

# IRS, NGCOA

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issued in 1955, states that "expenditures incurred by a taxpayer in the original construction of greens on a golf course constitute capital expenditures to be added to the original cost of the land and are not subject to an allowance for depreciation."

The IRS has consistently been guided by this ruling when auditing golf course owners.

"Nobody there [at the IRS] really had a clear perspective on the evolution and complexity of today's golf courses," said Bill Ellis, a partner with KPMG and the firm's national director of tax services for the golf industry.

The NGCOA enlisted KPMG's assistance in the negotiations to help fashion a professional and comprehensive response to any issues arising from the discussion. In spearheading the NCGOA's effort, Ellis set out to convince IRS officials that golf course maintenance is more than general landscaping. It also involves construction, earthmoving, irrigation and other major renovations and improvements. Those things do depreciate in value, Ellis maintained.

"The only way the golf industry was going to have any reasonable chance of truly presenting their case and making a significant impact on the IRS would be to do it in an organized manner and on a paid basis," Ellis explained. "The issue

was too important, too difficult and too complex to be handled on a pro bono or volunteer basis. If you wanted to have a chance at this you had to do it right."

The IRS was more than willing to cooperate with KPMG and the NGCOA, when one of its employees pointed out that the proposed Audit Techniques Guide (ATG) was based on this 1955 ruling. The guide was meant as a new effort to provide uniform treatment of golf course tax audits. The IRS itself first proposed the meeting, to give the course owners a chance to present their case.

### OWNERS' ARGUMENT

The meeting took place here recently between members of the NGCOA, KPMG and the IRS. "We committed to doing a first-class educational, non-confrontational presentation of the industry," Ellis said.

Fourteen high-level employees of the IRS attended, including officials who would be directly involved, from the offices of chief counsel, the market segment specialization program, district counsel, appeals, revenue agents, and Office of the Taxpayer Advocate and Passthroughs.

Three golf industry experts - Larry Hirsch, Michael Hurdzan and Jim Moore - explained different aspects of the NGCOA's position.

"Golf Courses have a very intricate sub-surface construction system," said Hirsch, of Pennsylvania-based Golf Property Analysts. An expert on golf course real es-

tate, he detailed many of the complexities involved in the modern golf course.

"There's a very complex make-up of what is underneath the ground," Hirsch said. "There's drainage and soil content. The bunkers wear out, the tees need to be leveled, the grass needs to be replaced. The bottom line is that not allowing depreciation on that is an unfair advantage for other types of real estate."

Hurdzan, of Hurdzan-Fry in Columbus, Ohio, a noted architect and historian of golf course construction, described the evolution and background of this industry. Hurdzan pointed out the changes that have taken place in golf course construction and maintenance since the 1950s. Most notably, he said, course irrigation systems did not exist prior to 1959. He argued that the golf course has become an entire drainage system composed of different levels from the soil to sand and drainage pipes, down to the irrigation system itself.

Jim Moore, director of the Green Section for the United States Golf Association, in Waco, Texas, focused his presentation on the wear, tear and obsolescence of golf courses. He explained that if the irrigation system needs to be replaced, the greens also need to be dug up and replaced.

Moore described how changes in the

game of golf influence course architecture, requiring reconstruction of the greens. The layer of gravel underneath the green is often composed of limestone, which can break down due to mechanical pressure or natural chemical forces, he said, causing a decline in the amount of water being transported to the drainage lines.

Moore's presentation went on to describe root-zone damage. For example, he discussed the damaging effect of mowing on root systems. The clippings left behind accumulate in the upper layer of the root zone, causing deterioration of growing conditions.

Turfgrass, Moore contended, is often overlooked for its decline in value. Contamination, segregation and mutation are all reasons for the depreciation of turfgrass. Moore provided in-depth analysis of the ways in which greens, tees, bunkers and fairways depreciate.

Michael Hughes, executive director of the NGCOA, described the meeting as extremely productive. "I think they [the IRS] approached it with an open mind," he said. "We provided them with some really useful information."

The IRS, Ellis said, will not issue the ATG based on the outdated information from 1955. He is hopeful that the course owners may even be able to obtain revocation of Revenue Ruling 55-290. ▽



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