Private Letter Ruling 03-007
Redacted Version
Taxability of Storage and Cleaning Fees
And Annual Club Fees
April 24, 2003

A Private Letter Ruling based upon the following scenario was requested:

> For an optional fee, members of a private club (the "Club") can rent a locker in the locker rooms of the clubhouse. The lockers are fixed to the walls of the locker rooms. Members also have the option of paying a fee to have their golf clubs stored in the cart barn, and after play the clubs are cleaned and put away.
>
> Members are billed $75 twice a year for the Club's capital improvement fund. This money is used for improvements to the facility. This fee is not optional.

A ruling was requested to determine whether Louisiana sales tax is due on any of the transactions listed above. If the conclusion is that no Louisiana sales tax is due on any transaction, a ruling was also requested to determine whether the Club may receive a refund of the sales tax it has collected and remitted on the transaction and reimburse its members.

The first transaction as stated in your request is the optional rental of a locker in the locker room of the clubhouse. However, this is not a true rental. The object of the transaction is the actual space being provided for consideration. This is a service provided by the Club. La. R.S. 47:302(C) levies a sales tax on the sales of services. However, the service of providing storage space is not a taxable service enumerated in La. R.S. 47:301(14) unless it is the provision of cold storage space. Therefore, no sales tax is due on this transaction as long as it is separately stated from other taxable charges.

The second transaction you inquire about has two components, the cleaning of the clubs and the storage of the clubs. La R.S. 47:302(C) levies a sales tax on the sales of services. Included in the list of "sales of services" is the "furnishing of laundry, cleaning, pressing and dyeing services, including by way of extension and not of limitation, the cleaning and renovation of clothing, furs, furniture, carpets and rugs, and the furnishing of storage space for clothing, furs and rugs." (La. R.S. 47:301(14)(e)). The cleaning of golf clubs is not included in this list, and as the court in *Intracoastal Pipe* stated, the apparent scope of the statute is that it will apply to items made of fabric or furs." (*Intracoastal Pipe Service, Co., Inc. v. Assumption Parish Sales and Use Tax Department*, 558 So. 2d 1296 (La. App. 1 Cir. 2/21/90)). Therefore the charge for cleaning the golf clubs is not taxable as long as it is separately stated from any taxable charges.

The storage of the clubs is not a taxable transaction either. The essence of the transaction is the provision of storage space just as in the first transaction, which is a service. Although sales of services are taxable, the provision of storage space is not one of the enumerated services listed in La. R.S. 47:301(14) unless it is the provision of cold storage space. Therefore, this transaction is not taxable as long as the charge is separately stated from any taxable charges.

Finally, you inquire whether the $75 fee charged twice a year for the capital improvement fund, which is not an optional fee, is subject to the sales tax. These fees are taxable. La. R.S. 47:301(14)(b)(i) provides that the term "sales of services" which are taxable include "the sale of admissions to places of amusement, to athletic entertainment other than that of schools, colleges, and universities, and recreational events, and the furnishing, for dues, fees, or other consideration of the privilege of access to clubs or the privilege of having access to or the use of amusement, entertainment, athletic, or recreational facilities…" Because these fees are not optional, they are fees necessary to obtain the privilege of access to the club. Therefore, these fees are taxable.

Because the provision of storage space and the cleaning of golf clubs are not taxable transactions as long as the charges are separately stated from taxable charges, it must be determined whether a refund is due. La. R.S. 47:1621(B)(3) provides that "the secretary shall make a refund of each overpayment where it is determined that the overpayment was the result of an error, omission, or a mistake of fact of consequence to the determination of the tax liability, whether on the part of the taxpayer or the secretary." Paragraph (A) of the same section defines an overpayment as "a payment of tax, penalty, or interest when none was due; the excess of the amount of tax, penalty, or interest paid over the amount due; or the payment of a penalty that is later waived or remitted by the secretary…" Assuming the charges were separately stated, no tax was due on these transactions and an overpayment was made. This overpayment would fit within the parameters of La. R.S. 47:1621(B)(3) and therefore would be eligible for a refund. However, because it is the members who actually paid the tax, they must be the ones to receive the refund.

If you should have any questions or need additional information, please contact the Policy Services Division at (225) 219-2780**.**

Sincerely,

Cynthia Bridges
Secretary

By: Cynthia D. Pugh
Attorney
Policy Services Division