

## Exemption from Sales Taxes on 75% of the Admission Charge to a Qualifying Place of Amusement

On July 27, 2004, and September 21, 2004, Governor Pataki signed into law Chapters 218 and 506 of the Laws of 2004, respectively. Chapter 218 adds section 1122 to the Tax Law to exempt from state and local sales taxes (sales tax) 75% of the admission charge to a qualifying place of amusement (see *Definitions* below). The exemption also applies to the ¼% tax imposed by the state in the Metropolitan Commuter Transportation District (MCTD). The MCTD consists of the city of New York and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester. Chapter 506 provides for the expiration of this exemption effective April 1, 2005.

### Definitions and other qualifications

For purposes of this exemption, the following shall apply:

A place of amusement is a *qualifying place of amusement* if: (1) it exists on a year-round basis (whether or not it is open year round) at a fixed location in the state; (2) the admission charge to the place entitles patrons to ride at least 75% of the amusement rides at the place, without additional charge; (3) the combined geographic area of the amusement rides at the place equals at least 50% of the entire geographic area of the place; and (4) it provides to each person, to whom it delivers an admission ticket, a ticket or paper receipt stating the amount of the admission charge paid by such person and the sales tax due thereon.

In its first or final year of operation, a place of amusement shall not be excluded from classification as a qualifying place of amusement because it has not existed or will not exist on a year-round basis, so long as it admits patrons for the portion of the year that it is open and all other conditions outlined above are met.

*Amusement rides* include roller coasters, Ferris wheels, carousels, water slides, and all other amusement rides and water rides.

The *combined geographic area of the amusement rides* located at a place of amusement includes all fenced-in ride areas, walkways to and among the rides, areas where patrons wait in line for the rides and all buildings, structures, machinery, equipment, and ancillary facilities associated with the rides.

The *entire geographic area* of a qualifying place of amusement includes only areas within the perimeter fencing of the place which are generally accessible to the public and which are accessible only by paying the charge for admission to such place. The entire geographic area excludes administrative areas, parking lots, hotels, campgrounds and picnic areas, lakes, woodlands and other undeveloped areas and areas devoted to retail activities, such as games, arcades and food, beverage, souvenir and merchandise sales.

**Examples**

Example 1. *On October 31, 2004, a qualifying place of amusement sells and delivers a \$30 ticket that entitles a customer to both admission to the park and use of the rides within the park (a pay-one-price admission ticket). Sales tax must be collected on 25% of the \$30 charge for the ticket.*

Example 2. *A qualifying place of amusement sells and delivers a \$10 admission-only ticket which limits the customer to admission to the park. Sales tax must be collected on 100% of the charge for the admission-only ticket.*

**Effective date**

The new 75% exemption applies to admissions to a qualifying place of amusement occurring on or after July 28, 2004. The exemption applies unless the admission ticket was actually sold and delivered to a patron (other than for resale) prior to July 28, 2004. The new 75% exemption expires April 1, 2005, and therefore admissions occurring on or after April 1, 2005, will be subject to tax unless the admission ticket was actually sold and delivered to a patron (other than for resale) prior to April 1, 2005. With respect to the taxability of charges for admissions to a qualifying place of amusement on or after April 1, 2005, see TSB-M-03(5)S.

**Additional guidance**

The new exemption provided by section 1122 applies only to a charge that includes both admission to the qualifying place of amusement and the use of amusement rides at the qualifying place of amusement. Charges solely for admission to a qualifying place of amusement that do not allow the customer use of the amusement rides continue to be fully subject to sales tax.

If a place of amusement is not a qualifying place of amusement, it must collect sales tax on 100% of its admission charges unless it offers an admission-only ticket in the manner described in TSB-M-03(5)S, *Charges for Admission to a Place of Amusement and for the Use of Rides*. An admission charge to a patron for admission to, or use of, facilities for sporting activities in which the patron will be a participant, such as bowling alleys and swimming pools, continues to be exempt from sales tax.