

BEFORE THE INTERPRETATION AND APPEALS DIVISION
DEPARTMENT OF REVENUE
STATE OF WASHINGTON

In the Matter of the Petition) D E T E R M I N A T I O N
For Correction of Assessments of)
) No. 89-426

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. . . ) Registration No. . . .
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[1] RULE 114: SALES TAX -- MEMBERSHIP FEES --
OPPORTUNITY TO PURCHASE GOODS AND SERVICES. A
membership fee which merely entitles a member to
purchase certain goods and services is not itself
subject to sales tax. Such a fee does not meet the
statutory definition of a sale at retail.

Headnotes are provided as a convenience for the reader and are not in any way a part of the decision or in any way to be used in construing or interpreting this Determination.

TAXPAYER REPRESENTED BY: . . .
. . .

DATE OF HEARING: June 8, 1988

NATURE OF ACTION:

The taxpayer petitioned for correction of those portions of two assessments which reclassified club membership income from the Service classification of the business and occupation tax to the Retailing classification and made such income subject to sales tax.

FACTS AND ISSUES:

Potegal, A.L.J. -- The taxpayer sells memberships which entitle buyers to purchase merchandise through the club. When buying merchandise, members pay the taxpayer the full price charged to the taxpayer by the independent manufacturer plus

all freight and handling charges. The taxpayer reports these purchases as retail sales and collects sales tax on the total amount charged. In addition to the opportunity to buy goods at low prices, members may examine catalogs at the club showroom, use price lists obtained by the club for comparison shopping and to help in negotiating purchases outside of the club, and obtain discounted services from other club members.

The taxpayer does not dispute that the membership income is subject to tax as business income. It contends, however, that the sale of memberships does not meet the definition of a sale at retail. Therefore, membership income should not be subject to sales tax.

DISCUSSION:

We think the taxpayer is correct. The members are purchasing access to goods and services and not the goods and services themselves. When members do actually purchase goods and services which are retail sales, the taxpayer collects and remits the appropriate amount of sales tax.

[1] RCW 82.04.040 defines a sale as the transfer of ownership, title, or possession of property for a valuable consideration or as any activity classified as a retail sale under RCW 82.04.050. RCW 82.04.050 defines a retail sale as every sale of tangible personal property or the sale of or charge for a variety of specified services. None of the defined services include the mere opportunity to buy goods or services for a consideration to be paid at the time the goods are transferred or services are rendered.

DECISION AND DISPOSITION:

The taxpayer's petition is granted. The assessments will be amended to reclassify membership income as subject to Service business and occupation tax and not subject to Retailing business and occupation tax and sales tax.

DATED this 15th day of August 1989.