

# OPINIONS OFFERED ON FEDERAL TAXATION

By

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The USGA recently received a set of questions pertaining to federal tax matters from a member club. The questions and the answers by Philip H. Strubing are printed in their entirety as a guide to all clubs.

## 1. When new stock is sold by a golf course what is the Federal Tax on it?

It is assumed that the purchase of such stock is necessary for admission to membership in the club.

There is a federal excise tax of 20 per cent on all amounts paid as initiation fees. The term "initiation fee" is expressly defined in the Internal Revenue Code of 1954, Section 4242(b), as:

"any payment, contribution, or loan, required as a condition precedent to membership, whether or not any such payment, contribution, or loan is evidenced by a certificate of indebtedness or share of stock, and irrespective of the person or organization to whom paid or contributed." (emphasis added)

The stock which your club sells as a condition precedent to membership, will, therefore, be subject to the excise tax, and your club is required to collect such tax and report it to the government. However, there is an exemption, as more fully discussed below, where the sale proceeds are earmarked for capital improvements.

## 2. When a share of stock is transformed from a deceased member to an active member, what is the tax on it?

As to a share of stock transferred from a deceased member, its value will be includible in the decedent's gross estate for estate tax purposes. Whether the excise tax or initiation fees applies to the transfer will depend upon how the transferee acquires the stock from the decedent. The excise tax is imposed only on any payment made as a condition precedent to membership.

If the stock passes as an asset of the estate by will or otherwise, then there will have been no payment made and

hence, no excise tax. If the stock is purchased from the estate or from the heir by a new member, then the amount paid will be subject to the 20 per cent tax to be paid by the purchaser. The excise tax applies whether the payment is made to the club or to some third person. If the club handles the transaction, it is required to collect the tax regardless of whether the payment for the stock is retained by it or remitted to the seller.

## 3. Several clubs in our vicinity have called in their outlying stock certificates and replaced them with an initiation fee certificate. Any new members joining these clubs now are issued an initiation certificate for a certain amount and no stock is issued. These clubs informed me that the fee for this initiation certificate is nontaxable.

Issuance of initiation fee certificates to incoming members, you said, is nontaxable. The 20 per cent tax is undoubtedly avoided by earmarking and applying the initiation fee for capital expenditures. As you know, any dues or initiation fees allocated to and actually used for capital construction or improvements are exempt from the tax. As to payments received by the club, however, the exchange of stock for the new certificates is unnecessary—the exemption applies to all payments received by the club as "initiation fees," which term was shown previously to include shares of stock, so long as they are properly allocated to capital expenditures.

Perhaps the neighboring clubs have issued non-transferable certificates in the place of the stock in order to assure that all future members make their qualifying payments to the clubs rather than to retiring members. Such a policy would assure the capital improvements exemption

in all cases, since it applies only to payments made to the club. There would be a serious question, however, as to the club's right to render non-transferable an existing member's interest without his approval.

**4. Can the money that is taken in as assessment improvement by the club be used for improving the club house and golf course or is this money to be used for club house improvement only?**

The capital improvements exemption would apply to money expended on improving the golf course as well as the club house. It applies, however, only to capital expenditures and could not be claimed if the funds are used for repairs and maintenance. Nor does it ap-

ply towards the purchase of land. The Treasury Regulations, Section 49-4243-2 (a) (3), define the terms capital improvements, capital additions and facilities to include:

"buildings and any appurtenances thereto, as well as tennis courts, swimming pools, golf courses, etc. Such terms do not include items of personality, such as furniture, furnishings, vehicles, mechanical or electrical appliances, etc."

Whether a certain projected expenditure is for capital improvements or for repairs is a very close question of fact. In many cases, the only method to assure yourself of the answer will be to request ruling from the Internal Revenue Service.

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## Answers to Quiz on Page 10

1. Yes. Ben Hogan in 1953, Jim Barnes in 1921 and Walter Hagen in 1914. Four others led or were in a tie all the way—Tommy Bolt in 1958, Charles Evans, Jr., in 1916, Alex Smith in 1906, and Willie Anderson in 1903.
2. Willie Anderson, 1903-04-05; John J. McDermott, 1911-12; Robert T. Jones, Jr., 1929-30; Ralph Guldahl, 1937-38; Ben Hogan, 1950-51.
3. Gene Sarazen has played through 26 Opens.
4. Jack Nicklaus, who scored 282 in 1960.
5. Ted Ray, of England, who won in 1920.
6. Walter Hagen finished in the top ten 16 times. Ben Hogan is second with 15.
7. Lee Mackey, Jr., had a 64 in the first round in 1950.
8. Ben Hogan, who won in 1948 with 276.
9. John G. Goodman in 1933.
10. Yes. Miss Mickey Wright in 1958 and 1959.
11. The late Mrs. Mildred Zaharias won by 12 strokes in 1954.
12. Miss Louise Suggs. She has finished in the top ten in all eight Women's Open Championships conducted by the USGA.
13. Betsy Rawls has been the winner of the USGA Women's Open three times. She also won the Open sponsored by the Ladies' PGA in 1951.
14. Miss Anne Quast, who scored 299 in 1959.
15. No. See Rule 41-2a: "Any competitor may have any ball (except the ball about to be played) lifted or played, at the option of the owner, if he consider that it might interfere with or be of assistance to a competitor or side, but this is only permissible before the next stroke is played by the competitor whose turn it is."
16. Rule 32-1a states that a ball in ground under repair through the green may be dropped without penalty as near as possible to the spot where it lay, but not nearer the hole, on ground which avoids the ground under repair.
17. No. Rule 35-3c provides for a penalty of two strokes for one ball striking the other only when both balls lie on the putting green or within 20 yards of the hole and neither ball is in a hazard.
18. No. Rule 12-3a stipulates that the opponent may immediately require the player to replay the stroke in correct order, without penalty.