

REG-1-044, Admissions

044.01 Definitions.

044.01A Access to a place or location means the right to be in the place or location for purposes of amusement, entertainment, or recreation at a time when the general public is not allowed at that place or location absent the granting of the admission.

044.01B Admission means the right or privilege to have access to or use a place or location where amusement, entertainment, or recreation is provided to an audience, spectators, or the participants in the activity. Admission includes memberships that grant access to a place or location, but do not include all the participation rights of belonging to the organization including, but not limited to the right to: hold office; vote for officers; and change the policies of the organization.

044.01B(1) Admission does not include a membership which grants all the participation rights of belonging to an organization, including, but not limited to: voting for officers; holding an office; and having the ability to change the policies of the organization.

044.01B(2) Admission does not include a charge for leasing or renting a location, facility, or part of a location or facility.

044.01B(3) Admission does not include a charge for practice or instruction.

044.01C Entertainment means amusement or diversion provided to an audience or spectators by performers.

044.01D Instruction means teaching skills necessary to perform a sport or activity proficiently.

044.01E Lease or rental of a location, facility, or part of a location or facility means that the owner or lessor:

044.01E(1) Cedes control of the location, facility, or part of the location or facility for a period of time; and

044.01E(2) Cedes the right to determine who is granted access to the location, facility, or part of a location or facility to the lessee for the period of the lease or rental.

044.01F Practice means an organized time for instruction, training, or rehearsing skills to become proficient in the sport or activity.

044.01G Recreation means a sport or activity engaged in by participants for purposes of refreshment, relaxation, or diversion of the participants. Recreation includes competition unless it is a professional competition. Whether a competition is professional or recreational is determined based on the nature of the event as a whole and not the professional status of any particular competitor.

044.02 Sales of Admissions Subject to Sales Tax. The gross receipts from selling admissions, including surcharges, are subject to sales tax. This includes season or subscription tickets for specific occasions or for multiple occasions, either limited or unlimited, during a period of time.

044.02A Cover charges, minimum charges, charges for reservations, or any similar charges are charges for admissions.

044.02B Charges by an organizer of a recreational sports league or competition to teams or individuals to participate where the games or competitions occur in locations under the control of the organizer at

the time the games or competitions occur are admissions subject to sales tax unless an exemption applies.

044.02B(1) Charges to teams to participate in the league or competition include mandatory gate fees charged in lieu of collecting gate admissions to spectators and other mandatory charges to teams or participants.

044.02B(2) Charges by the team to individuals who will be participating are not admissions, unless the charge is by the organizer of the league. For example, amounts charged by a city recreation department to teams to participate in a city-organized adult softball league are taxable admissions, but the amount the teams collect from the individuals to cover team expenses, including the entry fee, are not.

044.02C When an admission to an activity or a membership constituting an admission is combined with soliciting a contribution, the portion or the amount charged representing the fair market price of the admission is subject to sales tax. The fair market value is determined according to Reg-1-090.09, Nonprofit Organizations.

044.02D Charges that are not admissions.

044.02D(1) Charges by an organizer of a recreational sports league or competition where the games or competition occur in locations that are not under the control of the organizer during the competition are not admissions. Examples include running events conducted on public streets and trails.

044.02D(2) Charges for participating in a workshop, seminar, class, convention, business meeting, or similar events primarily for training or educational purposes are not admissions.

044.02D(3) Charges for operating a coat or hat checkroom.

044.02D(4) Charges for operating a summer camp or a day camp are not admissions.

044.03 Places of Amusement, Entertainment, or Recreation. Places where amusement, entertainment, or recreation are typically provided to an audience, spectators, or participants in the activity include, but are not limited to: amusement parks; archery ranges; art exhibits; auditoriums; baseball parks; bowling alleys; cabarets; country clubs; dance halls; driving ranges; fairgrounds; fishing ponds; stadiums; golf courses; gymnasiums; health clubs; miniature golf courses; movie theaters; museums; night clubs; parks; race tracks; racquetball courts; skating rinks; batting cages; skeet ranges; street fairs; swimming pools; superslides; theaters; trap ranges; and toning salons.

044.03A Owners or operators who charge individuals for access to these places are selling admissions subject to sales tax, even if some of the individuals use the facility for practice or instruction.

044.03B If the owner or operator sets aside certain times for practice or instruction, charges to the students during these times are not admissions. Leasing or renting one of these places, in whole or in part, for purposes of practice or instruction conducted by the lessee, is not an admission.

044.03C To be considered practice or instruction, access must be limited to those participating in the practice or instruction.

044.04 Property Purchased by the Owner or Operator. The owner or operator of a place of amusement, entertainment, or recreation is the consumer of any property purchased, leased, or rented for use in the business of providing amusement, entertainment, or recreation. The owner or operator must pay sales or use taxes on these purchases, leases, or rentals.

044.04A If a separate charge, in addition to the admission, is made for renting property such as bowling shoes, roller skates, stadium seat cushions, etc., the gross receipts from the rental of this property are taxable.

044.04B The owner or operator may purchase property to be used solely for rental or lease using a resale certificate.

044.05 Sales Tax May Be Included in the Price Charged. The sales tax may be included in the total admission price. If the sales tax is included in the total admission price, a statement that the sales tax is included in the price must appear on the admission ticket, or on a sign posted in a conspicuous place where the admissions are sold.

044.06 Applicable Rate and Location. The sales tax on admissions is calculated at the rate in effect on the date of the sale at the place where the admission will be granted.

044.06A If a single charge is made to cover admission to more than one attraction under the same management, the sales tax is computed on the basis of a single charge at the rate applicable at the business location of the retailer.

044.06B If the admission to each attraction can be purchased separately, the sales tax is computed on each charge at the rate applicable at the location of each attraction; or on the total of the separate charges at the rate applicable at the business location of the retailer.

044.07 Unused Tickets. No refund or credit of the sales tax is allowed because an admission was not used, unless the selling price of the ticket was also refunded.

044.08 Ticket Resellers. Admissions cannot be resold because the second seller does not have the right to grant or deny access to the place or location. Ticket resellers are providing a nontaxable service.

044.09 Exemptions.

044.09A Admissions charged by elementary or secondary schools are exempt.

044.09B Admissions charged by school districts, student organizations, or parent-teacher associations to an event or activity held in an elementary or secondary school during the regular school day, or at an approved function of the school, are exempt. Admissions charged by the Nebraska School Activities Association, athletic or academic conferences, or similar organizations that have been approved by the elementary or secondary schools, are exempt.

044.09C Admissions to political fund-raising events by ballot question committees, candidate committees, independent committees, or political party committees, as defined in the Political Accountability and Disclosure Act, or committees for candidates for federal office, are exempt.

044.09D Amounts charged by political subdivisions or organizations that are exempt from income taxes under § 501(c)(3) of the Internal Revenue Code of 1986, as amended, (IRC) to participate in youth sports events, youth sports leagues, or youth competitive educational activities are exempt.

044.09D(1) Competitive educational activity means a tournament or a single competition that occurs over a limited period of time annually or intermittently where the participants compete in an activity related to an intellectual field.

044.09D(2) Sports event means a tournament or a single competition that occurs over a limited period of time annually or intermittently where the participants engage in a sport.

044.09D(3) Sports league means an organized series of sports competitions taking place over several weeks or months between teams or individuals that are members of the

league.

044.09D(4) Youth sports event, youth sports league, or youth competitive educational activity means an event, league, or activity that is restricted to participants who are less than 19 years of age.

044.09E Charges for participants in any activity provided by a nonprofit organization that is exempt from income tax under IRC § 501(c)(3), which conducts statewide sport events with multiple sports for both adults and youth are exempt.

044.09F Charges for participants in any activity provided by a nonprofit organization that is exempt from income tax under IRC § 501(c)(3), which is affiliated with a national organization, primarily dedicated to youth development and healthy living, and which offers sports instruction and sports leagues or sports events in multiple sports are exempt.

044.09G The exemptions in Reg-1-044.09D through 044.09F include any separately-stated charges to teams or participants that must be paid in order to compete.

044.09G(1) For example, if an organization described in Reg-1-044.09E or 044.09F charges an entry fee to teams to compete in a youth softball or baseball tournament, and also charges each team a separate, mandatory "gate fee" in lieu of charging admissions to spectators, both the entry fee and the gate fee are considered charges to participate and are exempt.

044.09G(2) However, if the organization charges an entry fee, but also allows teams to purchase tournament passes which allow spectators to enter the venue, and the teams may purchase as many passes as they wish or no passes at all, the charges for the tournament passes are not considered charges to participants and are not exempt. The IRC § 501(c)(3) organization must collect, report, and remit sales tax on sales of the tournament passes.

044.09H Beginning January 1, 2016, admissions and memberships to a nationally accredited zoo or aquarium operated by a public or nonprofit corporation primarily for educational, scientific, or tourism purposes are exempt.

044.10 The gift of an admission is exempt. The donor must pay sales tax on any payments made to obtain the admission that was given away.

(Neb. Rev. Stat. §§ 77-2701.16, 77-2701.32, 77-2701.55, 77-2703(1), 77-2704.10, and 77-2704.63; 26 U.S.C. § 170(l), Berrington Corp. v. Nebraska Department of Revenue, 277 Neb. 765, 765 N.W.2d 448, 2009, The Governors of the Knights of Ak-Sar-Ben v. Department of Revenue, Doc. 352, Pg. 148 (Lancaster Co. Dist. Ct., Dec. 27, 1984); and Attorney General's Opinion No. 88, dated 11/17/69. June 24, 2017.)