

Dues For Membership in Social or Athletic Clubs

In keeping with the intent of Regulation section 527.11 and section 1105(f) (2) of the Tax Law, the following is the Department's policy on the application of sales tax to dues for membership in social or athletic clubs.

Dues paid to any social or athletic club in New York State are subject to sales tax if the dues of an active annual member, exclusive of the initiation fee, are in excess of ten dollars per year. (An active annual member is one who is not a life member, but who enjoys full club privileges.)

Where the tax applies to dues, the tax shall be paid by all members, regardless of the amount of their dues. The tax is computed on the amount actually paid, and may vary from one member to another. A member who purchases a life membership after July 5, 1979, for instance, will pay tax based on the actual cost of his life membership. (Prior to July 5, 1979 a life member was required to pay sales tax annually, in an amount equal to the sales tax paid on the dues of an active annual member. These life members are now required to continue such payment until the total sales tax paid is equal to the amount that would have been due on the total amount of the life membership at the time of purchase, at the rate then applicable.)

If a social or athletic club charges an initiation fee, that fee is also subject to sales tax if it is in excess of ten dollars, regardless of whether or not any dues are charged for membership.

Dues subject to sales tax include any dues or other membership fees, any assessments regardless of the purpose for which made, and any charges for social or sports privileges or use of facilities paid to a social or athletic club.

- Examples:
- (1) A social club wishes to expand its clubhouse by adding a new dining room. In order to finance the construction, the club will assess each member \$100. The assessment is considered dues and subject to sales tax, regardless of the fact that the proceeds will be used for a capital improvement.
 - (2) A social club collects no regular dues or membership fees, but meets its operating expenses by levying assessments on its members as funds are required. These assessments constitute dues or membership fees subject to sales tax.
 - (3) A club organized and operated for the promotion of yachting and other aquatic sports (social and athletic club) owns and maintains docking and mooring facilities for use by its members. The charge to each member is determined by the size of the member's boat and the location of the docking and mooring facilities used. Even though these charges may vary from member to member, they constitute dues or membership fees subject to sales tax.

The term "dues" does not include any charges paid by a member for his guest, for sports privileges or use of facilities, where such charges would be exempt when paid directly by the guest (e.g., guest fees for golf).

Dues not subject to sales tax are those paid to:

a fraternal association of students of a college or university, or any fraternal society or association operating under the lodge system. "Operating under the lodge system" means carrying on activities under a form of organization that is comprised of local branches called lodges or chapters, chartered by a parent organization and largely self-governing.

an organization which is organized and operated exclusively to foster national or international amateur sports competition, but which does not provide, either directly or indirectly, any facilities or equipment.

an organization whose social or athletic activities do not constitute a material purpose of its existence (Rotary Clubs, Kiwanis Clubs, Young Women's Christian Association, Young Men's Hebrew Association, etc.).

Definitions

Club or organization - for sales and use tax purposes means any entity composed of persons associated for a common objective or common activity. Such entity may be a membership organization, business corporation or other legal organization. Factors used to determine the existence of an organization or club for sales and use tax purposes are whether the membership of the organizational structure controls social or athletic activities, tournaments, dances, elections, or committees; participates in the selection of members and management of the club or organization; or possesses a proprietary interest in the organization. The organizational structure may be formal or informal.

Social club - any club or organization whose material purpose or activity is the arranging of periodic dances, dinner meetings or other functions which afford its members an opportunity to congregate for social interrelationships.

- Examples:
- (1) A club that is organized for the purpose of holding square dances is a social club.
 - (2) A club that is organized for the purpose of holding dinner dances is a social club.

A club that is organized solely for the purpose of providing facilities for members to play bridge or chess is not a social club, nor is a club that is organized for the purpose of educating its members in science, literature and art, notwithstanding the fact that the club holds an annual dinner-dance.

Athletic club - any club or organization whose material purpose is the practice, participation in or promotion of any sports or athletic activities. "Athletic activities" do not include the activities of exercising or calisthenics performed solely for health or weight reduction purposes. An establishment that merely provides steam baths, saunas, rowing machines, shaking machines and other exercise equipment is not considered an "athletic club". (However, a local tax is imposed in

the city of New York on every sale of services by weight control salons, health salons, gymnasiums, turkish baths, sauna baths and similar establishments and on every charge for the use of such facilities.)

- Examples:
- (1) An association owns land on which it provides tennis courts and bathing beaches with equipment, attendants and parking lots for members. The association also gives parties for members and their guests. Only persons owning property in the vicinity of the association's land may become members of the association. The association qualifies as an "athletic club" as the use of its facilities is limited to members and their guests), and a material purpose of the association is to provide sports privileges and facilities.
 - (2) A figure skating club has members who pay dues in excess of \$10. Portions of the dues are used for membership in a national figure skating association, for use of an ice skating facility, and for other club expenses. The club is an athletic club or organization.

For sales and use tax purposes, a club or organization does not exist merely because a business entity charges for use of facilities on an annual or seasonal basis, restricts the size of membership based on physical limitations of the facilities, uses the word "club" or "member", or offers tournaments, leagues, and social activities controlled by management. An entity will not constitute a "club" or "organization" where all activities are controlled exclusively by management; membership is sold on a first come, first served basis; numbers are restricted merely because of physical size of the facility; and the word "club" or "member" is being used only as a marketing device.

- Examples:
- (1) A private enterprise owns a racquetball club. Members pay a fee when joining and additional fees for court use. Membership is sold on a first come, first served basis. No social functions are provided; the members do not have a proprietary interest in the club; and the members have no control in the management or operation of the club. The fees and dues for membership are not subject to sales tax, since this facility does not fall within the meaning of a "club" for sales and use tax purposes.
 - (2) A tennis "club" which is owned by an individual provides tennis courts, showers, saunas and lockers. Members pay a seasonal fee to play tennis. Non-members may use the courts at a daily rate when there is free time. Anyone wanting to use the courts must use a sign-up sheet with the courts being assigned on a first served basis. A member may not "bump" a non-member who has a previous reservation. This is not a "club".