

TENNESSEE AMUSEMENT TAX

By Alan Major
Finance and Accounting Consultant

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.)*. This publication is an update to previous MTAS reports on the subject with information on amusement events, coin-operated amusement machines and vending machines. There is some confusion and overuse of the term “amusement tax,” which this publication attempts to clarify. Simply, there is more than one law concerning amusement taxes.

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 This section was repealed in 2002 and replaced by *T.C.A.* 67-4-2201 – 2207, now called the “Coin-Operated Amusement Machine Tax Act.”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:

1. Dues and membership fees for sports and recreation clubs;
2. Sales of tickets, fees, or other charges made for admission to or voluntary contributions made to places of amusement, sport, 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 to spectators;
4. Charges made for using items for amusement, sport, entertainment, or recreational activities;
5. Fees for subscription to, access to or use of cable television services in excess of the basic rate charged by the supplier of such services.

In 1999, fees for cable television services were removed from the list of items subject to the amusement tax. However, cable television services now are subject to sales taxes as authorized under *T.C.A. 67-6-226*.

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:

1. Events held or sponsored by schools from kindergarten through grade 12;
2. Proceeds for admission to county or agricultural fairs;
3. The first \$150 per member per year of membership dues of a recreation club or community service organization. This does not apply to country clubs;
4. 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);
5. REPEALED;
6. 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;
7. Gross proceeds derived from admissions to amusement or recreational activities conducted by:
 - a. Nonprofit museums, historical sites, or societies. This exemption does not apply to interscholastic sports sponsored by private or public colleges;
 - b. Organizations that have received an IRS determination of exemption under 501(c);
 - 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;
8. Fees in any form resulting from the production of television, film, radio, or theatrical presentations. This exemption does not include charges for admission;
9. 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 provide 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;

10. Receipts from coin-operated amusement devices. Although exempt from this tax, *T.C.A. 67-4-2201 – 2207* establish a licensing fee for coin-operated amusement machines. This fee often is confusingly called an amusement tax;
11. A sales committed to or paid for prior to June 1, 1984;
12. Athletic events for participants under 18 years of age sponsored by civic or nonprofit organizations. This exemption does not apply to interscholastic sports sponsored by private or public colleges;
13. Gross proceeds from admissions to amusement or recreational activities or facilities conducted by local government;
14. Membership assessments for capital improvements made by a recreational club, community service organization or country club;
15. 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 nonprofit civic organization. This exemption applies only to beauty pageants and rodeos that have been held in the same city for 30 years or longer;
16. Gross proceeds derived from admissions to musical concerts conducted by nonprofit community group associations if the associations promote, produce and control the concerts;
17. Any event held by an employer solely for the benefit of its employees provided the event is produced and controlled entirely by the employer;
18. Fishing tournament registration fees collected from tournament participants;
19. Money charged for equipment that is paid to qualifying organizations offering the development or preservation of physical fitness through exercise or athletics. This exemption is determined by the state on a case-by-case basis;
20. Any entry fee that allows an entrant to participate in a horse show;
21. 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 1980 census;
22. The fee paid by an establishment selling prepared food for live entertainment;
23. The purchase of amusement activities when the activities are provided free of charge to the public by any organization holding a 501(c) designation from the IRS or any organization listed in Major Organizations Group No. 86 of the Standard Industrial Classification Manual of 1972, as amended, prepared by the Federal Office of Management and Budget.

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. 67-4-220*.

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. *T.C.A. 6-102(24)(I)* classifies gross receipts from vending machines as subject to sales taxes.

For More Information

If you have questions about the Tennessee amusement tax, please contact your MTAS Management or Finance and Accounting Consultant. You also may visit our Web site at www.mtas.utk.edu.

The Municipal Technical Advisory Service (MTAS) is a statewide agency of The University of Tennessee Institute for Public Service. MTAS operates in cooperation with the Tennessee Municipal League to provide technical assistance services to officials of Tennessee's incorporated municipalities. Assistance is offered in areas such as accounting, administration, finance, public works, ordinance codification, and wastewater management.

MTAS *Technical Bulletins* are information briefs that provide a timely review of topics of interest to Tennessee municipal officials. *Bulletins* are free to Tennessee local, state, and federal government officials and are available to others for \$2 each.

MTAS OFFICES

Knoxville (Headquarters)

Phone: (865) 974-0411

Fax: (865) 974-0423

Johnson City

Phone: (423) 854-9882

Fax: (423) 854-9223

Nashville

Phone: (615) 532-6827

Fax (615) 532-4963

Jackson

Phone: (731) 423-3710

Fax: (731) 425-4771

Martin

Phone: (731) 587-7057

Fax: (731) 587-7059

The University of Tennessee does not discriminate on the basis of race, sex, color, religion, national origin, age, disability, or veteran status in provision of educational programs and services or employment opportunities and benefits. This policy extends to both employment by and admission to The University.

The University does not discriminate on the basis of race, sex, or disability in its education programs and activities pursuant to the requirements of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA) of 1990.

Inquiries and charges of violation concerning Title VI, Title IX, Section 504, ADA, or the Age Discrimination in Employment Act (ADEA) or any of the other above referenced policies should be directed to the Office of Diversity Resources (DRES), 2110 Terrace Avenue, Knoxville, Tennessee 37996-3560, telephone (865) 974-2498 (V/TTY available) or (865) 974-2440. Requests for accommodation of a disability should be directed to the ADA Coordinator at the Office of Human Resources, 600 Henley Street, Knoxville, Tennessee 37996-4125.

E14-1050-000-096-03