



# This Week in State Tax (TWIST)

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## Multistate: Taxation of Parasailing and Sightseeing Tours Addressed

Two states recently addressed the taxability of certain types of entertainment. In *Watertoys, LLC. v. South Carolina*, the Administrative Law Court was asked to resolve a dispute between a taxpayer and the Department of Revenue over the taxability of the taxpayer's parasailing rides. Under South Carolina law, an admissions tax is imposed on amounts paid to enter places of amusement. The parties agreed that parasailing was an amusement—the dispute was over whether a statutory exemption for admissions to boats which charge a fee for pleasure fishing, excursions, sightseeing, and private charter applied. The taxpayer argued that parasailing fell within the language of the exemption as an “excursion, sight-seeing or private charter.” In an earlier Revenue Ruling, the Department had reiterated that “fees for boat, carriage, helicopter, plane or bus rides for touring, charter, fishing, or excursion” are not subject to admissions taxes. However, in that same Revenue Ruling, the Department stated that “para sail rides” are subject to admissions taxes. The court concluded that the statutory language was ambiguous as to whether parasailing is an “excursion, sight-seeing and private charter.” Further, the issue involved whether a tax exemption applied and therefore the statutes were to be construed strictly against the claimed exemption. The court concluded that because the language of the exemption statute did not specifically include parasailing and the Department's long-standing published statement was entitled to deference, the parasailing rides were subject to admissions tax as a matter of law.

In Arkansas, Legal Counsel Opinion No. 20211202 was issued addressing whether sightseeing tours provided by aircraft were subject to sales tax. The taxpayer, noting that federal law prohibits the imposition of sales tax on the transportation of a passenger traveling in air commerce, asked whether it should stop charging sales tax. The Department noted that the prohibition did not apply when, as in the instant case, the flight took off and landed in the same state. As such, the Legal Counsel concluded that the taxpayer's sightseeing flights were subject to sales tax. These rulings highlight the nuances involved when analyzing the taxability of amusements, admissions, and activities. Please contact [Sarah McGahan](#) with questions.

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