



5050 West Tennessee Street, Tallahassee, FL 32399

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QUESTION: Whether the taxability of membership dues charged by Club to its members (“Members”) in light of the Freedom Summer Sales Tax Holiday are exempt from sales tax?

ANSWER: Yes. If the membership agreement is only through December 31, 2023, and Members pay the membership dues for a period ending December 31, 2023, during the period May 29, 2023, through September 4, 2023, such dues would be exempt from Florida sales tax.

July 11, 2024

[REDACTED]

Via e-mail: [REDACTED]

Re: Technical Assistance Advisement – TAA #: 24A-010

[REDACTED] (“Club”)

FEI#: [REDACTED]

BP#: [REDACTED]

Sales and Use Tax – Freedom Summer Sales Tax Holiday

Chapter 2023-157, Section 45, Laws of Florida (“L.O.F.”)

Section 212.04, Florida Statutes - (“F.S.”)

Rule 12A-1.005(4)(a).1 and (4) (c), Florida Administrative Code, (“F.A.C.”)

Dear [REDACTED]:

This is in response to your letter dated [REDACTED], requesting this Department’s issuance of a Technical Assistance Advisement (“TAA”) pursuant to Section(s.) 213.22, F.S., and Rule Chapter 12-11 F.A.C, Florida Administrative Code, regarding the matter discussed below. Your request has been carefully examined, and the Department finds it to be in compliance with the requisite criteria set forth in Chapter 12-11, F.A.C. This response to your request constitutes a TAA and is issued to you under the authority of s. 213.22, F.S.

REQUESTED ADVISEMENT

Club request advisement on whether the taxability of membership dues charged to its members (“Members”) in light of the Freedom Summer Sales Tax Holiday are exempt from sales tax. This request includes the four categories of membership but does not relate to any other fees or charges collected by the Club.

FACTS

Club is located at [REDACTED], and provides and maintains Club facilities and amenities for the benefit of its members.

Club is a [REDACTED] corporation. Club is governed by Chapter 617, F.S. and Club's Articles of Incorporation and Bylaws.

Club offers four categories of membership: [REDACTED], [REDACTED], and [REDACTED]. Each of the four categories includes full access to fitness facilities, which offers strength and cardiovascular training equipment.

Club is well known for the size and quality of its physical fitness facilities. The facilities cover [REDACTED] of space and include a large assortment of [REDACTED] and g [REDACTED].

Club also charges fees for additional services, such as guest use of [REDACTED] or [REDACTED], and [REDACTED]. Club collects all applicable Florida sales tax on membership dues as well as other taxable fees and other charges.

Membership dues are set by [REDACTED] on a calendar-year basis in accordance with [REDACTED]. [REDACTED] prescribe that Club charges are billed monthly to members. "Club charges" is defined in [REDACTED] to include dues.

CLUB'S POSITION

Club believes, based on the relevant Florida Statutes, Florida Administrative Code, and Department guidance, that the membership dues charged by Club are exempt from sales tax during the duration of the Holiday. The statutes and rules clearly impose sales tax on these fees, and indeed, Club has been collecting and remitting sales tax on its membership fees.

Club sells taxable admissions to facilities that include [REDACTED]. The fact that Club offers other amenities does not exclude it from the Freedom Summer Sales Tax Holiday. The plain language of Section 45, Chapter 2023-157, Laws of Florida, clearly includes otherwise taxable admissions to fitness facilities in the Holiday. Nothing in Section 45 or TIP #23A01-03 limits Holiday in any way that would exclude Club.

The dues collected for all four membership levels are in no way divisible or severable between the various activities made available to each level. Even the [REDACTED] membership does not identify or itemize prices for each possible activity a member may enjoy under that membership. No level of membership is available that does not provide access to Club's fitness facilities. Section 45 of Chapter 2023-157, Laws of Florida, and TIP #2301-03 do not exclude sales of access to fitness facilities in combination with access to other facilities or activities. All four membership levels are eligible for the sales tax exemption provided by Holiday.

LAW AND DISCUSSION

Chapter 2023-157, Section 45, Laws of Florida (“L.O.F.”), provides that Florida sales and use tax may not be collected on purchases of admissions¹ made during the period from May 29, 2023, through September 4, 2023, for the “use of or access to private and membership clubs providing physical fitness facilities from May 29, 2023, through December 31, 2023.”

On May 25, 2023, the Department published a Tax Information Publication (“TIP”), TIP #23A01-03, regarding Holiday. The TIP provides that “during the sales tax holiday period, tax is not due on the retail sale of admissions to... fitness facilities.” It further clarifies that “admissions to... private and membership clubs providing physical fitness facilities” are eligible for the tax holiday.

Section 212.04, F.S., provides that the sales of admissions are taxable in Florida. The term “admissions” is defined as the net sum of money for admitting a person or persons to any place of amusement, sport, or recreation. *See s. 212.02(1), F.S.*

Rule 12A-1.005(4)(a)1., F.A.C., provides that, “Dues and user fees paid to any organization, including athletic clubs, health spas, civic, fraternal, and religious clubs, that provide physical fitness facilities or recreational facilities, such as golf courses, tennis courts, swimming pools, yachting, boating, athletic, exercise, and fitness facilities, are subject to tax.”

Rule 12A-1.005(4)(c), F.A.C., provides that, “Fees paid to private clubs or membership clubs as a condition precedent to, in conjunction with, or for the use of the club’s recreational or physical fitness facilities are subject to tax. Examples of such fees are:

1. User fees paid by members or nonmembers to an organization that entitle the payor to use the organization’s recreational or physical fitness facilities or equipment.
2. Dining room minimum fees.
3. Social membership fees when such payments are required of members who hold no equitable interest in, or ownership of, the club.
4. Periodic payments required to be paid by members or any payment required of a nonmember in order to use the club’s facilities.”

CONCLUSION

It is undisputed that Club’s membership dues constitute taxable “admissions” eligible for exemption during Holiday. Chapter 2023-157, Section 45, L.O.F., indicates that in order to be free of tax during the Holiday period, “admissions” must be:

- (i) Purchased during the period from May 29, 2023, through September 4, 2023; and

¹ Section 212.02(1), F.S., defines the term “admissions,” as “the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any place of amusement, sport, or recreation or for the privilege of entering or staying in any place of amusement, sport, or recreation . . .”

- (ii) Provide the purchaser use of or access to a private or membership club providing physical fitness facilities from May 29, 2023, through December 31, 2023.

Membership dues are set by the [REDACTED] on a calendar year basis and are billed monthly to members. Accordingly, Club dues are not taxable "admissions" under ch. 212, F.S., when they are: (i) paid during the period from May 29, 2023, through September 4, 2023; and (ii) for a period beginning on or subsequent to May 29, 2023, and ending on or before December 31, 2023.

This response constitutes a TAA under s. 213.22, F.S., which is binding on the Department only under the facts and circumstances described in the request for this advice, as specified in s. 213.22, F.S. Our response is predicated on those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes, or judicial interpretations of the statutes or rules, upon which this advice is based, may subject similar future transactions to a different treatment than expressed in this response.

You are further advised that this response, your request, and related backup documents are public records under Chapter 119, F.S., and are subject to disclosure to the public under the conditions of s. 213.22, F.S. Confidential information must be deleted before public disclosure. In an effort to protect confidentiality, we request you provide the undersigned with an edited copy of your request for TAA, the backup material and this response, deleting names, addresses and any other details which might lead to identification of the Taxpayer. Your response should be received by the Department within ten (10) days of the date of this letter.

If you have any further questions with regard to this matter and wish to discuss them, you may contact me directly at (850)717-7759.

Sincerely,



Alesia L. Pride
Tax Law Specialist
Technical Assistance & Dispute Resolution

cc: [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

TADR Satisfaction Survey

The Florida Department of Revenue invites you to complete the online TADR Satisfaction Survey to help us identify ways to improve our service to taxpayers. The survey is an opportunity to provide feedback on your recent experience with the Department's office of Technical Assistance and Dispute Resolution (TADR). To access the survey, place the following address in your browser's access bar:

<https://tadr.questionpro.com>

When you open the survey, you'll be asked to enter the following information. This information will enable you to complete and submit the survey.

Notification number: 7001113468

Respondent code: 44

Tax type: Sales and Use Tax

Correspondence type: Technical Assistance

If you need technical assistance accessing the survey, please email Douglas Charity at douglas.charity@floridarevenue.com.

Thank you.