

DRAFT FOR DISCUSSION PURPOSES ONLY

Taxability of Fees Charged for Amusement and Recreation Services

Purpose

The Department has become aware that there has been much confusion and misunderstanding regarding “entry fees” and “league fees,” as those terms are used in WAC 458-20-183 (Rule 183) *Amusement, recreation, and physical fitness services*. This Excise Tax Advisory (ETA) clarifies the distinction between nontaxable charges and taxable charges often associated with sport activities and sporting events.

Background

Charges for amusement and recreation services provided to a consumer are taxable as a retail sale under RCW 82.04.050. The gross proceeds of sale are subject to retailing Business & Occupation (B&O) and retail sales taxes, unless a specific exemption applies.

Charges that entitle persons, or groups of persons (teams), to participate in a sports activity or sports event, are charges for amusement and recreation services.

Examples of sports activities and events include:

- Basketball, football, hockey, and soccer leagues;
- Cycling, running, swimming, and triathlon events; and
- Baseball, golf, softball, and tennis tournaments

Rule 183 recognizes that there may be fees associated with a sports activity or sports event that do not themselves entitle the person or team to participate in the underlying amusement and recreation activity. Rule 183 defines these fees as follows:

- “Entry fees” means those amounts paid *solely* to allow a person the privilege of entering a tournament or other type of competition. ***This term does not include any amounts charged for the underlying activity.*** Rule 183(2)(f). [Emphasis added.]
- “League fees” means those amounts paid *solely* for the privilege of allowing a

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person or person's team to join an association of sports teams or clubs that compete chiefly amongst themselves. ***The term also does not include any amounts charged for the underlying activity.*** Rule 183(2)(j). [Emphasis added.]

Rule 183, in defining these terms, contemplates a situation in which a "league fee" or "entry fee" is imposed as well as separate charges that entitle the person or team to participate in the underlying activity. The Department has found that this is generally not the case. The "entry fees" and "league fees" charged by sports teams, leagues, tournaments, and events generally entitle the person or team to participate in the underlying activity.

Note: For tax purposes, a fee is classified according to the rights the consumer receives, not the title of the fee. Regardless of how a fee is titled, or what it is commonly called or referred to, if the fee is paid for the right to engage in the amusement and recreation activity, the fee is not an entry or league fee as those terms are defined in Rule 183. Thus, whether referred to as an entry fee, league fee, participation fee, or player fee, or some other name, if the fee entitles the person or team to engage in an amusement and recreation activity it is subject to retail sales tax.

**Reporting
income**

Entry fees and league fees as defined in Rule 183:

Entry fees and league fees as defined in Rule 183 are not charges for amusement and recreation services and are not retail sales. Thus, entry fees and league fees are not subject to retail sales tax.

- ***For-profit and non-profit entities*** – these fees are subject to the service and other B&O tax, unless exempt by statute.
- ***Counties, cities, and towns*** – these fees are subject to the service and other B&O tax classification, if the activity is an "enterprise activity." See, WAC 458-20-189 (Rule 189) ***Sales to and by the state of Washington, counties, cities, towns, school districts, and fire districts*** for additional information regarding enterprise activities.

Fees that entitle a person or team to participate in the underlying amusement and recreation activity:

These fees, regardless of how they are titled, are charges for amusement and recreation services and are retail sales when charged to consumers.

- ***For-profit and non-profit entities*** – these fees are subject to retailing B&O and retail sales taxes, unless exempt by statute.
- ***Counties, cities, and towns*** – these fees are subject to retailing B&O and retail sales taxes, unless exempt by statute. While retailing B&O tax will not apply if the activity is not an "enterprise activity," retail sales tax will be due regardless of enterprise activity status.

**Non-profit
Youth**

If a sports league or club qualifies as a non-profit youth organization engaged in character building of youth and is exempt from property tax under RCW 84.63.030;

Organizations charges imposed for the underlying activity are exempt from both the B&O and retail sales taxes. RCW 82.04.4271 and 82.08.0291.

- The non-profit youth organization is not required to actually own real property that is exempt from property tax under RCW 84.63.030; it is enough that if the non-profit youth organization did own property, it would qualify under the statute.

Examples

1. The **City of Olympia** charges each player a \$150 “league fee,” which entitles the player to participate in Olympia’s summer softball league.
 - Although, the fee is called a “league fee,” the charge is a retail sale because it allows players to play softball. Therefore, the fee is subject to retail sales tax.
 - If the activity is an enterprise activity, the fees collected are subject to the retailing B&O tax classification.
2. **Basketball for All (BFA)** is a for-profit basketball club comprised of six 10-player teams. Players wanting to join and play for a team must pay BFA a \$250 fee. Each player must also separately pay a \$25 fee to Washington Basketball Inc. (WBI), a state association that provides administrative guidance and technical support to registered clubs, an insurance policy covering players, and general promotion of the game of basketball.
 - The \$250 fee charged by BFA is a retail sale because it allows players to play basketball. Retailing B&O and retail sales taxes apply.
 - The \$25 fee charged by WBI is subject to service and other activities B&O tax and is not subject to retail sales tax WBI is not providing the player with an opportunity to play basketball (the underlying amusement or recreational activity).
3. **Same scenario as in Example 2**, except BFA is also paying a \$100 “league fee” to the Hoops Basketball League (HBL) for each team wishing to play in that league. HBL schedules games and maintains the rankings of individual teams. Participating teams/clubs are responsible for finding and paying for facilities and referees for home games.
 - The \$100 fee charged by HBL is not a retail sale because it is paid solely to allow teams to join an association of sports teams or clubs that compete with each other.
 - It is the \$250 fee charged players by BFA, as noted in Example 2, that reflects the retail sale of amusement and recreation services.
4. **Same scenario as in Example 2**, except BFA is also paying a \$750 “league fee” to The National Basketball League (NBL) for each team wishing to play in that league. NBL not only schedules games and maintains individual team rankings, but also provides the facilities and referees for the games. The \$750 “league fee” charge reflects a charge for amusement and recreation services because it entitles team players to participate in the underlying activity.
 - The \$250 BFA charges to the players is also a retail sale of amusement and recreation services.

5. **The Senior Soccers** holds an annual tournament. Each player must pay a \$200 fee in order to play in the tournament.
 - The tournament fee is subject to retail sales tax because it is paid in order to participate in the underlying amusement and recreational activity (playing soccer)
 - The tournament fees are subject to retailing B&O tax.

 6. **Running Club** hosts an annual 10k race, charging each runner a \$25 “entry fee” to participate in the run.
 - The \$25 “entry fee” is a retail sale because it is paid by the runner for the right to run in the race and is subject to retailing B&O and retail sales taxes.

 7. **Spike the Ball**, a non-profit youth volleyball league charges each youth player \$350 to play in the winter league.
 - The \$350 is not subject to retail sales tax if Spike the Ball is a non-profit youth organization engaged in character building of youth and would be exempt from property tax under RCW84.63.030
 - The charges are not subject to B&O tax pursuant to RCW 82.04.4271.
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