

12A-1.005 Admissions.

(1)(a) Every person is exercising a taxable privilege when such person sells or receives anything of value by way of admissions, as defined in Section 212.02(1), F.S., except those admissions that are specifically exempt. Such seller is required to collect on each admission charge for 10 cents or more the amount of tax provided for by the applicable bracket provided in Section 212.12(9), F.S. Each admission is a single sale.

(b) It is required that either:

1. The seller collecting the charge for an admission prominently display, at the box office or other place where the admission charge is collected, a sign or other easily read notice disclosing the price of the admission; or

2. The face of each ticket sold reflect the actual sales price of the admission.

(c)1. The tax shall be computed and collected by the seller on the sales price or actual value of the admission, as provided in Section 212.04(1)(b), F.S., and is due at the moment of the transaction, except when the tax is collected for admission to an event at a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility. Tax collected on such events is due to the Department on the first day of the month following the actual date of the event for which the admission is sold and becomes delinquent on the 21st day of that month. Therefore, tax collected on season and series tickets for events held in such facilities should be apportioned to each event in the season or series and remitted to the Department accordingly.

2. An agent who collects admissions on behalf of a principal may forward the collected tax funds to the principal to be remitted by the principal to the Department. Both the principal and agent can be held liable for any failure to timely remit such tax funds to the Department. An agent shall not, however, be liable for its principal's failure to timely remit tax funds to the Department if the agent has obtained the principal's active Florida sales tax number and has disclosed in writing to the principal that when such agent remits proceeds from the sale of an admission to the principal the proceeds may include amounts that represent admissions tax and that it is the principal's obligation to timely remit any taxes due and owing to the Department or other taxing authority.

3. When tickets or admissions are sold and not used but are instead returned to the seller, the seller shall credit or refund the sales tax to the purchaser. See Rule 12A-1.014, F.A.C., for the methods the seller is to use to obtain a credit or refund.

4. A refundable deposit that is paid to reserve the right to purchase season tickets, box seats, or other admissions, that is recorded on the books of the seller as a liability, and that does not entitle the payer to the right to be admitted to the event or events, is not subject to tax. If the refundable deposit is applied to the purchase of the season tickets, box seats, or other admissions, tax is due to the Department as provided in this paragraph.

(d) Operators of traveling shows, exhibitions, amusements, circuses, carnivals, rodeos, and similar traveling events shall, upon request of an agent of the Department of Revenue, produce a cash receipt or similar documentation evidencing payment to the State of admission taxes due on any or all previous engagements in Florida during their current tour and an itinerary of future engagements in this State during the current year. The operator must document any performance in Florida that is sponsored by a not-for-profit entity that qualifies under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, for which the admission charges are exempt from tax.

(2) Exempt admissions. The following admissions are exempt from the tax imposed under Section 212.04, F.S.:

(a) Admissions to athletic or other events held by schools, as provided in Section 212.04(2)(a)1., F.S., are exempt.

(b) Admissions for students who are required to participate in a sport or recreation, provided the program or activity is sponsored by and under the jurisdiction of the educational institution and attendance is as a participant and not as a spectator are exempt. The institution will issue a certificate for the student to present to the person charging the admission in order to provide for this exemption.

(c) Admissions to agricultural fairs are exempt, as provided in Sections 212.08(7)(gg) and 616.260, F.S.

(d) Admissions to the following professional or collegiate sporting events are exempt, as provided in Sections 212.04(2)(a)5. and 10., F.S.;

1. National Football League championship game or Pro Bowl;

2. Major League Baseball, Major League Soccer, National Basketball Association, or National Hockey League all-star game and Major League Baseball Home Run Derby held before the Major League Baseball all-star games;

3. National Basketball Association all-star events produced by the National Basketball Association and held at a facility such as an arena, convention center, or municipal facility;

4. Any semifinal or championship game of a national collegiate tournament or any postseason collegiate football game

sanctioned by the National Collegiate Athletic Association.

(e) Participation fees or sponsorship fees to athletic or recreational structured programs imposed by governmental entities as described in Section 212.08(6), F.S., when such governmental entities sponsor, administer, plan, supervise, direct, and control such athletic or recreational programs are exempt. An organization qualified under s. 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, may work in conjunction with the governmental entity to sponsor, administer, plan, supervise, direct, and control the athletic or recreational structured program without affecting the exemption.

1. Example: A city or county park and recreation department sponsors, administers, plans, supervises, directs, and controls its adult softball, little league, and other team recreation programs. The park and recreation department charges \$100.00 for each team participating, or it may charge \$10.00 per person for each person to participate. At the end of league play, a tournament is held to determine the championship. The participation fees charged for league and tournament play are exempt from tax as an athletic structured program.

2. Example: A city operates a swimming pool. It charges an admission price of \$2.00 for each adult and \$1.00 for each child to enter the pool. The admission charges are taxable since this is not a structured athletic or recreational program.

3. Example: A city or county park and recreation department sponsors, administers, plans, supervises, directs, and controls pottery and ceramics classes. The park and recreation department charges each person \$20.00 to participate. The participation charges are exempt as a recreational structured program.

4. Example: A not-for-profit organization that is not qualified under s. 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, sponsors a softball tournament and charges each team \$250 to participate. The organization rents the softball field from the city. The \$250 participation fee is subject to tax. If the organization is not registered to collect and remit sales tax, the organization must contact the local taxpayer service center to obtain a special events sales tax remittance number. The rental of the ball field by the city to the organization is taxable, unless the not-for-profit organization holds a Consumer's Certificate of Exemption and issues a copy of its certificate to the city.

(f) Dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations are exempt. To receive this exemption, the organization making any such charges must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of 1986, as amended.

(g) Admission charges to an event held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility are exempt when:

1. The event is sponsored by a sports authority or commission, exempt from federal income tax under the provisions of s. 501(c)(3) of the Internal Revenue Code, as amended, that is contracted with a county or municipal government for the purpose of promoting and attracting sports-tourism events to the community or is sponsored by a governmental entity;

2. 100 percent of the funds at risk belong to the sponsoring entity;

3. 100 percent of the risk of success or failure lies with the sponsoring entity; and

4. The talent for the event is not derived exclusively from students or faculty.

(h) Entry fees for participation in fresh water fishing tournaments, as provided in Section 212.04(2)(a)7., F.S., are exempt.

(i) Participation or entry fees charged to participants in a game, race, or other sport or recreational event when spectators are charged a taxable admission to such event, as provided in Section 212.04(2)(a)8., F.S., are exempt.

(j) Admissions charged by physical fitness facilities owned or operated by any hospital licensed under Chapter 395, F.S., as provided in Section 212.02(1), F.S., are exempt.

(k) Admissions to live theater, live opera, or live ballet productions, as provided in Section 212.04(2)(a)6., F.S., are exempt. The application required in Section 212.04(2)(a)6., F.S., should be addressed to:

Department of Revenue

Central Registration

P. O. Box 6480

Tallahassee, Florida 32314-6480.

(3) Taxable admissions and participation fees. The following paragraphs contain examples of admission charges that are subject to tax, unless such admissions are specifically exempt under the provisions of Section 212.04(2), F.S. This list is not intended to be an exhaustive list.

(a) Admissions to any place of amusement, sport, or recreation are subject to tax.

(b) Admissions to places of amusement, operated under the supervision of the State Racing Commission and any admissions to

such place for events not under the supervision of the State Racing Commission, are subject to tax.

(c) Admissions to attractions, shows, carnivals, exhibitions, and to fairgrounds that do not qualify for exemption under the provisions of Sections 212.08(7)(gg) and 616.260, F.S., are subject to tax. Fairgrounds shall be deemed to mean any area for which a charge is made to view exhibits or entries.

(d) Charges to attend consumer trade shows and exhibitions are subject to tax.

(e) Charges made at carnivals, fairs, amusement parks, and similar locations for rides, such as on merry-go-rounds, roller coasters, ferris wheels, and similar rides, are admissions subject to tax.

(f) Charges for live pony rides are admissions subject to tax.

(g) Charges made for the privilege of bowling, golfing, swimming, using trampolines, for playing billiards, ping pong, tennis, squash, badminton, slot racing, go-kart racing, and similar sports are admissions subject to tax.

(h) Admissions to theatres, mini-theatres, outdoor theatres, and shows are subject to tax.

(i) Charges made for participation in saltwater fishing tournaments are subject to tax.

(j) Charges made for the privilege of entering or engaging in any kind of activity for which no admission charge is made to spectators are subject to tax. When spectators are charged a taxable admission to a game, race, or other sport or recreational event, the participation or entrance fees are exempt. The purchase of taxable items used by the sponsoring entity are subject to tax, even though receipts from charges for the participation or entrance fees are used to make such purchases.

1. Example: A private golf club hosts a local tournament and charges \$100.00 entry fee from all participants with no admission charge made to spectators. The entry fee covers the greens fees, cart rental, and a meal for each participant, with the excess being used to purchase gifts, gift certificates, and trophies to be given to the winners. The entry fee is subject to tax, even if the charge for each item is separately itemized. The purchase of gifts, trophies, and other promotional items by the club is subject to tax. If the club is donating a gift that it has in its inventory for sale, the club is required to accrue and remit the tax on the cost of the gift at the time it is removed from inventory. When the winning participants are given gift certificates to be used to purchase merchandise from the club, the club is deemed to be selling the merchandise, and it shall collect the tax from the gift certificate holders at the time the merchandise is sold.

2. Example: A sponsoring golf association enrolls participants to participate in a tournament for a fee of \$100.00 with \$20.00 of the fee attributable to organizational services provided by the sponsor and \$80.00 attributable to the club's charges for an unlimited number of rounds and the use of a golf cart, with the excess being used to purchase gifts, gift certificates, and trophies to be given to the winners. No tax is due on the \$100.00 fee paid by the participant to the sponsoring organization. The \$80.00 entry fee paid by the sponsoring organization to the club is taxable, even if the charge for each item is separately itemized. The purchase of gifts, trophies, and other promotional items by the club is subject to tax. When participants are given gift certificates to be redeemed for merchandise from the club's pro shop, the club is deemed to be selling the merchandise and shall collect tax from the gift certificate holders at the time the holder redeems the certificate for merchandise.

(k)1. When the owner of a boat or vessel operated as a "head-boat" or "party boat" supplies the crew, which remains under the control and direction of the owner, and makes a charge measured on an admission or entrance or length of stay aboard the vessel for the privilege of participating in sightseeing, dinner cruises, sport, recreation, or similar activities including fishing, the charge is taxable as an admission.

2. The charge made by an owner or operator for chartering any boat or vessel, with a crew furnished, solely for the purpose of fishing is exempt.

3. Charges made by foreign registered vessels carrying passengers to international waters where passengers cannot disembark from the vessel at points other than the origination point (cruises to nowhere) are taxable. If the vessel docks, and passengers can disembark, the charge is considered to be for transportation and is exempt from tax.

(l) Charges measured on an admission or entrance or length of stay for rides on sightseeing trolley cars, sightseeing buses or trains, or any sightseeing or amusement ride where the participant is normally returned to the origination point are taxable. This does not apply to:

1. Charter or regularly scheduled aircraft, bus, taxi, trolley, or train travel where the passengers may disembark for shopping, dining, or other activities at points other than the origination point; or

2. Individuals traveling in air commerce, such as skydiving, helicopter, or untethered hot air balloon rides, pursuant to 49 U.S.C. s. 40116.

(m) Charges made for tethered hot air balloon rides are taxable.

(4) Dues and initiation fees, equity and nonequity memberships, capital contributions and assessments, refundable deposits, and user fees.

(a) 1. Dues and user fees paid to any organization, including athletic clubs, health spas, civic, fraternal, and religious clubs, and organizations that provide physical fitness facilities or recreational facilities, such as golf courses, tennis courts, swimming pools, yachting, boating, athletic, exercise, and fitness facilities, are subject to tax. Dues and user fees do not include:

a. Charges for initiation into, or for joining, an organization that are paid by persons to obtain an equitable ownership interest in the organization. The equitable ownership interest may be transferrable, with or without consideration, directly to another party or to the organization.

b. Additional charges paid by an equity member when joining an organization that are used by the organization solely for capital expenditures, capital improvements to the organization's facilities, or for debt servicing such expenditures and improvements by the organization. Examples of these types of payments and the use of such amounts include amounts expended for rebuilding and/or replacing the grass on greens or fairways; rebuilding and/or replacing bunkers; planting of additional trees; resurfacing and/or construction of tennis courts; resurfacing and/or construction of swimming pools; amounts expended for new furniture, fixtures and equipment; amounts expended for clubhouse renovations; amounts expended for kitchen equipment and utensils; amounts expended to improve the irrigation system; amounts expended to acquire assets to enable the club to comply with environmental laws; amounts expended for acquiring maintenance equipment; amounts expended for new golf carts; and amounts expended for the installation of equipment on golf carts. Repairs to, or maintenance of, existing capital assets that do not materially add to the value or appreciably prolong the useful life of a capital asset are not deemed to be capital expenditures or capital improvements by the organization.

c. Capital assessments levied by an organization against persons who are, or seek to become, members of the organization.

d. Capital contributions or additional paid-in capital paid to an organization by individuals who have an equitable ownership interest in the organization.

2. Recurring or nonrecurring capital contributions or additional paid-in capital, or capital assessments, paid to an organization in a lump sum or by installments, are not subject to tax when such payments are:

a. Separately accounted for and not recorded in an operating revenue account by the organization.

b. Not paid for the right to use the organization's recreational, physical fitness, or other facilities or equipment without subsequent periodic payments;

c. Not used to effect a decrease in user fees or periodic membership dues; and

d. Not used to pay for the operating expenses of the organization.

(b) For purposes of this rule:

1. The phrase, "equitable ownership interest," means an interest that entitles a person to receive from the organization evidence or indicia of such ownership, the right to vote on decisions of the organization that are subject to determination by the organization's members or owners, and the right to receive a proportionate share of the organization's assets upon its dissolution, unless all such net assets are distributable upon dissolution to an organization exempt from federal income taxation or to a qualifying common interest realty association. The ownership interest must be reflected by the issuance of stock, a membership certificate, or similar instrument evidencing an ownership interest in the organization.

2.a. The phrases "capital contributions" or "additional paid-in capital" mean equity payments that by themselves do not entitle an individual to use the facilities or equipment of an organization and that are intended as an investment to maintain or enhance members' and owners' interests in the organization.

b. The phrase "capital assessments" means payments made by members of an organization that by themselves do not entitle an individual to use the facilities or equipment of an organization and that are used solely for capital expenditures, for capital improvements to the organization's facilities, or for direct allocation to debt servicing such expenditures and improvements by the organization.

(c) Fees paid to private clubs or membership clubs as a condition precedent to, in conjunction with, or for the use of the club's recreational or physical fitness facilities are subject to tax. Examples of such fees are:

1. User fees paid by members or nonmembers to an organization that entitle the payor to use the organization's recreational or physical fitness facilities or equipment.

2. Dining room minimum fees.

3. Social membership fees when such payments are required of members who hold no equitable interest in, or ownership of, the

club.

4. Periodic payments required to be paid by members or any payment required of a nonmember in order to use the club's facilities.

(d) Fees paid to private clubs or membership clubs that do not entitle the payor to the use of the club's recreational or physical fitness facilities are not subject to tax. Examples of such fees are:

1. Charges to members or nonmembers to establish or maintain a handicap, ranking, or average.
2. Charges for professional instructions in any sport conducted at the club, so long as such charges are exclusively for the instructions and include the use of the facility only during the period of time the instructions are taking place. It is not the intention of this rule to allow a club to exempt what is in effect a dues or membership fee by labeling such charges as instruction fees.
3. Mandatory dues and fees paid to a condominium association, homeowners' association, or cooperative association when they are required to be paid as a condition of ownership or occupancy of real property and the club facilities are part of the common elements or common areas of the real property.

(e) Refundable deposits advanced to an organization when the organization is obligated to repay the deposit and the deposit is reflected as a liability in the organization's books and records are not subject to tax. The organization's obligation to repay refundable deposits must be evidenced by a promissory note, a bond, or other written documentation.

(f) Dues and fees paid by persons for membership in clubs that do not entitle the members to use recreational or physical fitness facilities are not subject to tax. Examples of such clubs are sewing clubs, bowling clubs, square dancing clubs, bridge clubs, and gun clubs where the dues or fees entitle the payor to be a member of the club, but do not entitle the payor to use recreational or physical fitness facilities.

(5) Resale of admissions.

(a) There is no tax exempt sale for resale of an admission. If a purchaser of an admission resells the admission for more than he paid for the admission, he shall collect tax on his sales price, take a credit for the amount of tax previously paid on the admission, and remit the balance to the Department of Revenue.

(b) However, if the purchaser of an admission resells the admission for the same amount or less, tax shall not be collected, and no credit is allowed for tax previously paid.

(6) Sales of vacation packages.

(a) For purposes of this subsection, a "vacation package" means a bundle consisting of two or more components, such as admissions, transient rentals, transportation, or meals. Coupon books, maps, or other incidental items, that are provided free of charge as part of a vacation package are not considered "components" for purposes of this subsection.

(b) Tax is due on the purchase of taxable components of a vacation package at the time of purchase. No additional tax is due on the components that are incorporated into a vacation package and sold by a travel agent, when all of the following conditions are met:

1. The vacation package sold by the travel agent includes two or more components;
2. There is no separate itemization of the sales price of the package for the admission, transient rental, transportation, meal, or any other component of the vacation package; and
3. All components of the vacation package were purchased by the travel agent from other parties and any sales tax due on such purchases was paid at the time of purchase.

(c) A travel agent who itemizes the sales price of the taxable components of a vacation package must register with the Department as a dealer. (See Rule 12A-1.060, F.A.C., Registration). Travel agents who itemize the sales price of the taxable components of a vacation package are required to collect tax from the purchaser as follows:

1. When the itemized components are sold for the same amount or less than was paid for each of them, the travel agent is not required to collect any additional tax. No credit is allowed for tax paid on the purchase of the taxable components.
2. When the itemized components are sold for more than the purchase price of each component, the travel agent is required to collect tax on the sales price of the taxable components. The travel agent may take a credit of tax previously paid for the taxable components that are separately itemized at a sales price greater than the purchase price of the component.

(d) When the seller of components of a vacation package and the purchasing travel agent are members of the same controlled group of corporations for federal income tax purposes and the amount charged for the component is an amount less than the price charged to unrelated travel agents under normal industry practices, the related travel agent is required to itemize the sales price of the components to the purchaser and collect tax on the itemized taxable components. The travel agent may take a credit of tax

previously paid for the taxable components.

Rulemaking Authority 212.04(4), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1), 212.04, 212.08(6), (7), 616.260 FS. History-- New 10-7-68, Amended 1-7-70, 6-16-72, 7-19-72, 12-11-74, 9-28-78, 7-3-79, 12-3-81, 7-20-82, Formerly 12A-1.05, Amended 1-2-89, 12-16-91, 10-17-94, 3-20-96, 3-4-01, 10-2-01, 4-17-03, 6-28-05, 4-26-10, 1-12-11, 1-17-13, 1-19-15.