

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

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Sales Tax
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Taxable Status of Free Admissions

Question has arisen as to the taxability of "free" or "complimentary" tickets and "boxes" to athletic events.

Section 1101(d)(2) of the Tax Law defines the term "Admission charge" as" The amount paid for admission, including any service charge and any charge for entertainment or amusement or for the use of facilities therefor."

Section 1105(f)(1) of the Tax Law imposes a tax on "Any admission charge where such admission charge is in excess of ten cents to or for the use of any place of amusement in the state, except charges for admission to race tracks, boxing, sparring or wrestling matches or exhibitions which charges are taxed under any other law of this state, or dramatic or musical arts performances, or motion picture theaters, and except charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or a lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee."

Section 1110 of the Tax Law provides "Except to the extent that property or services have already been or will be subject to the sales tax under this article, there is hereby imposed on every person a use tax for the use within this state....." (Emphasis supplied.)

Accordingly, "Free" or "Complimentary" tickets furnished for athletic events are not subject to the tax imposed under section 1105(f)(1) of the Tax Law, since no additional consideration for such tickets was given. Furthermore, the use tax imposed under section 1110 of the Tax Law is not applicable since the tax imposed under section 1105(f)(1) of the Tax Law is not a tax imposed on the sale of property or service.

"Boxes" which are assigned and reserved for corporate purposes, and to officials of or stockholders in an organization, are subject to the tax imposed under section 1105(f)(1) of the Tax Law.