



State of Alabama Department of Revenue

Montgomery, Alabama 36132

GEORGE E. MINGLEDORFF III
Assistant Commissioner

LEWIS A. EASTERLY
Secretary

GEORGE E. MINGLEDORFF III
Commissioner (Acting)

ALABAMA DEPARTMENT OF REVENUE REVENUE RULING 94-009

**This document may not be used or cited as precedent. Ala.
Code §40-2A-5(a) (1993 Replacement Volume).**

TO:

FROM: Commissioner of Revenue
Alabama Department of Revenue

DATE: January 20, 1995

RE: Revenue Ruling 94-009

ISSUES AND FACTS

An Alabama Taxpayer owns and operates a country club known as the "Club" for purposes of this revenue ruling, which is located in Alabama. The Club offers various amenities including an 18 hole golf course, tennis courts, swimming pool, overnight accommodations and a restaurant. Currently, members of the club pay an initiation fee and a varying amount of quarterly or monthly dues, depending upon their membership classification. Non-members are currently allowed access to the club facilities either as a guest of a club member or if they rent a villa owned by the club for at least one night. There is no requirement that the non-member be sponsored by or be the guest of a member in order to rent the villa.

In the request for a revenue ruling, it is stated that the "Club" intends to become an exclusively private country club. It is anticipated that the Club will take the necessary steps to become a private club and adopt specific guidelines allowing only guests of members access to the Club's facilities. This Revenue Ruling is issued and intended as binding only if the guidelines provided by the Taxpayer in its request for a revenue ruling are adopted. A copy of the Proposed Guest Access Guidelines is attached to this Revenue Ruling and incorporated herein.

The request for a revenue ruling involves the following questions:

1. Following implementation of the Guidelines, will the green fees, golf cart fees, and locker fees paid by the Club's members or their guests be exempted from the imposition of the amusement tax?

2. Following implementation of the Guidelines, will the Club's monthly dues be exempted from the imposition of the amusement tax?

3. Following implementation of the Guidelines, will the Club's initiation fees be exempted from the imposition of the amusement tax?

LAW AND ANALYSIS

Assuming that the Club does become an exclusively private country club and that it adopts the proposed Guest Access Guidelines, none of the activities in the three questions would be subject to the amusement tax under §40-23-2(2), Code of Alabama 1975. Sales & Use Tax Rule 810-6-1-.125.01 provides in subparagraph (1) that certain activities will not cause a private golf course to be reclassified as a public golf course. The four circumstances listed in the first paragraph of the proposed Guest Access Guidelines falls squarely within those activities set forth in the sales & use tax rule which would not make a private golf course subject to the amusement tax.

Furthermore, the Alabama Department of Revenue will not consider the Club to be open to the public so long as the conditions set forth in the Guidelines, which qualify someone as a guest of a member, are strictly adhered to by the Club. However, if any of the conditions set forth in the Guest Access Guidelines are not strictly followed, the Department of Revenue may treat all gross receipts received by the Club from all sources as subject to the amusement tax.

HOLDING

The Club will not be subject to the amusement tax found in §40-23-2(2) so long as the attached Guest Access Guidelines are strictly followed by the Club. Accordingly, green fees, golf cart fees, and locker fees paid by the Club's members, or their guests, would be exempt from the amusement tax. Likewise, the Club monthly dues and initiation fees would also be exempt from the imposition of the amusement tax.


RALPH P. EAGERTON, JR.

PROPOSED GUEST ACCESS GUIDELINES

Club is a private country club which is operated exclusively for the benefit of its members. Benefits provided by the club are extended to guests of its members and to certain other non-members only in the following circumstances:

- 1) reciprocal play agreements with other golf courses that are also not open to the public;
- 2) hosting a tournament in compliance with the provisions of Section 40-23(a)(39) *Code of Alabama*, as amended from time to time;
- 3) periodically holding invitational or charitable tournaments; or
- 4) access as a guest of a member according to the guidelines below.

Guests of members are allowed access to the golf course whether or not they play with a member. To qualify as a guest of a member, however, a club official must receive confirmation, written or oral, from a club member that he will sponsor the guest before any club facilities are used, except as provided below. Club officials can allow guests access to club facilities prior to receiving the required confirmation, but only if:

- 1) Prior to using the club facilities the guest provides the club official with the name of an active club member who the guest states has agreed to sponsor the guest;
- 2) In the club official's judgment, based on his/her personal knowledge of the guest and member, the club member will sponsor the guest; and
- 3) Confirmation is received from the club member if the club official deems necessary.