

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

TSB-A-96 (89) S
Sales Tax
December 30, 1996

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO.S960423A

On April 23, 1996, the Department of Taxation and Finance received a Petition for Advisory Opinion from Varsity Club of Syracuse University, Manley Field House, Syracuse, NY 13244.

The issue raised by Petitioner, Varsity Club of Syracuse University, is whether membership dues paid by members who reside outside of New York are subject to sales tax.

Petitioner submits the following facts as the basis for this Advisory Opinion. Petitioner has approximately 1,542 members. The membership consists of 632 residents of New York and 910 members who reside in other states. Petitioner's business address is in New York State, and club functions for members are held in New York State. The Petition presumes that membership dues paid by members who reside in New York are taxable.

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

(i) 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. Where the tax on dues applies to any such social or athletic club, the tax shall be paid by all members, other than honorary members, thereof regardless of the amount of their dues, and shall be paid on all dues or initiation fees for a period commencing on or after August first, nineteen hundred sixty-five. In the case of a life membership, the tax shall be upon the amount paid as life membership dues, however, a life member, other than an honorary member, paying an annual sales tax, based on the dues of an active annual member, shall continue such payments until the total amount of such tax paid is equal to the amount of tax that would have otherwise been due had the tax been imposed at the time such paid life membership has been purchased and at the then applicable rate. (emphasis added)

In accordance with Section 1105 (f)(2) of the Tax Law, it is the location of Petitioner which controls both the tax incident and the tax rate for the dues collected from members. Petitioner is located in New York.

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Therefore, Petitioner must collect applicable sales tax on its membership dues, regardless of whether Petitioner's members are residents or nonresidents of New York.

DATED: December 30, 1996

/s/
John W. Bartlett
Deputy Director
Technical Services Bureau

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