

Athletic and fitness facilities

Effective January 1, 2016, HB 1550 provides that all charges for the use of an “athletic or fitness facility” are retail sales, subject to retail sales tax and retailing business and occupation (B&O) tax.

Definition from the legislation

An “athletic or fitness facility” is defined as:

- January 1, 2016 – October 18, 2017
“an indoor or outdoor facility or portion of a facility that is primarily used for: exercise classes; strength and conditioning programs; personal training services; tennis; racquetball; handball; squash; or pickle ball; yoga; boxing; kickboxing; wrestling; martial arts; or mixed martial arts or training; or other activities requiring the use of exercise or strength training equipment, such as treadmills, elliptical machines, stair climbers, stationary cycles, rowing machines, Pilates equipment, balls, climbing ropes, jump ropes and weightlifting equipment.”
- October 19, 2017 forward
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Note: Effective October 19, 2017, yoga, boxing, kickboxing, wrestling, martial arts, and mixed martial arts were removed from the definition of an athletic or fitness facility.

What types of facilities are included in the definition?

Some of the businesses that fit into this category are:

- January 1, 2016 – October 18, 2017
Gyms; fitness centers; athletic facilities; Cross-fit centers; facilities that offer Les Mills programs such as Body Pump, Body Step, Body Flow and Attack; Pilates facilities; tennis centers; martial arts facilities including, but not limited to Karate, Kung Fu, Jujitsu along with other types of martial arts facilities.

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Are there any exemptions or facilities not included in the definition of retail sale?

Certain organizations who charge their patrons for access to an athletic or fitness facility are not considered retail sales. They are:

- Educational institutions that provide access to an athletic or fitness facility to their staff and students. However, charges for access to an athletic or fitness facility made to alumni or other members of the public are considered a retail sale, subject to retail sales tax and retailing B&O tax.
- Facilities that exclusively provide:
 - yoga, tai chi or chi gong classes
 - Effective October 19, 2017, martial arts classes, training, or events.

These charges are subject to the service and other activities B&O tax.

- Yoga, tai chi or chi gong classes held at a community center, park, gymnasium, college or university, hospital or other medical facility, private residences, or any facility that is not primarily (more than 50%) used for physical fitness activities. These charges are subject to the service and other activities B&O tax.
 - Effective October 19, 2017, martial arts held at these facilities.
- Rent or association fees charged by a landlord or residential association that provides access to an athletic or fitness facility – unless the rent or charges vary depending on whether the tenant or owner has access to the facility.
- Athletic or fitness facilities provided by an employer to its employees or family members but only when the employer does not charge for its use.

Are any parts of an athletic or fitness facility exempt from the retailing classification?

Yes, in some circumstances, the charge for using an athletic or fitness facility, or portion of an athletic or fitness facility, is not considered a retail transaction.

- Separately stated charges for the use of an athletic or fitness facility where such use is primarily for a purpose other than engaging or receiving instruction in a physical fitness activity. For example, if a couple