

Vermont Department of Taxes
TECHNICAL BULLETIN

TAX: Sales and Use Tax

SUBJECT: Tax on guide services and rental of recreational equipment

STATUTORY REFERENCE: 32 V.S.A. § 9771(4)

TB – 62

ISSUED: March 31, 2011

Introduction

Vermont Sales Tax is imposed on the “(a)dmision to places of amusement.” 32 V.S.A. § 9771(4).¹ This Technical Bulletin explains how that imposition applies to charges for outdoor activities.

The term “place of amusement” is broadly defined to mean any place where any facilities for entertainment, recreation, amusement or sports are provided. 32 V.S.A. § 9701(11). Explicitly included in the statutory term “places of amusement” are athletic events, exhibitions, golf courses and ski areas. §9771(4). Regulation further defines the term to extend to charges for such activities as sleigh or buggy rides, airplane, helicopter, boat and glider rides (where the purpose is amusement rather than transportation) as well as charges for the use of riding trails, tracks or similar facilities for skiing, horseback riding, bicycling, snowboarding, skating, canoeing, kayaking, or using ATV’s, snowmobiles, motorcycles, or other recreational equipment. §1.9771(4)-1. The key feature of the taxable activity is admission to a place that is under the control of the vendor. In some cases, the place is a building or real estate, in other cases, the place is a vehicle or vessel.

Places under the control of the vendor

Some guide services are provided on the public waters of the state or on lands that have no restrictions on use, for example, a horseback riding expedition in Green Mountain National Forest. If the fees paid to guides do not include any compensation to land owners, the charges are not considered a charge for admission to a place of amusement. In these cases, the services of the guide are not subject to the sales tax.

In other cases, a guide may provide a service on privately owned or controlled land to which there is no admission without payment of a fee. If a guide provides access to land that is controlled by the guide or others, the guide’s charge is subject to the sales tax. The tax must be collected even if only part of the guide services are on controlled lands. If the guide separates the admission fee from the additional fee for his/her service, only the admission fee is subject to tax.

As with other itemized transactions, the charges for the taxable admission must be consistent with the value of the service provided. In some cases, the taxable admission may be offered

¹ The 2010 legislature changed the term to “places of entertainment” effective April 1, 2011. Act 160, § 41.

without the non-taxed service or vice versa and the pricing for the itemized package must be consistent with the separate, stand-alone service prices.

A charge for a place on a boat, sled, raft or other vessel offering pleasure rides that is under the control of the vendor is subject to tax. For example, the charge for admission to a vessel or vehicle for sightseeing, providing a hunting or fishing experience, or any recreational purpose is subject to tax. The only instances in which the charge for a use of a vessel under control of the vendor are not subject to tax are when the vessel is used for transportation only.

Examples of services that use a vessel as a place for amusement:

- Boats (motorized or not) owned and operated by the guide for fishing, or sightseeing (including wildlife viewing)
- Sleds and sleighs drawn by animals and controlled by the guide for travelling over snow or other trails (regardless of the public nature of the trails)
- Rafts and other vessels when those vessels are under the control of the guide.

Guide services that are instructional are not subject to tax

No sales tax is due when the focus of the admission charge is instruction. Health clubs that offer training classes led by an instructor are not required to collect the sales tax on the charges for those classes. Similarly, an individual learning to fly an airplane does not have to pay tax on the charge for flying with an instructor. However, if the instruction is merely incidental to the activity a tax is due. For example, instruction to insure safe participation in an amusement such as horse riding is not sufficient to exempt the trail fee from the sales tax. Also, guide services that include providing information to customers about the physical and biological surroundings of a trip on water, land or snow are not considered instructional for the purposes of determining if the amusement is a taxable event.

Instruction may be combined with recreational use of facilities otherwise subject to the sales tax. An example is a tennis lesson followed by one hour of court use. In such a case, the charge for the lesson is not subject to tax, but any additional charge for court use is subject to the sales tax. If a single charge is made for admission and instruction, the entire transaction is subject to tax.

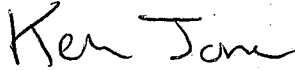
Equipment rental is subject to tax

In some cases, an amusement activity may not be considered subject to tax but the charges for equipment are subject to tax. The rental of fishing or skiing equipment is considered the rental of tangible personal property and is subject to tax under 32 VSA § 9771(1). The rental of self operated vessels such as kayaks, canoes and rafts are also subject to the sales tax. A guide providing instruction may separate the charges for the instruction (not subject to tax) from the rental of equipment (subject to tax). If a single charge is made for learning how to use equipment, the entire transaction is subject to tax unless the value of the equipment is minimal compared to the cost for instruction.

Use of Technical Bulletins

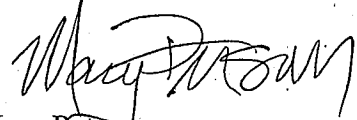
A technical bulletin provides general information to the public and does not replace the need for competent legal or accounting advice. This technical bulletin supersedes all prior department pronouncements on this subject.

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