

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

ETA 3182.2013

Issue Date: November 18, 2013

This ETA is cancelled effective September 24, 2014. The Department and stakeholders have reexamined the need for this ETA and agree that existing WAC 458-20-256 is sufficiently clear and the additional explanation contained in the ETA is not needed and has therefore cancelled ETA 3182.2013.

Trade Shows, Conventions, and Educational Seminars Sponsored by Nonprofit Trade and Professional Organizations

Scope of ETA This Excise Tax Advisory (ETA) explains when a trade show, convention, or educational seminar is considered open to the general public for the purposes of the business and occupation (B&O) tax deduction in RCW 82.04.4282. This deduction includes charges made by a nonprofit trade or professional organization for attending or occupying space at a trade show, convention, or educational seminar sponsored by the nonprofit trade or professional organization, which trade show, convention, or educational seminar is “not open to the general public.”

Background WAC 458-20-256 (Rule 256) describes the elements of the deduction:

- The sponsor must be a nonprofit trade or nonprofit professional organization;
 - This means that only nonprofit trade organizations (“whose members are engaged in one or more lawful commercial trades, businesses, crafts, industries, or distinct productive enterprises”) and nonprofit professional organizations (“whose members are engaged in a particular lawful vocation, occupation, or field of specialized nature”) qualify for the deduction. Rule 256(3)(b) and (c).
 - An organization whose members are not restricted as stated above does not qualify for the deduction.
 - The organization is “nonprofit” when it is exempt from tax under Section 501 of the Internal Revenue Code and such exempt status is in effect when the organization conducts the trade show, convention, or seminar. Rule 256(3)(a).
- The event must be a trade show, convention, or educational seminar;
- The charges must be for attendance or occupying space for such an event; and
- The trade show, convention, or educational seminar must not be open to the public, which is defined as being limited to only the sponsor’s members and specifically invited guests.

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What is a member?

Rule 256 notes that attendees may include persons who are not members of the nonprofit trade or professional organization and still qualify as “not open to the general public.” In example (6)(a), an event sponsored by a local building trade council qualified for the deduction when contractors were allowed to attend. The Rule does not state whether all the contractors attending were members of the building council or, if not, whether they received a specific invitation. Implicit in this example is that persons who are not formal members, but who are in the same trade or profession may attend without the organization losing the deduction.

For the purposes of Rule 256, the term “member” includes persons who:

1. Are included on the membership rolls of the trade or professional organization sponsoring or cosponsoring the event, or
2. Prospective members who meet the minimum qualifications for membership in the trade or professional organization, which means that the person is eligible to become a member except the person has not submitted a formal application for membership or paid any applicable membership fees. The minimum qualifications for membership in a trade or professional organization are usually specified in the organization’s bylaws.

A prospective member does not meet the minimum qualifications for membership when he/she must still complete any of the substantive requirements for membership. These substantive requirements may include, for example, passing a professional examination, meeting the educational requirements for membership, registration in an approved educational program, or participation in or completing an apprenticeship.

If a trade or professional organization allows prospective members to attend their trade shows, conventions, or education seminars, the registration material must require such persons to certify that they satisfy the minimum qualifications for membership in the trade or professional organization. Those minimum qualifications must be clearly specified in the announcement of the trade show, convention, or education seminar.

Websites and social media

Many organizations use websites or social media to notify members of and allow registration for trade shows, conventions, and educational seminars.

To the extent a qualified organization uses its website or social media to notify its members of and allow registration for trade shows, conventions, and educational seminars, the Department will consider these events not open to the general public as long as attendance is specifically limited to persons who satisfy the definition of member stated above and to specifically invited guests. Also, the event will not be considered open to the public if the event is cosponsored with other qualifying organizations and attendance is limited to persons who are either members of a sponsoring organization or satisfy the minimum qualifications required for membership in a sponsoring organization.

Events will be considered open to the public if:

- The content of the event is designed to attract the general public, e.g. a home show which is organized to attract persons engaged in the home improvement industry and consumers of those services;
 - The organization spends resources to attract the general public, e.g., print or internet advertising designed to attract attendees who are not members;
 - There may be other instances where an organization opens its events to the public, including but not limited to when the organization's website does not restrict who can register for the event.
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Specifically invited guests

Nothing in this ETA implies that specifically invited guests attending a qualifying event will disqualify the organization from the deduction. Specifically invited guests include only those limited number of non-members who receive a personal invitation to attend.

However, mass notifications to non-members through the use of mailing lists, ListServ, etc. to persons who are not members of the organization does not constitute specifically inviting those non-members. In such cases, the event is considered open to the general public and the event will not qualify for the deduction.

Prorating the deduction

No pro-ration of the deduction is allowed. If the event allows members, invited guests, and members of the public, no deduction is available.
