



Informational

Bulletin

Brian Hamer, Director

New Surcharge on Live Adult Entertainment Facilities

To all operators of live adult entertainment facilities where alcohol consumption is permitted

This bulletin is written to inform you of recent changes; it does not replace statutes, rules and regulations, or court decisions.

Effective January 1, 2013, Public Act 97-1035 established a surcharge imposed on operators of live adult entertainment facilities where alcohol is permitted.

For information or forms

Visit our website at:
tax.illinois.gov

Call us at:
1 800 732-8866 or
217 782-3336

Call our TDD
(telecommunications device
for the deaf) at:
1 800 544-5304

Who is a live adult entertainment facility operator?

You are operating a live adult entertainment facility if all of the following apply:

- the facility is operated as a business that is open to the public,
- the business serves alcohol or permits the consumption of alcohol on its premises,
- the business offers or provides activities by employees, agents, or contractors of the business that involve nude or partially denuded individuals, and
- the activities by the employees, agents, or contractors, when considered as a whole, appeal primarily to an interest in nudity or sex.

Note: You must also have been operating as a live adult entertainment facility for at least 30 calendar days of the year (consecutive or nonconsecutive).

Will I be required to register in order to file and pay the surcharge?

Registration is not required prior to filing and paying the surcharge. Registration for the surcharge is completed when you file Form LA-1, Live Adult Entertainment Facility Surcharge Return, for the first time. If you are already registered for other taxes with the Illinois Department of Revenue (IDOR), the new surcharge account will be added to your existing registration when you file.

Will I get an additional account ID for the surcharge?

Yes. All operators filing Form LA-1 will be assigned an account ID to be used for future filings. If you are currently registered for other taxes with IDOR, a new account ID will be issued when the surcharge is added to your registration.

How can I file and pay the surcharge?

You can file and pay the surcharge electronically on MyTax Illinois, available at IDOR’s website at tax.Illinois.gov.

How do I calculate the surcharge I must pay?

There are two methods allowed for calculating the surcharge due. One method calculates the surcharge based on the number of patrons admitted to the facility. The second method calculates the surcharge based on the facility’s gross receipts. Operators can elect the method they wish to use on an annual basis, regardless of the method used the previous year.

How do I use the method based on admissions?

The method based on admissions requires the operator to pay \$3 per person admitted to the facility. This \$3 does not have to be imposed on the customer, but it must be remitted by the operator. **Note:** This method must be used if you have not been operating the facility for a full calendar year, or if you have not completed all of your required sales tax filings for the prior calendar year.

How do I determine the number of patrons if I choose the method based on admissions?

The method based on admissions requires the operator to pay \$3 for every person admitted to the facility. The operator is responsible for instituting a method of accurately determining the number of patrons admitted, such as an employee posted at the entrance to the facility who maintains a headcount. You must record the number of daily admissions in your books and records.

If a patron leaves the facility and then returns, must I count the patron twice?

No. You are only required to count a patron once in a 24-hour period, regardless of the number of times that patron enters the facility. The 24-hour period starts each day at 8:00 a.m. You must use some method of verifying that a patron previously has been admitted, such as a hand stamp or admission card.

How do I use the method based on receipts?

The method based on receipts requires the operator to pay a set dollar amount based on the gross receipts subject to sales tax collected at the facility. Use the following table to determine the amount of surcharge that would be due based on your gross receipts.

If your gross receipts are	you must pay
less than \$500,000	\$5,000
\$500,000 or more, but less than \$2,000,000	\$15,000
\$2,000,000 or more	\$25,000

Note: This method cannot be used if you have not been operating your facility for a full calendar year, or if you have not completed all of your required sales tax filings for the prior calendar year.

If I use the receipts method to calculate the surcharge, can I still collect a surcharge at \$3 per admission?

Yes. An operator has the discretion to determine how it derives the moneys to pay the surcharge. Collecting the surcharge at a fixed amount from each patron admitted does not require you to use the admissions method to calculate the surcharge due when you file.

What is included in gross receipts if I choose the method based on receipts?

Gross receipts are calculated using the total taxable receipts from your prior year’s ST-1 forms. For single-site sales tax filers, the taxable receipts can be figured by adding Lines 4a, 5a, and 8a from their ST-1 forms. Multi-site sales tax filers will calculate their taxable receipts using the sum of Lines 4a, 5a, and 8a from each location on Form ST-2.

How often is the surcharge due?

The surcharge is due annually on January 20 to cover the preceding calendar year. If the due date falls on a weekend or state holiday, the return is due on the next business day. Your first return, reporting your surcharge due for calendar year 2013, will be due January 20, 2014.

Are private clubs subject to the surcharge?

No. A facility that is not open to the public and that qualifies as a private club is not subject to the surcharge.

If I have more than one facility subject to the surcharge, will I need to file multiple returns?

If you have multiple facilities subject to the surcharge and these facilities are organized and operated under the same Federal Employer Identification Number (FEIN), you do not need to file a separate return for each facility. MyTax Illinois allows users to calculate their surcharge due for each facility and combine the liability on a single return. If you have multiple facilities operating independently under separate FEINs, you must file a separate Form LA-1 for each facility.

What if I close my facility during the year?

If you close your facility, you must file and pay Form LA-1 within a month of the date the facility closes. If you are unable to file your final return on MyTax Illinois, call us at **217 785-6602**.

What if I file and pay the surcharge late?

We will bill you for penalties and interest. For more information about penalties and interest, see Publication 103, Penalties and Interest for Illinois Taxes.

What if I make a mistake on my Form LA-1?

If you make a mistake on your Form LA-1, you must file Form LA-1-X, Amended Live Adult Entertainment Facility Surcharge Return, to correct it. MyTax Illinois allows users to amend their returns electronically, but you must activate a MyTax Illinois account before you will be able to file the amended return. For more information about MyTax Illinois, see Informational Bulletin FY 2013-02.