



QUESTION: Based on the facts provided below, is Florida sales tax due on admissions when a Florida tax-exempt not-for-profit organization partners with a state college to provide concerts?

ANSWER: Florida sales tax is due on admissions when a Florida tax-exempt not-for-profit organization partners with a state college to provide concerts under the facts provided in this TAA. In the instant case, the admission charges are not being imposed by a not-for-profit 501(c)(3) sponsoring organization (i.e. Taxpayer); rather, the admission charges are being imposed by Partner, which is not an entity under s. 501(c)(3) of the Internal Revenue Code. Therefore, no exemptions apply to the transaction under advisement, including the exemption provided for in s. 212.04(2)(a)2., F.S.; consequently, tax is due on the admissions. Also, note that the general public is purchasing the admissions, not Taxpayer.

QUESTION: Based on the facts provided below, is Florida sales tax due on ticket handling fees, which are associated with the admissions, when a Florida tax-exempt not-for-profit organization partners with a state college?

ANSWER: Florida sales tax is due on ticket handling fees, which are associated with the admissions, when a Florida tax-exempt not-for-profit organization partners with a state college, since the ticket handling fees are part of the admission price due and deemed to be taxable as discussed above.

February 7, 2023

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Via e-mail: [REDACTED]

Re: Technical Assistance Advisement – TAA #: 23A-003
[REDACTED] (“Taxpayer”)
Sales and Use Tax – Admissions
Section 212.04(2)(a) 2., Florida Statutes - (F.S.)
Rule 12A-1.005, Florida Administrative Code - (F.A.C.)
BP #: [REDACTED]
FEI#: [REDACTED]

Dear [REDACTED]:

This is in response to your letter received November 7, 2022, requesting this Department's issuance of a Technical Assistance Advisement ("TAA") pursuant to Section(s.) 213.22, F.S., and Rule Chapter 12-11 F.A.C, Florida Administrative Code, regarding the matter discussed below. Your request has been carefully examined, and the Department finds it to be in compliance with the requisite criteria set forth in Chapter 12-11, F.A.C. This response to your request constitutes a TAA and is issued to you under the authority of s. 213.22, F.S.

REQUESTED ADVISEMENTS

- Is Florida sales tax due on admissions when a Florida tax-exempt not-for-profit organization partners with a state college to provide concerts?
- Is Florida sales tax due on ticket handling fees, which are associated with the admissions, when a Florida tax-exempt not-for-profit organization partners with a state college?

FACTS

In your written request for a TAA, you provided the following facts. Taxpayer is a small, not-for-profit 501(c)(3) arts organization that holds a Florida Consumer's Certificate of Exemption (Form DR-14). Taxpayer partners with [REDACTED] ("Partner") to provide concerts for the general public to enjoy. Partner owns and operates the [REDACTED] ("Theater"), a music theater that is the venue for the concerts. Taxpayer provides the performing musicians and marketing for the concerts. Taxpayer did not directly indicate whether or not Partner is a 501(c)(3) organization. Therefore, for purposes of this TAA, it is presumed that Partner is not a 501(c)(3) organization.

Taxpayer and Partner's partnership is either a "rental" or a "partnership agreement." When the partnership is a rental, Taxpayer rents Theatre from Partner and 100% of the admission ticket revenue (after the ticket handling fees have been deducted) is remitted to Taxpayer by Partner. When there is a partnership agreement, Taxpayer and Partner split the net proceeds from the admission ticket revenue.

In our email correspondence on November 30, 2022, and December 5, 2022, you provided the following additional facts:

- Taxpayer is responsible for providing insurance for every event based on the Theater contract.
- Theater sells tickets for the concerts online and through its box office for both the rental and the partnership agreements.
- Admissions for concerts are collected by Theater and proceeds are processed through Partner.
- Per the "Event Settlement" provided for partnership agreements, sales tax on admissions is "included in Ticket Sales" and is backed out of the gross proceeds before the "Net Ticket Revenue" is distributed by Partner between Taxpayer and Partner based on an agreed upon percentage split. For rental agreements, Partner distributes 100% of the ticket revenue to Taxpayer (less the ticket handling fees).

Per your email dated December 7, 2022, you asserted:

- Taxpayer does not remit sales tax to the Florida Department of Revenue on admissions or the sales tax on ticket handling fees since the admissions and ticket handling fees are charged and collected by Theater. The sales tax on admissions and ticket handling is remitted to the Florida Department of Revenue by Partner.
- All proceeds from concerts involving Taxpayer are processed through Partner.

The following documentation was provided as part of Taxpayer's TAA request: Copies of sample "Facilities Use Contracts" and "Event Settlements."

The Florida Department of Revenue previously issued two LTAs to Taxpayer on July 27, 2022, and September 20, 2022, stating, "Admission charges are subject to tax; however, admission charges imposed by not-for-profit sponsoring organizations are exempt from Florida sales tax, when the not-for-profit sponsoring organization qualifies as a not-for-profit under s. 501(c)(3) of the Internal Revenue Code 1954."

LAW AND DISCUSSION

Section 212.04, F.S., provides that the sales of admissions are taxable in Florida, unless specifically exempt. The term "admissions" is defined as the net sum of money for admitting a person or persons to any place of amusement, sport, or recreation. See s. 212.02(1), F.S.

Section 212.04(2)(a)2., F.S., provides a specific exemption on admission charges imposed by not-for-profit sponsoring organizations. To receive this exemption, the sponsoring organization must qualify as a not-for-profit entity under s. 501(c)(3) of the Internal Revenue Code. See also Rule 12A-1.005(2)(f), F.A.C.

CONCLUSION

Florida sales tax is due on admissions when a Florida tax-exempt not-for-profit organization partners with a state college to provide concerts under the facts provided in this TAA. In the instant case, the admission charges are not being imposed by a not-for-profit 501(c)(3) sponsoring organization (i.e. Taxpayer); rather, the admission charges are being imposed by Partner, which is not an entity under s. 501(c)(3) of the Internal Revenue Code. Therefore, no exemptions apply to the transaction under advisement, including the exemption provided for in s. 212.04(2)(a)2., F.S.; consequently, tax is due on the admissions. Also, note that the general public is purchasing the admissions, not Taxpayer.

Florida sales tax is due on ticket handling fees, which are associated with the admissions, when a Florida tax-exempt not-for-profit organization partners with a state college, since the ticket handling fees are part of the admission price due and deemed to be taxable as discussed above.

This response constitutes a TAA under s. 213.22, F.S., which is binding on the Department only under the facts and circumstances described in the request for this advice, as specified in s. 213.22, F.S. Our

response is predicated on those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes, or judicial interpretations of the statutes or rules, upon which this advice is based, may subject similar future transactions to a different treatment than expressed in this response.

You are further advised that this response, your request and related backup documents are public records under Chapter 119, F.S., and are subject to disclosure to the public under the conditions of s. 213.22, F.S. Confidential information must be deleted before public disclosure. In an effort to protect confidentiality, we request you provide the undersigned with an edited copy of your request for TAA, the backup material and this response, deleting names, addresses and any other details which might lead to identification of the Taxpayer. Your response should be received by the Department within ten (10) days of the date of this letter.

If you have any further questions with regard to this matter and wish to discuss them, you may contact me directly at (850) 717-7759.

Sincerely,

Alesia Pride

Alesia Pride

Tax Law Specialist

Technical Assistance & Dispute Resolution

Record ID: 7000862768

TADR Satisfaction Survey

The Florida Department of Revenue invites you to complete the online TADR Satisfaction Survey to help us identify ways to improve our service to taxpayers. The survey is an opportunity to provide feedback on your recent experience with the Department's office of Technical Assistance and Dispute Resolution (TADR). To access the survey, place the following address in your browser's access bar:

<https://tadr.questionpro.com>

When you open the survey, you'll be asked to enter the following information. This information will enable you to complete and submit the survey.

Notification number: 7000862768

Respondent code: 44

Tax type: Sales and Use Tax

Correspondence type: Technical Assistance

If you need technical assistance accessing the survey, please email Douglas Charity at douglas.charity@floridarevenue.com.

Thank you.