

# Analysis of Admission Charges Subject to Live Entertainment Tax

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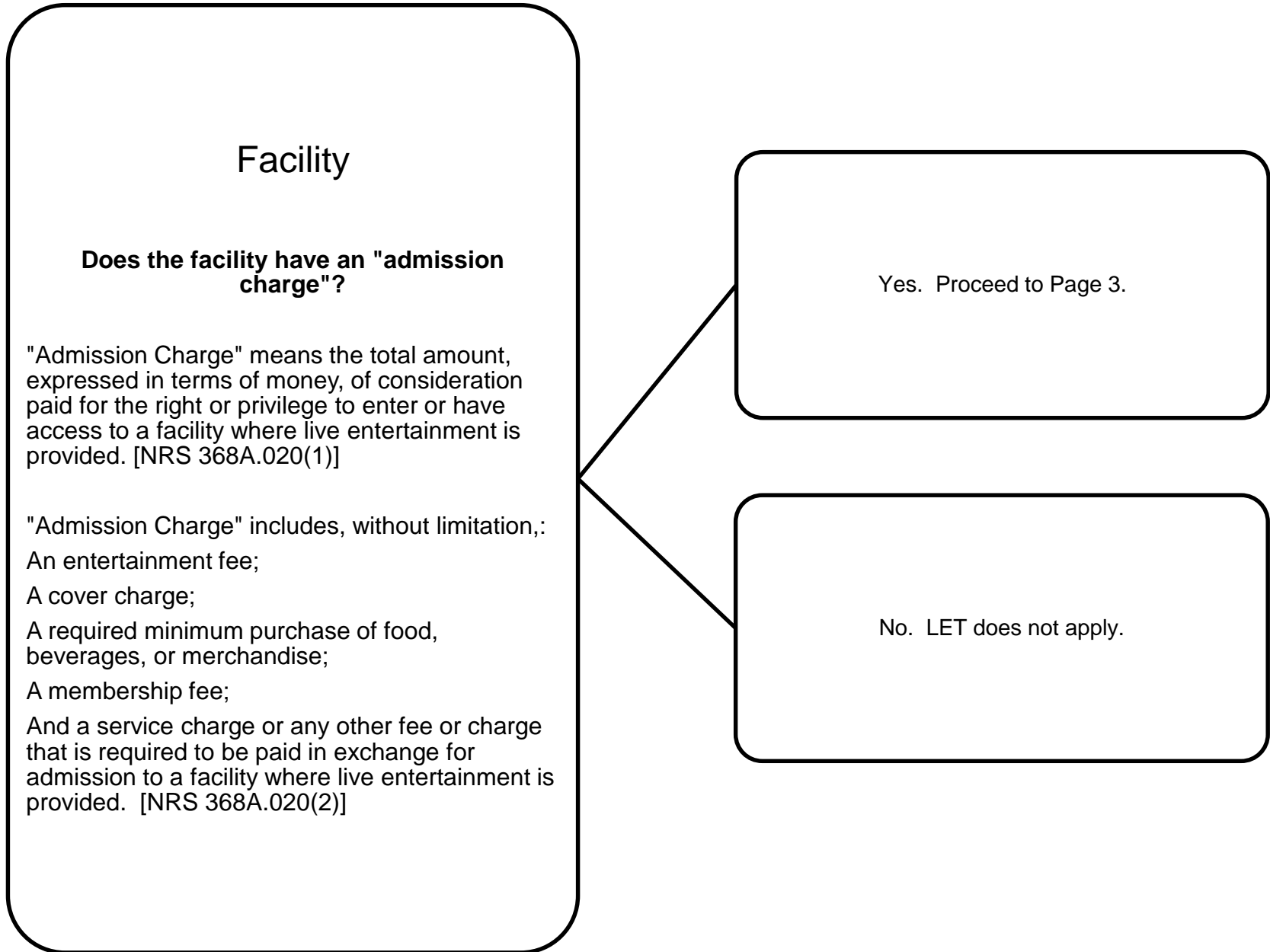
For Group I Licensees as defined in Regulation 6.010(5)

**Audit Division**

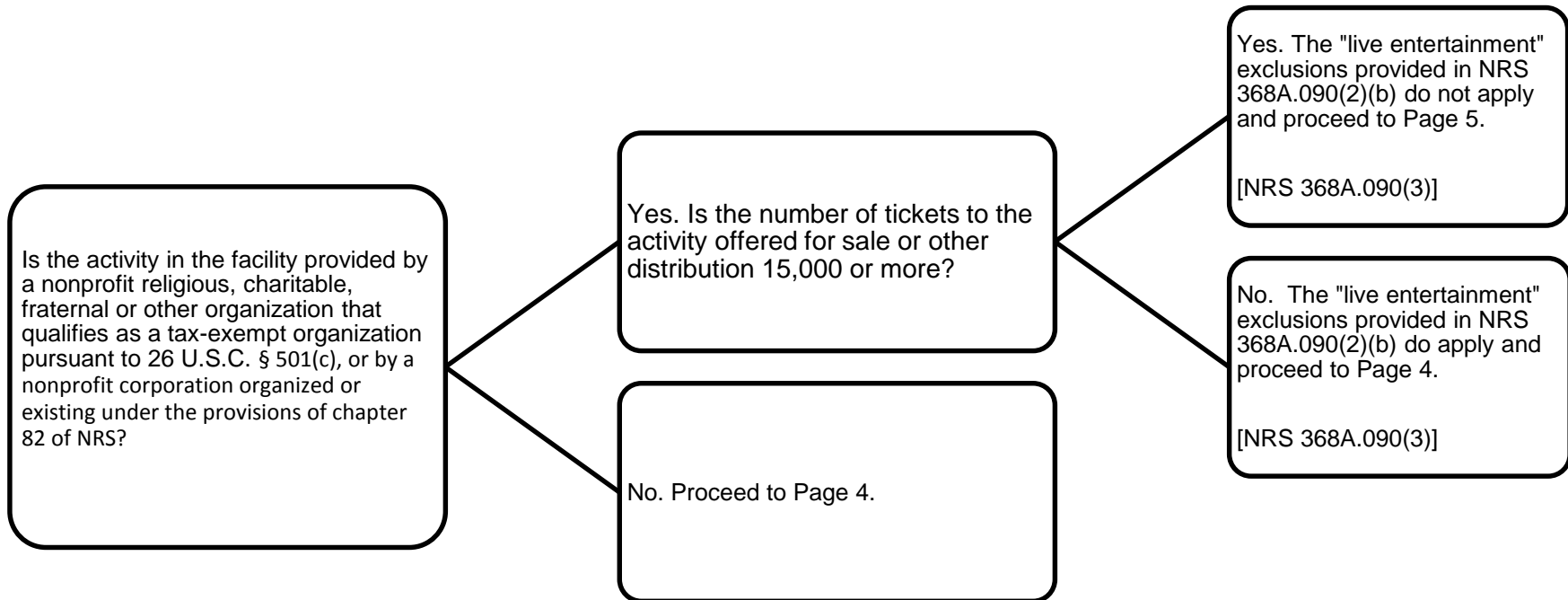
**10/14/2015**

Note: The purpose of this document is to provide GUIDANCE in analyzing the facilities where an admission charge is collected for the right or privilege of entering, or having access to, that area or those premises and where live entertainment is provided. The flow of this document suggests that a Group I licensee identify any facility where an admission charge is collected (Page 2) and, if necessary, proceed to the next page to determine whether the type of live entertainment being provided falls under the definition of "Live Entertainment" (Pages 3 through 7). If the activity provided is live entertainment then the amount of admission charges collected is subject to the 9% tax rate. As the document provides only a summary of each criterion, the applicable quoted NRS should also be reviewed prior to concluding whether admission charges are subject to live entertainment tax. As a reminder, it is the licensee's responsibility to establish in its records whether or not the event is in fact subject to the tax, given the nature of the activities taking place.

**Analysis of "Admission Charge" Sales Subject to Live Entertainment Tax ("LET")**



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### "Live Entertainment" Activity Exclusions

Is the live entertainment activity being provided in the facility **limited to any one or more** of the following activities?

Television, radio, closed circuit or Internet broadcasts of live entertainment [NRS 368A.090(2)(b)(1)];

Entertainment provided by a patron or patrons, including, without limitation, singing by patrons or dancing by or between patrons [NRS 368A.090(2)(b)(2)];

Animal behaviors induced by animal trainers or caretakers primarily for the purpose of education and scientific research [NRS 368A.090(2)(b)(3)];

An uncompensated, spontaneous performance that is not longer than 20 minutes during a 60-minute period [NRS 368A.090(2)(b)(4)];

An activity described in subparagraphs (1) to (8) [Refer to Page 7 for these activities], inclusive, of paragraph (a) that does not constitute a performance, including, without limitation, go-go-dancing [NRS 368A.090(2)(b)(5)]; **or**

A marketing or promotional activity, including, without limitation, dancing or singing that is for a period that does not exceed 20 minutes during a 60-minute period and that is associated with the serving of food and beverages. [NRS 368A.090(2)(b)(6)]

Yes. LET does not apply.

Only when there are no other activities in the facility that are otherwise exempt or excluded from the Live Entertainment Tax.

No. Proceed to Page 5.

## Analysis of "Admission Charge" Sales Subject to Live Entertainment Tax ("LET")

### "Live Entertainment" Activity Exemptions

Is live entertainment provided in the facility related to any **one** of the following areas?

Prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution [NRS 368A.200(4)(a)];

Governed by the Nevada Interscholastic Activities Association pursuant to NRS 386.420 to 386.470, inclusive, or is provided or sponsored by an elementary school, junior high school, middle school or high school, if only pupils or faculty provide the live entertainment [NRS 368A.200(4)(b)];

An athletic contest, event, tournament or exhibition provided by an institution of the Nevada System of Higher Education, if students of such an institution are contestants in the contest, event, tournament or exhibition [NRS 368A.200(4)(c)];

Provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualify or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, when the number of tickets to the live entertainment which are offered for sale or other distribution to patrons, either directly or indirectly through a partner, subsidiary, client, affiliate or other collaborator, is less than 7,500 [NRS 368A.200(4)(d)];

Boxing or exhibition governed by the provisions of chapter 467 of NRS [NRS 368A.200(4)(e)];

Provided in a facility with a maximum occupancy of less than 200 persons [NRS 368A.200(4)(g)]; **or**

Provided at a trade show. [NRS 368A.200(4)(h)]

Yes. LET does not apply.

No. Proceed to Page 6

## Analysis of "Admission Charge" Sales Subject to Live Entertainment Tax ("LET")

### "Live Entertainment" Activity Exemptions

Is live entertainment provided in the facility **limited to any one or more** of the following areas?

Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons [NRS 368A.200(4)(i)];

Provided at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment [NRS 368A.200(4)(j)];

Provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall [NRS 368A.200(4)(k)];

Food and product demonstrations provided at a shopping mall, a craft show or an establishment that sells grocery products, housewares, hardware or other supplies for the home [NRS 368A.200(4)(l)];

Live entertainment that is incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction. For purposes of this paragraph, live entertainment shall be deemed to be incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction if the live entertainment is: (1) Not the predominant element of the attraction; and (2) Not the primary purpose for which the public rides, attends or otherwise participates in the attraction [NRS 368A.200(4)(m)]; **or**

Athletic contest, event or exhibition conducted by a professional team based in this State if the professional team based in this State is a participant in the contest, event or exhibition. [NRS 368A.200(4)(o)]

Yes. LET does not apply.  
Only when there are no other activities in the facility that are otherwise exempt or excluded from the Live Entertainment Tax.

No. Proceed to Page 7.

## Analysis of "Admission Charge" Sales Subject to Live Entertainment Tax ("LET")

Does "live entertainment" provided in the facility include any **one** of the following activities?

Any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person or persons who are physically present when providing that activity to a patron or group of patrons who are physically present [NRS 368A.090(1)];

Music or vocals provided by one or more professional or amateur musicians or vocalists [NRS 368A.090(2)(a)(1)];

Dancing performed by one or more professional or amateur dancers or performers, including, without limitation, dancing performed by one or more persons who are nude or partially nude [NRS 368A.090(2)(a)(2)];

Acting or drama provided by one or more professional or amateur actors or players [NRS 368A.090(2)(a)(3)];

Acrobatics or stunts provided by one or more professional or amateur acrobats, performers or stunt persons [NRS 368A.090(2)(a)(4)];

Animal stunts or performances induced by one or more animal handlers or trainers, except as otherwise provided in subparagraph (3) of paragraph (b) [NRS 368A.090(2)(a)(5)];

Athletic or sporting contests, events or exhibitions provided by one or more professional or amateur athletes, sportsmen or sportswomen [NRS 368A.090(2)(a)(6)];

Comedy or magic provided by one or more professional or amateur comedians, magicians, illusionists, entertainers or performers [NRS 368A.090(2)(a)(7)];

A show or production involving any combination of the activities described in subparagraphs (1) to (7), inclusive [of NRS 368.090(2)(a)] and [NRS 368A.090(2)(a)(8)]; or

A performance by a disc jockey who presents recorded music. [NRS 368A.090(2)(a)(9)]

Yes. Proceed to Page 8.

No. LET does not apply.

## Analysis of "Admission Charge" Sales Subject to Live Entertainment Tax ("LET")

### "Admission Charge" subject to LET

The rate of the tax is, for admission to a facility in this State where live entertainment is provided, 9 percent of the admission charge to the facility. [NRS 368A.200(1)]

Does any portion of the admission charge paid by the patron to obtain access to a facility include an excluded amount under (a), (b) or (c) quoted below?

#### "Admission Charge" Exclusions

(a) The number of tickets to the live entertainment which are offered for sale or other distribution to patrons, either directly or indirectly through a partner, subsidiary, client, affiliate or other collaborator is less than 7,500 for admission charges collected and retained by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS [NRS 368A.200(2)(a)];

(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided [NRS 368A.200(2)(b)]; **or**

(c) Fees imposed, collected and retained by an independent financial institution in connection with the use of credit cards or debit cards to pay the admission charge to a facility. [NRS 368A.200(2)(c)]

Yes. The actual amounts related to (a), (b) and (c) are not subject to LET. Supporting documentation is prepared and maintained for these excluded amounts. Proceed to Page 9.

No. Proceed to Page 9.



## Analysis of "Admission Charge" Sales Subject to Live Entertainment Tax ("LET")

### "Admission Charge" subject to LET

The rate of the tax is, for admission to a facility in this State where live entertainment is provided, 9 percent of the admission charge to the facility. [NRS 368A.200(1)]

Does any portion of the admission charge paid by the patron to obtain access to a facility include an excluded amount under (a), (b) or (c) quoted below?

#### "Admission Charge" Exclusions

(a) The value of an admission to a facility provided to a patron on a complimentary basis, unless the complimentary admission associated with a separate purchase that is required for the patron to enter or have access to the facility [NRS 368A.020(3)(a)];

(b) A charge for the right or privilege of entering, or having access to, a particular portion within a facility, that is in addition to the admission charge, including, without limitation, a charge for:

(1) Food, beverages or merchandise that is in addition to a required minimum purchase of food, beverages or merchandise; **or**

(2) Access to tables, seats, lounge chairs or particular areas near a swimming pool. [NRS 368A.020(3)(b)]

(c) License or rental fees for luxury suites, boxes or similar products at facilities with a maximum occupancy of a least 7,500 persons. [NRS 368A.020(4)]

Yes. The actual amounts related to (a), (b) and (c) are not subject to LET. Supporting documentation is prepared and maintained for these excluded amounts. Proceed to Page 10.

No. Proceed to Page 10.

## Analysis of "Admission Charge" Sales Subject to Live Entertainment Tax ("LET")

"Admission Charge" subject to LET

The rate of the tax is, for admission to a facility in this State where live entertainment is provided, 9 percent of the admission charge to the facility. [NRS 368A.200(1)]

Calculate the amount of "Admission Charges" subject to LET, excluding the actual amounts related to "Admission Charge" exclusions from pages 8 and 9.