

New York State Department of Taxation and Finance
Office of Tax Policy Analysis
Technical Services Division

TSB-A-05(19)S
Sales Tax
May 26, 2005

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S050202C

On February 2, 2005, the Department of Taxation and Finance received a Petition for Advisory Opinion from Rombout Hunt Inc., c/o Suzanne Cannavino, 11 Browning Road, Hyde Park, NY 12538.

The issue raised by Petitioner, Rombout Hunt Inc., is whether dues paid by its members are dues or initiation fees paid to a rod or gun club which are not subject to sales tax.

Petitioner submitted the following facts as the basis for this Advisory Opinion.

Petitioner was recognized by the Masters of Fox Hound Association in 1929 and has been run as a not-for-profit member owned corporation since its inception. Petitioner is governed by a Board of Trustees on behalf of its membership. Petitioner charges dues and subscriptions for membership rights to participate in hunting. Petitioner is a hunting club whose sole purpose is to hunt fox and coyote on horseback using American fox hounds, according to the hunting regulations administered by the New York State Department of Environmental Conservation. Petitioner does not maintain facilities for social or athletic purposes, sell meals or provide member services, but does maintain a fox hound kennel.

Applicable law and regulations

Section 1105(f) of the Tax Law imposes sales tax, in part, on:

(2)(i) The dues paid to any social or athletic club in this state if the dues . . . are in excess of ten dollars per year, and on the initiation fee alone, regardless of the amount of dues, if such initiation fee is in excess of ten dollars. . . .

Technical Services Bureau Memorandum, entitled *Dues and Initiation Fees Paid to Rod or Gun Clubs No Longer Subject to Sales Taxes*, December 23, 1996, TSB-M-96(16)S, provides, in part:

Effective for membership periods beginning on or after October 1, 1996, dues and initiation fees paid by members to rod or gun clubs (e.g., fishing and hunting clubs) are no longer subject to the New York State and local sales taxes. These taxes were imposed under sections 1105(f)(2), 1107 and 1109 of Article 28 and pursuant to the authority of Article 29 of the Tax Law. The Tax Department has examined its longstanding policy concerning the taxability of dues and initiation fees paid to these clubs and has determined that such policy should be revised.

Opinion

Petitioner is a not-for-profit club governed by a Board of Trustees on behalf of its members. Petitioner charges dues and subscriptions for membership rights to participate in hunting. The sole purpose of Petitioner's hunting club is to hunt fox and coyote on horseback using American fox hounds. Petitioner does not maintain facilities for social or athletic purposes, sell meals or provide member services.

Petitioner is a not-for-profit member owned corporation created for the purpose of hunting fox and coyote on horseback. Based upon its stated purposes, and its activities as represented in this Advisory Opinion, Petitioner is a hunting club or rod or gun club within the meaning of TSB-M-96(16)S, *supra*. Therefore, the membership dues or fees paid by its members are not subject to the sales tax imposed by section 1105(f) of the Tax Law. See *Old Chatham Hunt Club, Inc.*, Adv Op Comm T&F, May 24, 2004, TSB-A-04(13)S.

DATED: May 26, 2005

/s/
Jonathan Pessen
Tax Regulations Specialist IV
Technical Services Division

NOTE: The opinions expressed in Advisory Opinions are limited to the facts set forth therein.