

Date Issued: December 1, 2015
Georgia Letter Ruling: LR SUT-2015-18
Topic: Admissions/Retail Sales

This letter is in response to your request for guidance on the application of Georgia sales and use tax to Taxpayer's charges for memberships and other related transactions.

Facts

Taxpayer operates an indoor rock climbing facility in Georgia. Taxpayer sells, among other things, the following:

- Daily climbing passes (additional charge for gear rental).
- Guided indoor climbing passes (includes harness rental).
- Climbing classes (some classes include gear rental).
- Memberships (includes gear rental).
- Guided outdoor climbing (includes gear rental, food, and beverage).
- Birthday party packages (includes harness rentals, food, and certain other items). The customer may also purchase party add-ons, such as additional food.
- Private event packages.

Taxpayer has been collecting sales tax on charges for memberships and party add-ons but has not been collecting tax on charges for guided outdoor climbing, birthday party packages, or classes.

Issues

Are the following sales by Taxpayer subject to Georgia sales and use tax?:

1. Memberships.
2. Birthday party packages.
3. Birthday party add-ons.
4. Items included with birthday party package.
5. Classes.
6. Guided outdoor climbing.

Analysis

Georgia levies and imposes a tax (subject to certain specific exemptions) on the retail purchase, retail sale, rental, storage, use, or consumption of tangible personal property and certain enumerated services.¹ "Retail sale" means a sale for any purpose other than for resale.² "Sale" means any transfer of title and/or possession, lease, or rental, conditional or otherwise, in any manner, or by any means of any kind of tangible personal property for a consideration.³

"Retail sale" includes "sales of tickets, fees, or charges made for admission to, or voluntary contributions made to places of, amusement, sports, or entertainment" and "charges made for participation in games and amusements activities."⁴ Accordingly, charges for membership at or admission to a facility offering amusement, sports, or entertainment or participation in games or amusements are taxable. Generally, dealers making charges for admission to places of amusement or for participation in amusement activities owe tax on their purchases of tangible personal property used to provide the amusement events or activities.⁵

¹ O.C.G.A. §§ 48-8-1, -2(31)(A), -30(a).

² O.C.G.A. § 48-8-2(31).

³ O.C.G.A. § 48-8-2(33)(A).

⁴ O.C.G.A. § 48-8-2(31)(C), (D).

⁵ Ga. Comp. R. & Regs. 560-12-1-.14(7).

The Department considers charges for the memberships, birthday party packages, climbing classes, and guided outdoor climbing to be charges for admission to places of amusement or charges made for participation in amusement activities. Items included with birthday party packages are considered to be used and consumed by Taxpayer in providing the amusement events and activities. Sales of birthday party add-on items, including goodie bags, party favors, food, and beverage, are sales of tangible personal property subject to sales tax.

Rulings

1. Sales of memberships and daily passes are subject to sales tax.
2. Birthday party packages are subject to sales tax.
3. Birthday party add-ons are sales of tangible personal property subject to sales tax.
4. Birthday party incidental items included at no additional charge with the birthday party package are considered to be used and consumed by Taxpayer in providing the amusement events and activities.
5. Sales of climbing classes are subject to sales tax.
6. Sales of guided outdoor climbing are subject to sales tax.

The opinions expressed in this ruling are based upon the information contained in your request and limited to the specific transactions, facts, circumstances, and taxpayer in question. Should the circumstances regarding the transactions change or differ materially from those represented, this ruling may become invalid. Subsequent statutory or administrative rule changes or judicial interpretations of the statutes or rules upon which this ruling is based may subject similar future transactions to different tax treatment than expressed in this ruling.