

**New York State Department of Taxation and Finance**  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-A-91 (17.1)S  
Sales Tax  
April 29, 1991

STATE OF NEW YORK

COMMISSIONER OF TAXATION AND FINANCE

MODIFIED ADVISORY OPINION    PETITION NO. S901204A

On December 4, 1990, a Petition for Advisory Opinion was received from St. George Operating and Improvement Co. Inc., PO Box AN, Stonybrook, New York 11790.

The issue raised by Petitioner, St. George Operating and Improvement Co., is whether the voluntary purchases of stock in a land company related to a social and athletic club for which the purchaser received a reduction in annual dues is subject to sales tax as dues.

Petitioner owns a golf course, building and related facilities. Petitioner's property is leased to the St. George Country Club Inc. (hereinafter the "club"). Petitioner is a title holding company. It has no employees, it provides no services to the club nor has any other business activity. Substantially all of the shareholders in Petitioner are members of the club. The non-member shareholders are all former members. The club and Petitioner's directors and officers are members of the club. The club pays Petitioner a minimal annual rental of \$6,000.00.

The club requires all new members to buy shares of stock and a bond in Petitioner as a condition precedent to membership. The stock and the sales tax are billed by the club. Members can at any time during the term of their membership voluntarily purchase additional shares of stock. Each share purchased reduces the members dues in the club by \$15.00 a year. The cost of the stock is \$153.60 per share. All stock is re-purchased from the member after his resignation. The members execute separate checks, one made payable to Petitioner for the stock and one made payable to the club for the sales tax due on such stock purchase. The members accounts receivable are credited on the club's books upon receipt of the payments. The employees of the club maintain the stock transfer and bond records for Petitioner. The amount collected by the club for the stock purchase is paid over by the club to Petitioner. The sales tax collected by the club is retained by the club and reported on their sales tax return as initiation fees. Petitioner records the stock payments in its capital account.

Section 1105(f)(2) of the Tax Law imposes sales tax upon:

The dues paid to any social or athletic club in this state if the dues of an active annual member, exclusive of the initiation fee, 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, . . .

Section 1101(d)(7) of the Tax Law defines an "initiation fee" as "[a]ny payment, contribution, or loan required as a condition precedent to membership, whether or not such payment, contribution or loan evidenced by a certificate of interest or indebtedness or share of stock, and irrespective of

the person or organization to whom it is paid, contributed or loaned."

Stocks and bonds sold by Petitioner as condition precedent to membership in the club are subject to the imposition of sales tax as initiation fees in the nature of dues in accordance with Section 1105(f)(2) and 1101(d)(7) of the Tax Law. St. George Operating and Improvement Co., Adv Op Comm T&F, December 24, 1990, TSB-A-90(57)S.

Moreover, the voluntary purchase of additional shares of stock constitutes dues pursuant to Section 1105(f)(2) of the Tax Law since the purchase of stock results in the prepayment of a portion of the member's annual dues. This is evident by the fact the membership dues are annually reduced by \$15.00 for the subsequent years following the voluntary purchase of stock and the fact that all stock is re-purchased from the member after his resignation from membership with no risk to the members investment.

Accordingly, the purchase of stocks and bonds, whether purchased as a condition precedent to membership in the club or as a voluntary purchase with an incentive such as a reduction in annual dues, are subject to sales tax pursuant to Sections 1105(f)(2) and 1101(d)(7) of the Tax Law.

DATED: April 29, 1991

s/PAUL B. COBURN  
Deputy Director  
Taxpayer Services Division

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