

701—16.26(422) Admissions to amusements, athletic events, commercial amusement enterprises, fairs, and games.

16.26(1) Taxable admissions. The gross receipts from amusements of every kind and character and from games of every kind and character shall be taxable, unless exempt under rule 16.26(422), 16.39(422) or 701—17.1(422).

a. Taxable amusement shall include but not be limited to the following:

- (1) Fortune telling, fortune tellers, and psychics.
- (2) Concessions at a fair, carnival, or like place when the charge is made or a voluntary contribution taken by the person operating the concession.
- (3) Games of skill, games of chance, raffles, and bingo.
- (4) Activities operated by private entities.
- (5) Admissions to a fair not operated by a county or city.
- (6) Athletic events occurring in Iowa sponsored by educational institutions except when sponsored by elementary and secondary educational institutions.

b. Tax shall apply to both legal and illegal amusements. The collection of tax or the issuance of a permit shall not be construed to condone or legalize any games of skill or chance or slot-operated device prohibited by law.

c. Gross receipts shall include all money taken in by the operator of any amusement, game, or device in the state of Iowa.

16.26(2) Nontaxable amusements. The following is a nonexclusive list of amusements, the gross receipts of which are exempt from sales tax:

- a.* Amusements, fairs, and athletic events of elementary and secondary educational institutions.
- b.* Certain fees paid to a city or county for participating in an athletic sport. See rule 701—18.39(422,423).
- c.* Admissions to a fair operated by a county or a city.
- d.* For periods beginning on or after July 1, 1996, the gross receipts from sales or services rendered, furnished, or performed by the state fair organized under Iowa Code chapter 173 or a county, district, or fair society organized under Iowa Code chapter 174. This exemption does not apply to individuals, entities, or others that sell tangible personal property or provide taxable enumerated services at the state, county, district fair, or fair societies organized under Iowa Code chapters 173 and 174.

EXAMPLE 1. The state fair organization sells posters in honor of the state of Iowa's sesquicentennial during the Iowa state fair and other events. The gross receipts from the sales of these posters are exempt from tax as a sale by a fair organized under Iowa Code chapter 173.

EXAMPLE 2. XYZ vendor sells children's toys and other items of tangible personal property at a booth on the fairgrounds during the Iowa state fair. The gross receipts from sales by XYZ vendor are not exempt from Iowa sales tax under this rule. XYZ vendor is a private entity and not a state, county, district, city, or fair society organized under Iowa Code chapters 173 and 174.

EXAMPLE 3. The Black Hawk county fair society rents tables and chairs to XYZ organization for an event to be held by XYZ. The gross receipts from the rental of the tables and chairs are exempt from sales tax since the county fair is organized pursuant to Iowa Code chapter 174.

16.26(3) Fees for participation in games or other amusements.

Beginning July 1, 1993, an entry fee at a place of amusement, fair, or athletic event is not subject to tax when the sales of tickets or admission charges for observing the activity are taxable. If there is no admission but only an entry fee, the entry fee is subject to sales tax whether or not the entry fee is used for prizes. A fee shall mean and include, but not be limited to, entry fees, registration fees, or other charges made by the operator or sponsor of a game or other form of amusement for the right to participate in such game or amusement. Game or other form of amusement shall mean and include, but not be limited to, such events as golf tournaments, bowling tournaments, car races, motorcycle races, bridge tournaments, rodeos, animal shows, fishing contests, balloon races, and trap shoots.

Prior to July 1, 1993, fees which are specifically designated as prize money, whether or not paid to the operator or sponsor of the game or other form of amusement, and which are in fact returned to the participants in the form of cash for merchandise prizes, are not subject to tax if the amount or percentage

designated as prize money is separately stated to the participant at the time the participation fee is established and if sales or use tax is paid on the merchandise prizes to be distributed to the participants. If the amount designated as prize money is not separately stated to the participant, the tax shall apply to the total fee, even though some of the fee may be used for prizes. The tax applies whether the fee is to cover a single event or numerous events.

Educational, religious, and charitable organizations may be exempt from the tax on the receipts from the fees charged for participation in any game or other form of amusement if exempt pursuant to Iowa Code section 422.45(3) and rule 701—17.1(422).

This rule is intended to implement Iowa Code sections 422.42, 422.43, 422.45(3) and Iowa Code section 422.45 as amended by 1996 Iowa Acts, chapter 1124.