FEDERAL TAX RULINGS AFFECTING GOLF CLUBS

by

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Conscious as most golf club members probably are of the 20% tax they pay annually to the federal government on their club dues, there are other taxes applicable to golf clubs and membership therein with which it is believed they should also be familiar. Aspects of some of these taxes have been the subject of Revenue Rulings over the past year and it is to these rulings that this article is directed.

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Club Dues and Fees

Section 4241 (a) (1) of the Internal Revenue Code makes the following provision for the 20% tax on club dues:

> "A tax equivalent to 20% of any amount paid as dues or membership fees to any social, athletic, or sporting club or organization, if the dues or fees of an active resident annual member are in excess of $10 per year."

Two other subsections to Section 4241 provide for a 20% tax on initiation fees and life memberships.

Section 4242 (a) defines "dues" as follows:

> "As used in this part the term 'dues' includes any assessment, irrespective of the purpose for which made, and any charges for social privileges or facilities, or for golf, tennis, polo, swimming, or other athletic or sporting privileges or facilities, for any period of more than six days; * * * "

While Section 4241 (b) provides that the taxes imposed shall be paid by the person paying dues, fees or holding a life membership, Section 4291 requires clubs to bill and collect this tax. If a member fails to pay the tax, the club is required to report such fact, by letter, to the District Director of Internal Revenue, who then collects by direct assessment. 1 R B 1955 No. 29, Sec. 601. 104 (5).

That 20% is a substantial tax rate can hardly be questioned. Further, such a high rate has undoubtedly created hardships on bona fide athletic and recreational clubs where additional memberships have been needed and would have been forthcoming were it not for the tax.

Periodically, efforts have been made to have this tax reduced. In fact, the USGA brought the matter to the attention of member clubs at the annual meeting in January, 1954.

Doubtless, methods were devised to avoid the impact of the tax, such as instituting service charges to take care of needed revenue instead of increasing dues. Perhaps this tendency gave rise to Revenue ruling 55-318 issued in May, 1955, which was addressed specifically to club charges for optional use or rental of lockers and bathhouses for more than six days. It was ruled that amounts paid for such use or rental constitute dues and are subject to the 20% federal tax. Prior to this ruling, no attempt has been made to tax such

payments where the use or service was optional with the members. The ruling was not applied retroactively.

It would seem to follow that charges by a club for storage and cleaning of golf clubs would also be subject to this tax. However, there would appear to be considerable doubt that the tax should be assessed in situations where this service is provided by the club professional and the club merely bills and collects the amounts charged for the account of the professional.

Life and Honorary Memberships

Although no tax is assessed as such on the amount paid for a life membership, Section 4241 (a) (3) of the Code specifically provides for an annual dues tax on life members equal to the tax upon the amount paid annually by active resident members. Prior to Revenue ruling 55-198, issued in April, 1955, certain special classes of honorary memberships were generally considered exempt from this tax. These classes included honorary memberships to public officials, ministers, outstanding athletic or public figures, extraordinary long-time members and widows of deceased members. Under this ruling, however, all honorary memberships, other than those granted for a definite period of time, are considered life members. The reservation of the right to terminate a life membership at any time does not take it out of that category. Consequently, most honorary memberships are now considered life memberships subject to annual tax. The exceptions would appear to be those memberships which are honorary by reason of some public office having a definite termination date, or such memberships as are limited to a specified period of time.

In this connection it might be well for clubs to review their honorary memberships with the view toward avoiding possible embarrassment. For example, during and after the last war there were outstanding military men who became heroes. To do them honor and respect, they were offered honorary memberships in clubs. The clubs had no intention of involving the recipient of such membership in a tax liability, and the recipient of the honor would, on his part, often graciously accept such membership without any intention of making use of the facilities of the club.

Since under this ruling such honorary member appears to be subject to the tax, it might be appropriate for the club to consider paying the tax or at least to advise the honorary member of his liability and give him an opportunity to decline the membership.

Tournament Gambling

On March 5th of this year, Revenue ruling 56-72 was issued regarding a "Calcutta" pool conducted by a hotel corporation in connection with a golf tournament it sponsored. Pursuant to this ruling, the hotel is liable under Section 4401 of the Code for the 10% tax on wagering. This includes the amount for which tickets are sold, as well as the amount for which players are auctioned.

The hotel is also liable for the $50 special tax under Section 4411, as is each individual or officer of the hotel corporation who received wagers for or on the hotel's behalf. In this instance, the hotel retained a portion of the receipts for promoting the following year's tournament. The retention of a percentage of the pool and the indirect benefits accruing to the hotel from the tournament, supported in part by the wagering, constituted a wagering pool conducted for profit within the purview of Sections 4401, 4411 and 4421 of the Code.

This ruling raises two rather serious questions. First, does a club which retains part of the pool come within the scope of this ruling which specifically involved a hotel? Second, could the amount which a club takes out of such a pool be so substantial as to cause that club to lose its favorable tax-exempt status under Section 501 (c)(7) on the ground that it is no longer operated "exclusively" for non-profitable purposes?

It is recommended that member clubs refer problems of this nature to their local club attorneys.