoter must retain these documents so that they are available to the Division for four years after the date of the event. During the course of an audit, any promoter who cannot provide the required documentation to the Division will be liable for the Sales Tax on all admission charges, plus interest and applicable penalties.

OTHER INFORMATION

To access the REG-1E application for the Form ST-5 Exempt Organization Certificate, go to: http://www.state.nj.us/treasury/taxation/pdf/other_forms/sales/reg1e.pdf.

For additional guidance concerning admissions to benefit firemen or policemen funds, contact the Division of Taxation's Exempt Organization Unit at (609) 984-5739. For information on applicable Charitable Registration and Investigation Act requirements, contact the New Jersey Charities Registration Section.

Note: A Technical Bulletin is an informational document designed to provide guidance on a topic of interest to taxpayers and describe changes to the law, regulations, or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the tax law or its interpretation may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.