

**TENNESSEE DEPARTMENT OF REVENUE
LETTER RULING #99-01**

WARNING

Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy.

SUBJECT

Application of sales and use tax to post-season college football bowl game.

SCOPE

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the department by the taxpayer. The rulings herein are binding upon the Department and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time.

Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

FACTS

[THE TAXPAYER] is deemed a 501(c) organization by the Internal Revenue Service. The Taxpayer will hold an annual post-season college football bowl game in Nashville beginning in 1998. The Taxpayer runs the event from start to finish. The time and location for the game are selected and secured by the

Taxpayer. The Taxpayer produces and manages the preparation of the facility, the staffing of the facility, the employment of game officials, the logistics of sideline support, and the pre-game, half-time, and post-game activities. The Taxpayer also arranges for the pricing, sale, and distribution of tickets. Additionally, the Taxpayer organizes all promotion, contracts with ESPN and other media coverage, obtains corporate sponsorships, and handles all licensing and related activities for the event. All design, printing, and distribution of promotional and game materials are handled by the Taxpayer.

One of the teams that will participate in the game will come from the Southeastern Conference ("SEC"), selected by a collaboration of the Taxpayer and the SEC staff. The other team will be an at-large selection from across the nation and will be selected by a committee of the Taxpayer. These two teams will be given instructions by the Taxpayer regarding times and places for their appearances. These participating universities and conference organizations are also 501(c) organizations but do not sponsor or hold the event.

ISSUE

Whether the tickets sold by the Taxpayer are subject to sales tax.

RULING

The tickets sold by the Taxpayer are not subject to sales tax since the Taxpayer promotes, produces, and controls the entire event.

ANALYSIS

Tenn. Code Ann. § 67-6-212 imposes the sales tax on amusements. The statute specifically lists as taxable the

(2) [s]ales of tickets, fees, or other charges made for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display, or other recreational events or activities . . .

Tenn. Code Ann. § 67-6-330(a) provides exemptions from the sales tax as applied to amusements. Included among the exemptions are

Gross proceeds derived from admissions to amusement or recreational activities conducted, produced, or provided by . . . organizations which have received and currently hold a determination of exemption from the internal revenue service pursuant to 26 U.S.C. § 501(c) . . . provided, that this exemption shall not apply unless such entities promote, produce and control the entire production or function.

Tenn. Code Ann. § 67-6-330(a)(7)(B). An exception from this exemption states that the exemption does not apply to the sale of tickets to “interscholastic sports held or sponsored by private or public colleges or universities.” Tenn. Code Ann. § 67-6-330(b). Accordingly, tickets to interscholastic athletic conference games are subject to sales and use tax. The Taxpayer’s game does not fall into this provision, however, because it is neither held nor sponsored by a college or university, but is held, promoted, and produced by the Taxpayer, an independent entity not affiliated with any particular college or university. Therefore, if the Taxpayer’s handling of the bowl game meets the criteria in Tenn. Code Ann. § 67-6-330(a)(7)(B) the sale of tickets will be exempt from sales tax.

As stated above, the Taxpayer arranges the time and location for the game. The Taxpayer prepares and staffs the facility, hires game officials, arranges the logistics of sideline support, and produces the pre-game, half-time, and post-game activities. The Taxpayer also arranges for the pricing, sale, and distribution of tickets. Additionally, the Taxpayer arranges for all media coverage and promotion of the bowl game, including corporate sponsorships, licensing, and promotional and game materials.

Based on the facts provided, the Taxpayer, a 501(c) organization, produces, promotes, and controls the bowl game. Accordingly, revenues from the sale of tickets are exempt from sales tax.

Caroline R. Krivacka, Tax Counsel

APPROVED: Ruth E. Johnson, Commissioner

DATE: 1/26/99