



WAKE FOREST
UNIVERSITY

Entertainment Tax Administrative Procedure

Approved By:	Brandon Gilliland, AVP Finance and Controller
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Related Policies:	Departmental Deposit Administrative Policy Record Retention and Destruction Policy Document Retention Draft Schedule

Administrative Procedure Statement

Wake Forest University will comply with the North Carolina Tax Simplification and Reduction Act (Session Law 2013-316, “The Act”), passed by the North Carolina General Assembly and signed into law by the Governor on August 23, 2013 is effective January 1, 2014.

The Act included the repeal of certain exemptions previously allowed for non-profit entities, including higher education institutions, and now imposes tax on admission charges to an entertainment activity, a new subdivision. The general North Carolina State rate of tax (4.75% as of this publication) and the applicable local and transit rates of tax (Forsyth County rate is 2% as of this publication) tax apply to:

- “admission charges to an entertainment activity listed in this subdivision. Offering any of these listed activities is a service. An admission charge includes a charge for a single ticket, a multioccasion ticket, a seasonal pass, an annual pass, and a cover charge.
- An admission charge does not include a charge for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.
- When an admission ticket is resold and the price of the admission ticket is printed on the face of the ticket, the tax does not apply to the face price. When an admission ticket is resold and price of the admission ticket is not printed on the

face of the ticket, the tax applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

Admission charges to the following entertainment activities are subject to tax:

- a. A live performance or other live event of any kind.
- b. A motion picture or film.
- c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions.”¹

The Act provides an exemption from sales and use tax for the sale at retail and the use, storage, or consumption in North Carolina for admission charges for the first two activities sponsored by the University during a calendar year. Wake Forest University is taking a conservative approach by waiving the right to honor the exclusion. The University has a decentralized environment for planning events, thereby causing risk of identifying the first two activities of the calendar year with certainty.

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Related Policies

Departmental Deposit Administrative Policy
Record Retention and Destruction Policy
Document Retention Draft Schedule
<http://finance.wfu.edu/policies-and-procedures>

¹ G.S. 105-164.4(a)(10) and G.S. 105-164.13(60)

Related Documents

The official North Carolina Department of Revenue publication can be viewed at

http://www.dornrc.com/downloads/e505_9-13.pdf

http://www.dornrc.com/practitioner/law_changes_2013.pdf#page=51

<http://www.dornrc.com/practitioner/sales/directives/SD-13-4.pdf>

G.S. 105-164.4(a)(10)

G.S. 105-164.13(60)

Procedures

General Guidelines

Each department must determine, during the planning of an entertainment activity, whether or not the entertainment activity is subject to sales and use taxation. When the activity is subject to taxation, then the department must take all necessary steps to collect the sales tax and provide Accounts Payable with the necessary information for the accurate and timely remittance of the collected tax and the monthly filing of the Sales and Use Tax Return. The appendix includes flowcharts to guide determination of taxability and corresponding requirements.

Marketing materials, information provided on web sites, signage, and information printed on the admission ticket are important. Entertainment activities that are subject to sales and use tax must include signage that sales tax is included in the pre-printed admission price when the sales tax is not printed separately on the admission ticket. Food, when provided as a convenience, but not required to be purchased in order to gain admission, is excluded from sales tax. Only the amount required for admission to an entertainment event is subject to the sales and use tax.

Admission charges to educational events and registration fees, i.e. instructional activities, are not subject to taxation. Admission charges for educational events that also have background music are not subject to the tax. But, if the admission charge includes the band, then the admission charge is subject to taxation. Admission charges to entertainment activities that are educational requirements (i.e. course requirements) for a registered student are not subject to the tax. However, admission charges to the general public for those same events are taxable. There is no threshold for materiality. The source of the funds is not relevant when determining taxability of the entertainment event. Registration fees for activities where knowledge is gained or instruction is provided are not subject to taxation. Examples include camps, basket weaving classes, etc.

Special Provision for 2014

The law applies to admissions purchased on or after January 1, 2014. For live events, the sales and use tax applies if the *initial* sale of tickets took place on or after January 1, 2014. If the initial sale of tickets to an event in 2014 takes place in 2013, the 3% gross receipts tax on live entertainment would apply instead of sales and use tax provided that at least a single ticket has been sold to the event and such events are currently subject to the gross receipts amusement tax. Gross receipts received on or after January 1, 2014 where the initial sale of the tickets occurred before January 1, 2014 are not subject to sales tax, but are taxable under G.S 105-37.1 (Privilege Tax) unless an exemption applies. Therefore, tickets to a home athletic event that takes place during the tax year ending December 31, 2014 that has had at least one single ticket sold prior to January 1,

2014, all tickets sold for that event are subject to 3% Amusement Tax (and not subject to 6.75% sales tax). For performing art events during the 2014 tax year that have had at least one single ticket purchased before January 1, 2014, are excluded from taxation.

Entertainment activities outside of Forsyth County or outside of North Carolina

Follow sourcing principles when determining North Carolina sales tax collection and remittance requirements. The location of the venue determines the rate of taxation, as the venue is where admission is gained. If admission is gained outside of North Carolina, then the admission charges are not subject to North Carolina sales and use taxation; however, may be subject to taxation of the respective state where the activity is held. Follow the respective state's legislation absent an agreement stating otherwise.

Museum Memberships

When a membership fee to a museum includes admission charges for tours, then the portion attributable to the admission fee(s) is subject to taxation. When the membership includes unlimited admission or tours, then base the taxable value on the admission fee one time as a single or family admission, i.e. an individual membership's taxable value is based on a single admission while a family membership's taxable value is based on the admission for two adults and two children.

Donor Events

Many times development activities include entertainment and/or meals. The amount that is required to be paid for admission to the event or activity is the amount that is subject to taxation. For example, the University has a \$200 per plate dinner event. The value of the meal is \$50. *Scenario one:* The participant must pay \$200 to gain admission to the event; therefore, the full \$200 is subject to taxation. *Scenario two:* It is suggested that the participant pay \$200, but only \$50 is required for admission (and the participant may or may not pay an additional amount for entrance). In this scenario, only the \$50 is subject to taxation as this is the amount that the participant must pay before gaining admission.

Specific events may include food that is offered for sale as a convenience and charged as an amenity (i.e. food is excluded from the admission charge). Examples include reunion events and tailgating when the University is reselling the food to "break even" after purchasing the food from a third party caterer or source and paying the applicable sales tax. When the participant is reimbursing for food that is offered for convenience and the purchase of the food is not required to participate in the event, then the food is not subject to taxation. Food is a tangible personal property and is not entertainment. However, if the University is reselling the food, as a retailer, then the food is taxable. The deciding question is whether the food is optional. When optional, then it is not subject to taxation. When a participant must pay an admission charge to gain admittance, then the charge is taxable. How the entertainment event is identified and marketed and any other information that donors are receiving are critical factors when determining taxability of admission charges.

Guided Educational Tours, Alumni Tours, or Cruise Sponsored by the University

Taxation of educational tours to historic sites depends upon whether or not the site meets the state's definition. If the intent is that the museum is the retailer for admission, then the tour company pays the tax, but the cost of the tour itself is not subject to the tax. The Coach and travel tours are not subject to entertainment tax, but the tour company may

have to pay the tax on certain events (e.g. the amount the tour company must pay for its participants to enter a museum).

Barter/ No barter

Free tickets provided by the University with no consideration for payment are not subject to sales and use taxation.

Vending Machine Sales

Vending machine sales are subject to taxation on 50% of gross sales. Follow the established practice of considering tax as being included in the coin operation.

Department Deposit and Reporting Responsibilities

Follow the Departmental Deposit Administrative Procedure when making the deposit for the admission charges and associated taxes collected. Segregate the transactions into their respective account codes. The ticket revenue should be coded to the applicable revenue account code and the taxes collected should be coded to the appropriate tax liability account code. Please refer to the flowchart in the appendix for specific account codes.

Provide Accounts Payable with the appropriate detail and summary reports, using the provided forms, no later than the tenth (10th) of the month following the close of the monthly reporting period.

Retain all support documentation for seven (7) years, in accordance with Wake Forest University Record Retention and Destruction Policy and the Document Retention Draft Schedule.

Definitions

Entertainment activity: Event with admission charge that is subject to sales and use tax.

- a. A live performance or other live event of any kind.
- b. A motion picture or film.
- c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions.
- d. Excludes admission charges to educational events.

Contact(s)

Contact Angie Downing in Accounts Payable, ap@wfu.edu, downina@wfu.edu, 336-758-1981.

Web Address for Policy

<http://finance.wfu.edu/policies-and-procedures>

Appendix and Forms

Appendix

Flowcharts: Collection & Remittance of Sales Tax

Sales and Use Tax Related to Entertainment (Admission Charges)

Sales and Use Tax Rates for NC Counties, effective April 1, 2013

Forms

Receipt Tax for Entertainment/Admissions Revenue: Microsoft Excel spreadsheet that provides Accounts Payable with the information and detail specific to receipt tax for entertainment (admission) revenue. The first page includes instructions, the second page is a Summary, and the third page provides Detail information for allocating the tax among the appropriate counties in NC or state and county outside of North Carolina.

Athletics' Ticket Revenue Summary Report for Accounts Payable— Internal form that Athletics will continue to use when reporting revenue subject to Amusement Tax (3% gross receipts) for calendar year 2014.

Training/communication plan

- Share in an email communication to department personnel who may be impacted by the tax (stakeholder group).
- Publish administrative procedure within the Policy and Procedure section of the Finance web page.
- Announce during Business Administrator Forum.
- Departmental training as needed.

Contracts

None