Excise Tax Advisory

Excise Tax Advisories (ETAs) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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This ETA is cancelled effective February 2, 2009 and reissued under the 3000 series.
See ETA 3001 for a cross-reference to the new series.

Camping Clubs Receiving Initiation Fees and Dues Income

This ETA explains the tax-reporting responsibilities of camping clubs that charge initiation fees and dues for membership in a camping club. For the purposes of this ETA, the terms "initiation fees" and "dues" do not mean an ownership interest such as stock, LLC membership, or limited partnership interest in one or more campgrounds.

Background:
Camping clubs operate private campgrounds and are required to be registered with the Department of Licensing pursuant to chapter 19.105 RCW. In some instances, a camping club will operate multiple locations with some campgrounds located within Washington and other campgrounds located outside Washington. As well as providing campsites for recreational vehicles (with or without electrical, water, and/or sewer connections) and tents, these campgrounds generally have restroom and shower facilities. Additionally, some campgrounds will have recreational facilities, such as swimming pools, tennis and basketball courts, horseshoe pits, and a clubhouse. Further, some campgrounds have staff that may organize activities such as barbeques, movie nights, dances, or sing-a-longs.

Camping clubs generally offer membership status to persons in exchange for a one-time initiation fee (membership purchase) and membership dues, on an annual or monthly basis. Membership in a camping club provides members with the right to use one or more campgrounds owned by the camping club, subject to availability, and sometimes preferential right to access and use one or more campgrounds operated by other camping clubs or a preferential rate.

Camping clubs receive income from a variety of charges. This ETA addresses only the following sources of income:

1. One-time membership fees. These are sometimes referred to as initiation fees.
2. Periodic fees, sometimes referred to as dues or maintenance fees that entitle the member to continued membership.
3. Administrative fees, which are sometimes imposed on members in addition to the price of membership or at other times and relate to membership in the campground.
4. Additional charges for the use of their campground or facilities at their campgrounds by members, non-members, and/or members of other camping clubs.

Application of retail sales tax to membership campgrounds:

It has been the Department's long-standing interpretation that when a camping club provides a member with a space to camp using, for example, a recreational vehicle, motor home, or tent, it is providing lodging services to the member. See, Det. No. 98-075, 17 WTD 266 (1998). Lodging services are subject to retail sales tax. RCW 82.04.050(2)(f). Further, the provision of retail lodging is subject to the occupancy tax (also known as the Hotel-Motel tax). WAC 458-20-166. In 17 WTD 266 (1998), the Department found that the activities of a membership campground was subject to both the retail sales tax and the Hotel-Motel tax.

The deduction for initiation fees and dues:

RCW 82.04.4282 provides a deduction from the measure of the B&O tax for "bona fide (1) initiation fees, (2) dues …". Bona fide initiation fees or dues are defined as a payment from a member to an organization made purely for the social benefits associated with the privilege of membership. The portion of those fees and dues that are paid for services rendered by the membership organization are not bona fide initiation fees or membership dues for purposes of this deduction. To determine what income is attributable to and deductible as bona fide initiation fees or dues, subsection (4)(c) of WAC 458-20-183 (Rule 183) provides alternative methods for reporting.

Before using one of these methods, a camping club must first show that it receives some income from dues or initiation fees solely for the social benefits associated with the privilege of membership and not for services rendered. See Det. No. 97-146R, 17 WTD 133 (1998). It is important to note that "[t]he purpose of the [initiation fees and dues] deduction is to exempt from taxation only revenue exacted for the privilege of membership." *Automobile Club v. Department of Rev*., 27 Wn.App. 781, 786, 621 P.2d 760 (1980). The burden to show entitlement to a deduction or exemption from taxation is upon the taxpayer. *Budget Rent-a-Car, Inc. v. Department of Rev*., 81 Wn.2d 171, 500 P.2d 764 (1972) and *Group Health v. Tax Commission*, 72 Wn.2d 422, 433 P.2d 201 (1967). Tax deductions are narrowly construed. *Budget Rent-a-Car of Washington-Oregon, Inc. v. Department of Rev*., 81 Wn.2d 171, 174, 500 P.2d 764 (1972) and *Rainier Bancorporation v. Department of Rev*., 96 Wn.2d 669, 638 P.2d 575 (1982). Thus, to claim a "bona fide" initiation fees and membership dues deduction, a camping club must demonstrate that members pay a portion of their fees and dues solely and exclusively for the privilege of belonging as a member, and must also demonstrate that the fees and dues are not for access to or use of the camping sites and facilities, the recreational facilities, or for other goods and services.

Generally camping clubs do not operate like organizations, such as fraternal organizations, where people assemble solely to socialize and enjoy the pleasure of each other's company. Initiation fees and membership dues charged members of fraternal organizations are bona fide for the purpose of the deduction provided in RCW 82.04.4282.

Camping clubs, however, operate in a manner similar to many health or physical fitness clubs.

In Excise Tax Advisory 2010.04.08.183, the Department addresses the deduction for bona fide initiation fees and dues in the context of health and physical fitness clubs. That ETA concludes that:

> The fact that the club may have parties or other events for its members at no separate charge does not demonstrate that the member pays a portion of his or her dues for social benefits. Merely providing a juice bar or a lounge where members can sit, away from exercise equipment, also does not meet the club's burden of showing that its members pay a portion of their membership fees solely for social benefits, as opposed to access to the club's exercise facilities.

Similarly, the fact that a camping club may organize activities such as barbeques, movie nights, or other events for members at no separate charge does not demonstrate that the camping club member pays a portion of his or her fees and dues solely for the privilege of being a member. Merely providing a clubhouse where members can watch television, play games, or meet with other members also does not meet the club's burden of showing that its members pay a portion of their fees and dues solely for the privilege of being a member. Persons join camping clubs and pay membership dues and fees for the right to use the campsites and other facilities. They may pay more for perceived "high end" facilities, but paying more does not establish that the member is paying for more than the right to use the campsites and the other facilities and services offered by the campgrounds.

While some camping clubs believe that there are measurable social benefits associated with being a member, such camping clubs have the heavy burden to demonstrate the existence of social benefits and the value of them. In the absence of such affirmative proof, initiation fees (membership purchase), dues (annual fees), and administrative fees are not be deductible under RCW 82.04.4282.

Designated campground – Home Park - Where taxable activity occurs.

The ratio of camping sites to members is limited to the ratio disclosed in registration documents required by Chapter 19.105 RCW and Chapter 380-420 WAC. Camping clubs with multiple locations generally designate a primary campground, sometimes known as a "home park," in each member's membership contract. This is intended to assure compliance with Chapter 19.105 RCW and Chapter 380-420 WAC. The Department will assume that the camping club acted in good faith if it designates a primary campground in the same state that is closest to the purchaser/member's residence, if known, otherwise to the campground in the same state as and closest to the member's mailing address. In such cases, the designation of a primary campground shows that the designated campground is the place of first use of the membership and thus the place the taxable activity occurs.

Tax Reporting Responsibilities:

The sale of the right to use campsites and other campground facilities is subject to retailing B&O, retail sales taxes, and the hotel/motel taxes.

The following explains where income received by camping clubs is taxed for purposes of determining:

- Whether the income is subject to Washington's B&O and retail sales taxes;
- The appropriate local retail sales tax; and
- Whether other taxes, such as the hotel/motel taxes (RCW 36.100.040 and RCW 67.28.180) and the convention and trade center tax (RCW 67.40.090) apply; and if so, the rates for these taxes. Refer to the statutes and WAC 458-20-166 for additional information about the hotel/motel and convention and trade center taxes.

1. Camping Clubs with only one campground:

All income derived from the sale of memberships (initiation fees), periodic fees (dues), administrative fees, and additional charges are subject to retailing B&O tax, retail sales tax and hotel/motel taxes. The sales are subject to tax on the basis of the campground location. It is irrelevant whether the member is a Washington resident.

2. Camping Clubs with multiple locations:

Sales of Memberships (One-time membership fees):

If the camping club sells a membership at a campground location, the sale of the membership (e.g., the initiation fee) is sourced (where a sale is subject to tax) at that campground, regardless of whether the purchaser/member is or is not a resident of Washington. If the camping club sells a membership at a location other than a campground, the sale is sourced to the campground designated in the purchaser/member's contract as the member's primary campground ("home park"). In the event that the member contract does not designate a primary campground ("home park"), the Department will assume that the camping club used its best efforts and acted in good faith if it sources the sale to the camping club's campground in the same state as and closest to the purchaser/member's residence, if known, otherwise to the campground in the same state as and closest to the member's mailing address.

Periodic fees (Dues):
Periodic fees (sometimes called dues or maintenance fees) are sourced to the campground designated in the member's contract. If the member moves and the camping club is aware of this, then the camping club must use its best efforts to determine which location would be the member's "home park" based on the new residence. In the event that the member contract does not designate a "home park," the camping club must use its best efforts to determine where the member will first use a campground. The Department will assume that the camping club used its best efforts and acted in good faith if it determines that the first use is the campground in the same state as and closest to the member's residence, if known, otherwise to the campground in the same state as and closest to the member's mailing address.

Administrative Fees:
"Administrative fees" charged at the time of the sale of the membership are taxed the same manner as the sale of the membership. Otherwise, the administrative fee is taxed in the same manner as the periodic fees received from that member.

Additional charges:
Additional charges are subject to tax at the specific campground.

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