



Sales Taxation of Admission to Cultural Events Across the U.S.

September 28, 2009

The 2009-10 Pennsylvania state budget agreement announced in principle by the lawmakers includes a proposal to eliminate the sales tax exemption currently in place for admissions to cultural events (live theater, concerts, opera, ballet, museums and other similar activities).¹ Removing this exemption is projected to raise approximately \$100 million per year in new tax revenue. As the final agreement is being codified, concerns have surfaced regarding this tax change – in terms of the effect of the tax on nonprofit groups and the continued exclusion of other amusements like admission to motion pictures or sporting events from sales tax.

Cultural Event Admissions Are Subject to Sales Tax in Many States

According to a 2007 report from the Federation of Tax Administrators (FTA) on the sales taxation of services, 31 states levy sales tax or some related tax on admission to cultural events.² In three of these states — Connecticut, New Mexico, and Texas — nonprofits are exempt from collecting the tax. In neighboring states, New Jersey and West Virginia levy the sales tax on these admissions, New York does not, while Delaware levies its gross receipts tax on institutions generating more than \$50,000 in sales monthly. Maryland also levies a tax, but local governments may exempt concerts and theatrical performances. In Ohio, local governments are permitted to levy an amusement tax. For a complete list of states and their tax treatment of cultural events, see Table 1.

Many Pennsylvania Municipalities Also Tax Cultural Event Admissions

While Pennsylvania does not currently subject cultural event admissions to sales tax, it permits local governments to do so. The Local Tax Enabling Act (P.L. 1257, No. 511) permits most municipalities in Pennsylvania to levy taxes on admission charges not only to cultural events, but to athletic events, ski facilities and golf courses. Pittsburgh is permitted to charge amusement tax on motion picture admissions as well.

In Philadelphia, a 5% amusement tax is levied on “any theatrical or operatic performance, concerts, motion picture shows, vaudeville, circuses, carnivals, side shows, exhibitions, shows, displays, dancing, all forms of entertainment at fair grounds, amusement parks and athletic contests, including wrestling matches, boxing and sparring exhibitions, baseball, football and basketball games, golfing, tennis, hockey, archery and shooting, where a charge, donation,

¹ Peter L. DeCoursey, “Capitolwire: Arts sales tax, tax amnesty revenue hike sealed budget deal,” Capitolwire.com, September 18, 2009.

² Federation of Tax Administrators, *Sales Taxation of Services - 2007 Update*, October 2008, http://www.taxadmin.org/fta/pub/services/online/default_07.html.

contribution or monetary charge of any character is made for admission.”³ Admissions that exclusively benefit religious, educational, or charitable institutions are exempt from the admissions tax, as are “legitimate theater shows.”⁴

It is not clear how much revenue municipalities currently receive in amusement taxes on cultural event admissions. The tax proposal is being crafted to preserve local government collections where they overlap with the state’s new authority.

Sales Tax Proposal Too Limited

Any proposal to end sales tax exemptions for entertainment should not be limited to cultural events, but should also include the full range of entertainment activities, including motion picture tickets and sporting events. This would make the tax change more fair and raise considerably more revenue to avoid cuts to health care, education, the arts and human services.

Motion Picture Admissions Taxed in Neighboring States

All of Pennsylvania’s neighbors tax motion picture tickets in some manner. New Jersey, New York⁵, and West Virginia subject movie tickets to sales tax. In Delaware, movie theaters pay a gross receipts tax based on their total sales. In Ohio and Maryland, municipalities are permitted to levy an admissions tax on motion picture tickets – and most do.⁶

As noted previously, motion picture tickets are currently subject to admissions/amusement taxes in Philadelphia and Pittsburgh.

Pennsylvanians already pay sales tax on video rentals. Taxing movie tickets would remove an artificial incentive for choosing one form over the other.

Professional Sports Admissions

According to the FTA survey, admissions to professional sporting events are subject to state sales, amusement, or gross receipts taxes in 35 states. Three states, including Pennsylvania, do not tax the events at the state level, but permit local governments to levy amusement taxes.

³ §19-601(1) of the Philadelphia Code
[http://www.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/thephiladelphiacode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:philadelphia_pa](http://www.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/thephiladelphiacode?f=templates$fn=default.htm$3.0$vid=amlegal:philadelphia_pa).

⁴ §19-601(2) of the Philadelphia Code.

⁵ New York levies a state sales tax of 4% and a local sales tax of 3% to 5.5%, according the New York Office of State Comptroller.

⁶ The FTA survey did not collect information on the taxation of motion picture tickets. This information was gathered from the revenue departments in our neighboring states.

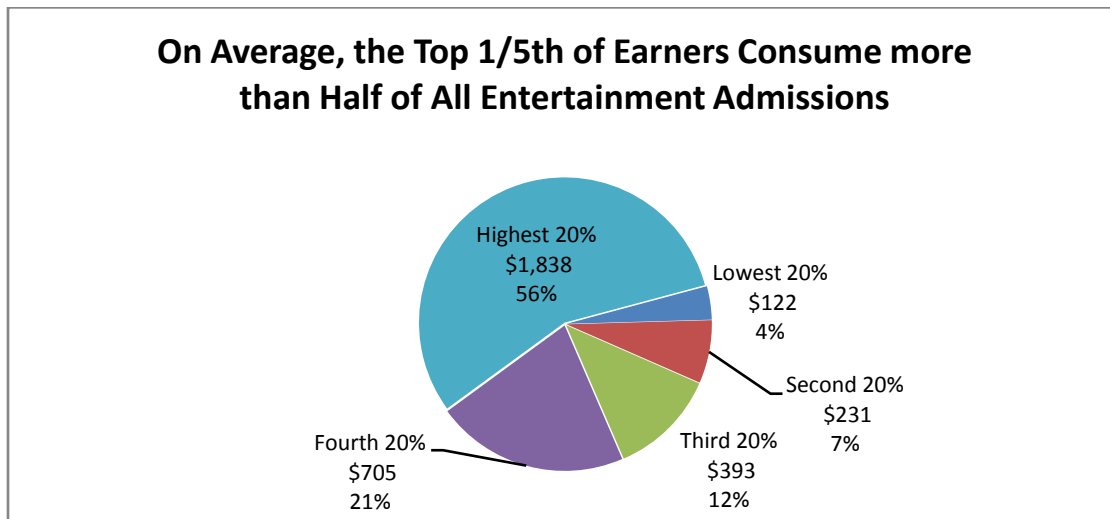
Nine states have sales taxes, but exempt professional sports admissions. Three states (Alaska, New Hampshire, and Oregon) do not levy sales taxes.⁷

In our neighboring states, state sales or admission taxes are levied by Maryland, New Jersey, New York, and West Virginia. Delaware collects a gross receipts tax on admissions from the seller. Ohio, like Pennsylvania, does not levy a state tax, but allows local governments to tax professional sports admissions. Many local governments at sites that host professional sports events in Pennsylvania also collect admissions/amusement taxes on the admissions.

Governor Rendell has said that collecting sales tax on the major sports franchises in the state would be problematic for host cities because under complex stadium lease agreements, the cities would have to cover the cost of a state sales tax on ticket prices.⁸

Who Would Pay the Tax?

It appears that most of the tax increase would be paid by the wealthiest consumers. According to the 2007 Consumer Expenditure Survey, more than half (56%) of all entertainment admissions are paid by consumers in the top 20% of income. On average, people in the top income fifth paid \$1,838 in entertainment admissions. This is significantly more than the next highest income group, which spent on average \$705 per year on admissions. The average for all income groups was \$658 per year.



Source. U.S. Bureau of Labor Statistics, 2007 Consumer Expenditure Survey.

⁷ Montana does not have a sales tax, but was not counted here, as it levies a 5% license tax on boxing and wrestling matches.

⁸ Tom Barnes, "Rendell wants approved budget by Sunday," Pittsburgh Post-Gazette, September 28, 2009, <http://www.post-gazette.com/pg/09271/1001500-100.stm>.

Conclusion

From a tax policy perspective, adding admissions to shows, movies, and sporting events would broaden the sales tax base and provide additional revenue for the state. These admissions are discretionary in nature. Consumers of these admissions currently pay local amusement taxes and “convenience fees” from ticket brokers. While these taxes and fees increase the overall ticket prices for events, it is not clear to what extent they suppress attendance. Based on regular sell-outs of major league sporting events and concerts, it does not seem likely that they would be affected, but for smaller venues and museums, the impact is not known.

The sales tax proposal could be modified to exempt non-profits, or limit the tax to larger venues, although these solutions might run afoul of the states uniformity clause. Lawmakers should make the proposal broader by including movies and sporting events.

Table 1. 31 States Subject Admission to Cultural Events to Sales Tax

<u>State</u>	<u>Rate</u>	<u>State</u>	<u>Rate</u>
Alabama	4	Montana	No Sales Tax
Alaska	No Sales Tax	Nebraska	5.5
Arizona ⁹	E	Nevada ¹³	10
Arkansas	6	New Hampshire	No Sales Tax
California	E	New Jersey	7
Colorado	E	New Mexico ⁹	5
Connecticut ⁹	10	New York ¹⁴	E
Delaware ¹⁰	0.384	North Carolina ¹⁵	3
Florida	6	North Dakota	5
Georgia	4	Ohio ¹⁶	E
Hawaii	4	Oklahoma	4.5
Idaho	6	Oregon	No Sales Tax
Illinois	E	Pennsylvania ¹⁶	E
Indiana	E	Rhode Island	E
Iowa	5	South Carolina	5
Kansas	5.3	South Dakota	4
Kentucky	6	Tennessee	7
Louisiana ¹¹	4	Texas ⁹	6.25
Maine	E	Utah	4.75
Maryland ¹²	10	Vermont	6
Massachusetts	E	Virginia	E
Michigan	E	Washington ¹⁵	1.5
Minnesota ⁹	E	West Virginia	6
Mississippi ⁹	E	Wisconsin	5
Missouri	4.225	Wyoming ¹⁷	4

Total States Where Taxable Source. Federation of Tax Administrators. 31

⁹ Admissions sold by nonprofits are exempt from tax.

¹⁰ Rate applies when gross receipts exceed \$50,000 per month.

¹¹ Sales tax exemption on the admission to little theatres and nonprofit musical organizations was suspended until July 1, 2009.

¹² Local jurisdictions may exempt concert or theatrical events. Many counties exempt these events.

¹³ Live Entertainment Tax applies, for venues with seating between 300 and 7,499, at 10% of the admission charge and on any taxable personal property sold at the event. For venues with a seating capacity of 7,500 and above, the rate is 5% of the admission charge only.

¹⁴ Admissions to dramatic and musical arts performances are exempt.

¹⁵ Subject to admissions tax, rather than a sales tax.

¹⁶ Local municipalities may impose amusement taxes.

¹⁷ Admissions to county or municipal owned facilities are exempt.