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Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-second Legislature
Second Regular Session
1996

FILED

Jane Dee Hull
Secretary of State

CHAPTER 326

HOUSE BILL 2088

AN ACT

AMENDING SECTION 42-1310.13, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE TAXES.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 42-1310.13, Arizona Revised Statutes, is amended to read:

42-1310.13. Amusement classification

A. The amusement classification is comprised of the business of operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, public dances, dance halls, boxing and wrestling matches, skating rinks, tennis courts, except as provided in subsection B of this section, video games, pinball machines, sports events or any other business charging admission or user fees for exhibition, amusement or entertainment. For purposes of this section, admission or user fees include, but are not limited to, any revenues derived from any form of contractual agreement for rights to or use of premium or special seating facilities or arrangements. The amusement classification does not include:

1. Activities or projects of bona fide religious or educational institutions.

2. Private or group instructional activities. For purposes of this paragraph, "private or group instructional activities" includes, but is not limited to, performing arts, martial arts, gymnastics and aerobic instruction.

3. The operation or sponsorship of events by the Arizona coliseum and exposition center board or county fair commissions.

4. A musical, dramatic or dance group or a botanical garden, museum or zoo that is qualified as a nonprofit charitable organization under section 501(c)(3) of the United States internal revenue code and if no part of its net income inures to the benefit of any private shareholder or individual.

5. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with major league baseball teams or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

6. Operating or sponsoring rodeos featuring primarily farm and ranch animals in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

7. Sales of admissions to the 1996 national football league super bowl, and to intercollegiate football contests if the contests are operated by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

8. ACTIVITIES AND EVENTS OF, OR FEES AND ASSESSMENTS RECEIVED BY, A HOMEOWNERS ORGANIZATION FROM PERSONS WHO ARE MEMBERS OF THE ORGANIZATION OR ACCOMPANIED GUESTS OF MEMBERS. FOR PURPOSES OF THIS PARAGRAPH, "HOMEOWNERS ORGANIZATION" MEANS A MANDATORY MEMBERSHIP ORGANIZATION COMPRISED OF OWNERS OF RESIDENTIAL PROPERTY WITHIN A SPECIFIED RESIDENTIAL REAL ESTATE SUBDIVISION DEVELOPMENT OR SIMILAR AREA AND ESTABLISHED TO OWN PROPERTY FOR THE BENEFIT OF ITS MEMBERS WHERE BOTH OF THE FOLLOWING APPLY:

(a) NO PART OF THE ORGANIZATION'S NET EARNINGS INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL.

(b) THE PRIMARY PURPOSE OF THE ORGANIZATION IS TO PROVIDE FOR THE ACQUISITION, CONSTRUCTION, MANAGEMENT, MAINTENANCE OR CARE OF ORGANIZATION PROPERTY.

B. The tax base for the amusement classification is the gross proceeds of sales or gross income derived from the business, except that the following shall be deducted from the tax base:

1. The gross proceeds of sale or gross income derived from memberships, including initiation fees, which provide for the right to use a health or fitness establishment or a private recreational establishment, or any portion of an establishment, including tennis and other racquet courts at that establishment, for participatory purposes for twenty-eight days or more and fees charged for use of the health or fitness establishment or private recreational establishment by bona fide accompanied guests of members, except that this paragraph does not include additional fees, other

than initiation fees, charged by a health or fitness establishment or a private recreational establishment for purposes other than memberships which provide for the right to use a health or fitness establishment or private recreational establishment, or any portion of an establishment, for participatory purposes for twenty-eight days or more and accompanied guest use fees.

2. Amounts that are exempt under section 5-111, subsection I.

3. The gross proceeds of sale or gross income derived from membership fees, including initiation fees, that provide for the right to use a transient lodging recreational establishment, including golf~~,~~ COURSES AND tennis and other racquet courts at that establishment, for participatory purposes for twenty-eight days or more, except that this paragraph does not include additional fees, other than initiation fees, that are charged by a transient lodging recreational establishment for purposes other than memberships and that provide for the right to use a transient lodging recreational establishment or any portion of the establishment for participatory purposes for twenty-eight days or more.

C. For purposes of subsection B of this section:

1. "Health or fitness establishment" means a facility whose primary purpose is to provide facilities, equipment, instruction or education to promote the health and fitness of its members and at least eighty per cent of the monthly gross revenue of the facility is received through accounts of memberships and accompanied guest use fees which provide for the right to use the facility, or any portion of the facility, under the terms of the membership agreement for participatory purposes for twenty-eight days or more.

2. "Private recreational establishment" means a facility whose primary purpose is to provide recreational facilities, such as tennis, golf and swimming, for its members and where at least eighty per cent of the monthly gross revenue of the facility is received through accounts of memberships and accompanied guest use fees which provide for the right to use the facility, or any portion of the facility, for participatory purposes for twenty-eight days or more.

3. "Transient lodging recreational establishment" means a facility whose primary purpose is to provide facilities for transient lodging, that is subject to taxation under this chapter and that also provides recreational facilities, such as tennis, golf and swimming, for members for a period of twenty-eight days or more.

D. Until December 31, 1988, the revenues from hayrides and other animal-drawn amusement rides, from horseback riding and riding instruction and from recreational tours using motor vehicles designed to operate on and off public highways are exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from hayrides and other animal-drawn amusement rides, from horseback riding and from

1 recreational tours using motor vehicles designed to operate on and off public
2 highways are subject to taxation under this section. Tax liabilities,
3 penalties and interest paid for taxable periods before January 1, 1989 shall
4 not be refunded unless the taxpayer requesting the refund provides proof
5 satisfactory to the department that the taxes will be returned to the
6 customer.
7 E. If a person is engaged in the business of offering both exhibition,
8 amusement or entertainment and private or group instructional activities, the
9 person's books shall be kept to show separately the gross income from
10 exhibition, amusement or entertainment and the gross income from
11 instructional activities. If the books do not provide this separate
12 accounting, the tax is imposed on the person's total gross income from the
13 business.
14 Sec. 2. Retroactivity
15 This act is effective retroactively to taxable periods beginning from
16 and after December 31, 1993.

APPROVED BY THE GOVERNOR MAY 1, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1,1996