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Letter Ruling 98-7: Admission to Sports Events

April 14, 1998

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I. Introduction

You ask for a ruling on the application of the Massachusetts sales tax. You state that ***** ("the Company") is a Florida corporation licensed to manage, operate and administer the ***** ("the Tournament"), a biennial golf tournament involving golf professionals from the United States and Europe.

The Company has selected ***** ("the Club") in ***** Massachusetts, as the host site for the Tournament. The Club is a Massachusetts corporation governed by G.L. c. 180, and is classified as a social club under Section 501(c)(7) of the Internal Revenue Code. The Club will provide the golf course and club facilities for the Tournament and in return will receive a "host site fee, from the Company. Tournament revenue will accrue to the Company, which will pay all Tournament expenses except the cost of preparing the golf course, which will be borne by the Club.

The Company will sell only "season tickets" to the Tournament. The Company expects to sell a total of 25,000 such tickets. Each season ticket will grant the holder admission to the Tournament,^[1] and will consist of six separate badges corresponding to each of the six days of the Tournament; these badges will allow the holder admission on the day designated on the badge. The majority of the season tickets will be offered for sale by the Company through a random drawing of ticket requests received from the general public; the remainder of the season tickets will be offered for sale in blocks to various businesses that "wish to purchase a quantity of tickets for the purpose of entertaining clients and customers." Season tickets offered for sale to businesses will be sold either in the form of "Corporate Tent" purchases or "Corporate Table" purchases.

For payment of a "Corporate Tent Fee,"^[2] each Corporate Tent purchaser will receive between 100 and 250 season tickets, as well as access to a private, air conditioned hospitality tent furnished with tables, chairs, telephones, and computer terminals and television monitors for Tournament viewing and scoring. Such purchasers will also receive a small quantity of VIP parking passes, 4 invitations to a Tournament sponsored dinner, 200 official Journals, 100 daily Pairing Sheets, signage at the front of the tent, the right to use the Tournament logo on guest invitations, and tent security and cleaning services.

You state that the Corporate Tent Fee "does not include any right to receive food and beverages." However, Corporate Tent purchasers may choose to purchase food and beverages through an independent contractor ("the Caterer"). The Caterer and Corporate Tent purchasers opting to purchase food and beverages will deal directly with each other with regard to the food and beverages to be served in the purchasers' Corporate Tents. The Caterer will bill the purchaser directly for such food and beverages; the "Food and Beverage Fee" thus billed by the Caterer is "a

separate and additional fee, from the Corporate Tent Fee.

For payment of a "Corporate Table Fee,"^[3] the purchaser will receive 10 season tickets, as well as the use of a reserved, 10-seat table located in a furnished, air conditioned Corporate Table Facility (the "Facility") to be used exclusively by Corporate Table purchasers. Such purchasers will also receive a small quantity of VIP parking passes, 40 official Journals, 10 daily Pairing Sheets, 2 invitations to a Tournament sponsored dinner, the right to use the Tournament logo on guest invitations, and the use of the Facility's telephones, television monitors and computer terminals for Tournament viewing and scoring.

You state that the Corporate Table Fee "does not include any right to receive food or beverages." However, Corporate Table purchasers may choose to purchase food and beverages through the Caterer. The Caterer will charge each Corporate Table purchaser who opts to receive food and beverages a "separate fixed charge" ("the Refreshment Fee")^[4] for food and beverages to be served to the Corporate Table purchaser's guests in the Facility.

You state that the Company will rent the tents, tables and other furniture provided in the Corporate Tents and in the Corporate Table Facility and will pay sales or use tax on such rentals. You also note that the Company will pay sales or use tax on the items of tangible personal property such as the Journals and pairing sheets provided to Corporate Tent and Corporate Table purchasers.

II. Discussion

An excise is imposed upon retail sales in the commonwealth by any vendor of tangible personal property or telecommunications services performed in the commonwealth, unless explicitly exempt. G.L. c. 64H, § 2. "Sale" includes leases and rentals. G.L. c. 64H, § 1. "Retail sale" is defined in part as the sale of tangible personal property for any purpose other than resale in the regular course of business, but does not include sales of "tickets for admissions to places of amusement and sports...," Id. "Sales price," is defined in part as "the total amount paid by a purchaser to a vendor as consideration for a retail sale.... In determining the sales price ... no deduction shall be taken on account of (i) the cost of property sold; ... the cost of materials used, labor or service cost, interest charges, losses or other expenses; ... and there shall be included (i) any amount paid for any services that are a part of the sale." Id.

Sales of "food products for human consumption" are exempt from sales tax. G.L. c. 64H, § 6(h). The definition of "food products" does not include "meals." Id. "Meals" is defined in part as "any food or beverage, or both, prepared for human consumption and provided by a restaurant, where the food or beverage is intended for consumption on or off the premises." Id. "Restaurant" is defined as "any eating establishment where food, food products or beverages are provided and for which a charge is made, including but not limited to a ... private or social club ... catering business ... and any other place or establishment where food or beverages are provided. . . ." Id. The sales tax imposed on the sale of meals is based on the sales price of the meals. See G.L. c. 64H, §§ 1, 2, 6; 830 CMR 64H.6.5.(7).

1. Corporate Tent Fee

You request that the Department rule that the sales tax does not apply to the Corporate Tent Fee. You maintain that the Tent Fee is for admission to an athletic event including access to a corporate tent provided at that event, and that no part of the Corporate Tent Fee is payment for sales of food and beverages or other property or services subject to sales tax. You also request that the Department rule that the sales tax does apply to the Food and Beverage Fee. You maintain that this Fee is the sales price charged for meals sold by the Caterer to certain Corporate Tent purchasers and as such is subject to the sales tax on meals.

The Corporate Tent Fee is not subject to sales tax as it is an admission charge collected by a place of entertainment where food or beverages or both are sold; a ticket is sold and collected as evidence of the admission charge; the Corporate Tent purchaser is not required to purchase any food or beverages; and the Fee itself does not include any payment for food or beverages. See 830 CMR 64H.6.5(7)(d).^[5] The amount of the Food and Beverage Fee billed directly to certain Corporate Tent purchasers by the Caterer is subject to the sales tax on meals as the sales price of the meals sold

by the Caterer to such purchasers. [See 830 CMR 64H.6.5\(5\). \[6\]](#)

2. Corporate Table Fee

You request that the Department rule that the sales tax does not apply to the Corporate Table Fee. You maintain that the Table Fee is payment for admission to an athletic event including access to a reserved table in the Facility provided at that event, and that no part of the Corporate Table Fee is payment for sales of food and beverages or other property or services subject to sales tax. You also request that the Department rule that the sales tax does apply to the Refreshment Fee. You maintain that this Fee is the sales price charged for meals sold by the Caterer to certain Corporate Table purchasers and as such is subject to the sales tax on meals.

The Corporate Table Fee is not subject to sales tax as it is an admission charge collected by a place of entertainment where food or beverages or both are served; a ticket is sold and collected as evidence of the admission charge; the Corporate Table purchaser is not required to purchase any food or beverages; and the Corporate Table Fee itself does not include any payment for food or beverages. [See 830 CMR 64H.6.5\(7\)\(d\). \[7\]](#) The amount of the Refreshment Fee billed to certain Corporate Table purchasers by the Caterer is subject to the sales tax on meals as the sales price of the meals sold by the Caterer to such purchasers. [See 830 CMR 64H.6.5\(5\). \[8\]](#)

Very truly yours,

/s/Mitchell Adams

Mitchell Adams
Commissioner of Revenue

MA:HMP:kt

LR 98-7

[\[1\]](#) Tournament "practice rounds" will be held on days one through three of the Tournament, and "formal matches" will be held on days four through six; an "opening ceremony" will be held on day three and a "closing ceremony" on day six.

[\[2\]](#) The cost of the Corporate Tent Fee ranges from \$250,000 to \$500,000.

[\[3\]](#) The cost of the Corporate Table Fee is approximately \$44,000.

[\[4\]](#) The amount of the Refreshment Fee is \$6000.

[\[5\]](#) This ruling assumes that the Corporate Tent Fee will be segregated from other receipts in the books and records of the Company. *Id.*

[\[6\]](#) The Caterer will collect sales tax on the Food and Beverage Fee from the Corporate Tent purchaser.

[\[7\]](#) This ruling assumes that the Corporate Table Fee will be segregated from other receipts in the books and records of the Company. *Id.*

[\[8\]](#) The Caterer will collect sales tax on the Refreshment Fee directly from the Corporate Table purchaser.