



QUESTIONS:

1. (a) Dues Generally. Does the Holiday apply to such membership dues paid for the current Membership Year (commencing October 1, 2023, and expiring September 30, 2024)?

(b) Exemption Period. To the extent the Holiday applies to membership dues paid during the Holiday Payment Period, does it apply to the entire Membership Year or solely to the portion falling within the time period commencing May 29, 2023, and expiring December 31, 2023 (the "**Holiday Use Period**")?

(c) Prorated Dues. As to the prior Membership Year (commencing October 1, 2022, and expiring September 30, 2023), does the Holiday apply to prorated dues paid by a new Member to allow for membership between the membership start date and the end of the prior Membership Year on September 30, 2023?

(d) Membership Levels. To the extent the Holiday applies to membership dues paid for by Members, does it apply uniformly to each of the three membership levels?

2. (a) Additional Privileges. Does the Holiday apply to Club fees imposed on Members for use of Club facilities during the Holiday Use Period which are beyond such Members' respective membership categories ("**Additional Privileges**"), such as use of golf facilities by Racquet Sports Members and use of golf or racquet sports facilities by Social Members?

(b) Guest Charges. Does the Holiday apply to Club fees imposed on Members for use of Club facilities by their Guests during the Holiday Use Period?

ANSWERS:

1. (a) No. The exemption dates are May 29, 2023, through September 04, 2023, for membership occurring through December 31, 2023.

(b) The exemption only applies to dues paid from May 29, 2023, through September 04, 2023, for membership occurring through December 31, 2023. Payments made for periods occurring after December 31, 2023, are subject to tax. Therefore, the entire Membership Year would not be exempt from tax.

(c) Yes. Only to the extent that the payment of dues was made from May 29, 2023, through September 04, 2023. If payment was made during this period, the monthly due for May 2023 through September would be exempt from tax.

(d) Yes.

2. (a) Yes.

(b) Yes. The exemption dates are May 29, 2023, through September 04, 2023, for guest membership occurring through December 31, 2023.

April 30, 2024

[REDACTED]

Via e-mail: [REDACTED]

Re: Technical Assistance Advisement – TAA #: 24A-004M

[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), 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 ADVISEMENTS

Club request advisement on whether the taxability of dues and other fees charged to its members (“Members”) in light of the Freedom Summer Sales Tax Holiday are subject to sales tax.

Club seeks the Department’s response to the following questions in relation to the impact of the Holiday:

1. Membership Dues. With respect to membership dues paid between May 29, 2023, and September 4, 2023 (the "**Holiday Payment Period**"):

(a) Dues Generally. Does the Holiday apply to such membership dues paid for the current Membership Year (commencing October 1, 2023, and expiring September 30, 2024)?

(b) Exemption Period. To the extent the Holiday applies to membership dues paid during the Holiday Payment Period, does it apply to the entire Membership Year or solely to the portion falling within the time period commencing May 29, 2023, and expiring December 31, 2023 (the "**Holiday Use Period**")?

(c) Prorated Dues. As to the prior Membership Year (commencing October 1, 2022, and expiring September 30, 2023), does the Holiday apply to prorated dues paid by a new Member to allow for membership between the membership start date and the end of the prior Membership Year on September 30, 2023?

(d) Membership Levels. To the extent the Holiday applies to membership dues paid for by Members, does it apply uniformly to each of the three membership levels?

2. Additional Fees. With respect to fees and charges paid by Members during the Holiday Payment Period:

(a) Additional Privileges. Does the Holiday apply to Club fees imposed on Members for use of Club facilities during the Holiday Use Period which are beyond such Members' respective membership categories ("**Additional Privileges**"), such as use of golf facilities by Racquet Sports Members and use of golf or racquet sports facilities by Social Members?

(b) Guest Charges. Does the Holiday apply to Club fees imposed on Members for use of Club facilities by their Guests during the Holiday Use Period?

FACTS

The following information/facts have been provided with the request for advisement:

The Club is a Florida Registered dealer located at [REDACTED] and provides and maintains various amenities and facilities for the benefit of its Members and Members' relatives, guests, and invitees ("**Guests**").

The Club is a member-owned nonprofit Florida corporation governed by Chapter 617, F.S., and the Club's Articles of Incorporation, Bylaws, and Rules and Regulations.

The Club offers three categories of membership: Golf, Racquet Sports, and Social. Each of the categories includes full access to social facilities, locker rooms, aquatic and spa facilities, and fitness facilities, which offer strength and cardiovascular training equipment. The Club also charges fees for certain additional services, such as golf cart fees, lessons with golf or tennis professionals and charges for Guests' use of the Club's facilities.

The Club's fiscal year ("**Membership Year**") begins October 1 annually. All membership dues and other yearly fees are paid annually in advance and are due in full by September 30. New Members are responsible paying the Club a prorated portion of membership dues, calculated from the latter of (i) the closing date of their purchase of a residence in the community of [REDACTED] and (ii) the date upon which they are accepted for membership in the Club. The Club bills Members for other charges on a monthly basis. The Club collects sales tax from Members on all membership dues and other sales subject to Florida sales tax.

Additional details regarding the Club's dues for all three membership categories as well as other fees can be found in the Dues Renewal Form and Annual Schedule. The dues are set by the Club's Board of Governors and are subject to change annually.

CLUB'S POSITION

Club believes, based on the relevant Florida Statutes, Florida Administrative Code, and Department guidance, that during the Holiday Payment Period, payments made to the Club for membership dues and additional fees charged by the Club for (i) the use and enjoyment of the Club's facilities by Guests (including access to physical fitness facilities) and (ii) the Additional Privileges selected by Social and Racquet Sports Members are all exempt from sales tax. The statutes and rules clearly impose sales tax on these payments, and indeed, the Club has been collecting and remitting sales tax on payments received from its Members for membership dues and the additional fees.

Club sells taxable admissions to facilities that include physical fitness facilities. The fact that the Club offers other amenities does not exclude it from the 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 limit the Holiday in any way that would exclude the Club. Neither Section 45 nor TIP #23A01-03 limit the Holiday to entities that provide fitness facilities but no other recreational facilities.

Each level of membership provides Members access to the Club's fitness facilities. The dues collected for all of the Club's membership levels are in no way divisible or severable between the various activities made available to each level. Even the *lowest level* membership does not identify or itemize prices for each possible activity a Member may enjoy under that category of membership. 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 from the Holiday.

LAW AND DISCUSSION

Chapter 203-157, 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 the 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.”

CONCLUSIONS

If the membership agreement is only through December 31, 2023, and the member pays 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.

Below is the Department’s response to the Club’s questions in relation to the impact of the Holiday:

1. (a) No. The exemption dates are May 29, 2023, through September 04, 2023, for membership occurring through December 31, 2023.

(b) The exemption only applies to dues paid from May 29, 2023, through September 04, 2023, for membership occurring through December 31, 2023. Payments made for periods occurring after December 31, 2023, are subject to tax. Therefore, the entire Membership Year would not be exempt from tax.

(c) Yes. Only to the extent that the payment of dues was made from May 29, 2023, through September 04, 2023. If payment was made during this period, the monthly due for May 2023 through September would be exempt from tax.

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 . . .”

(d)) Yes.

2. (a) Yes.

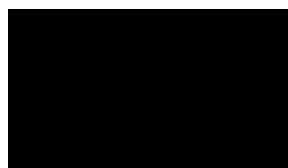
(b) Yes. The exemption dates are May 29, 2023, through September 04, 2023, for guest membership occurring through December 31, 2023.

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.

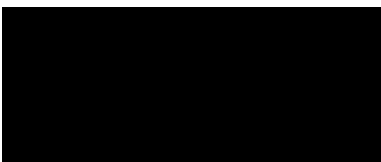
If you have any further questions with regard to this matter and wish to discuss them, you may contact me directly at (850)717-7759.

Kind Regards,



Technical Assistance & Dispute Resolution

CC:



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:



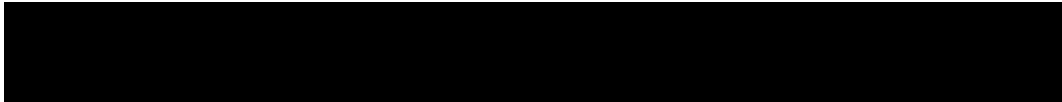
Respondent code:



Tax type:

Sales and Use Tax

Correspondence type: Technical Assistance



Thank you.