

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

TSB-H-81 (100) S
Sales Tax
May 19, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S801229B

On December 29, 1980, a Petition for Advisory Opinion was received from the New York SKAL Club, Box 535, Bloomfield, New Jersey 07003.

The issue raised is whether or not Petitioner's members are required to pay New York State and local sales taxes on dues paid to Petitioner.

The club was incorporated in the State of New York on January 19, 1939 as the Skal Club of North America, Inc. As of December 16, 1965, the club's name was changed to New York SKAL Club, Inc.

Item # 4 in Petitioner's Certificate of Incorporation states that "its principal business office is to be located in the Borough of Manhattan, City, County and State of New York."

Petitioner holds a lunch or dinner meeting each month in New York. Petitioner is strictly a social club.

Section 1105(f) of the Tax Law imposes a tax on "(2) 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...."

The Sales and Use Tax Regulations provide that "Any corporation incorporated under the laws of New York, and any corporation, association, partnership or other entity doing business in the State or maintaining a place of business in the State, or operating a hotel, place of amusement or social or athletic club in the State is a resident." 20 NYCRR 526.15(b) (1).

The Regulations further provide that "The term 'resident' as it applies to sales and use tax imposed by a locality shall be defined in the same manner as resident of the State, with respect to that locality." 20 NYCRR 526.15(c).

Since Petitioner was incorporated under the laws of New York State, it is a resident of the State. 20 NYCRR 526.15(b) (1). Petitioner is therefore a social club located "in this State" for purposes of section 1105(f) (2) of the Tax Law. The annual dues received by Petitioner from its members are, therefore, subject to the New York State sales tax, whenever the same are in excess of ten dollars. The same is true with respect to the initiation fee.

It appears from the Petition and the supplemental materials submitted by Petitioner that the club's principal activity consists of the holding of monthly meetings in New York City. Petitioner operates a social club in New York City and is, therefore, a resident of New York City for purposes of the City sales tax. 20 NYCRR 526.15(c). The New York City sales tax on social club dues, imposed under section 1107(a) of the Tax Law, is identical to the New York State sales tax. Dues received by Petitioner are therefore subject to the New York City sales tax.

JAMES H. TULLY, JR., COMMISSIONER LOUIS M. JACOBSON, DEPUTY COMMISSIONER
FRANK J. PUCCIA, DIRECTOR

TSB-H-81(100)S
Sales Tax
May 19, 1981

The combined State and New York City sales tax rate imposed on dues received by Petitioner is 8 per cent.

DATED: May 4, 1981

s/ LOUIS ETLINGER
Deputy Director
Technical Services Bureau