

550.0340

Memorandum

To: Mr. H. A. Dickson

Date: November 27, 1962

From: Headquarters – Tax Counsel (JHK)

Subject: Taxability of Receipts from Sales of Dinner Club Memberships

In researching this matter, I found that Mr. Stetson had written several letters recently on similar situations. However, in none of these did the promoter turn over part of the receipts of sales of the memberships to the restaurant owner. Therefore, I waited until Mr. Stetson returned before writing you.

In the instant case, the membership entitles the member to a free meal at the given restaurant provided he purchases a meal of equal or greater value. The membership sells for \$12.00 and is good for one year. The promoter keeps \$10.00 and turns \$2.00 over to the restaurant owner. It is our opinion that the \$10.00 kept by the promoter is not subject to tax, but that the \$2.00 paid the restaurant owner is a part of his gross receipts. Also amounts collected for the sale of the one meal at the restaurant are taxable.

If a restaurant charges tax on the price of the free meal, it of course, must pay such excessive reimbursement over to the state under the provisions of §6054.5. Apparently, it is the practice in some cases for the restaurant to charge tax on both meals. This is probably done through ignorance, and if the restaurant is made aware that it must pay this excessive reimbursement over to the state, this practice will probably stop.

JHK:cw

cc: Marysville - Auditing