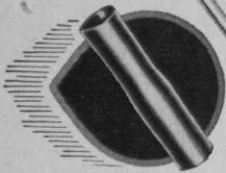


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Golf Law of 1940

Because of the many interesting legal angles discussed by Charles W. Littlefield, general counsel of the USGA, in his report at the recent annual meeting of the association, it is reprinted here in full.

DURING the year 1940 there have been the usual inquiries with reference to the application of Internal Revenue Laws to various charges made by golf clubs and a very good case on this question was decided May 21, 1940 by the United States District Court, Northern District of Illinois, *Exmoor Country Club v. U. S.*, reported in C. C. H. for 1940, Vol. 4, at par. 9491. As in the previous two years, however, the most frequent question which has arisen has been with reference to the application of the Social Security Act and various Unemployment Insurance Laws to the employment of caddies.

The case of *North Shore Golf Club, Lakeville Club and St. Andrew's Club*, mentioned in the last report as then on appeal to the Appellate Division, was decided by the Appellate Division, and the decision of the Unemployment Insurance Appeal Board of New York was upheld.

The situation, however, has been definitely settled in New York by an amendment to the statute referred to in the last report, and under the present law, effective as of March 21, 1940, employment as a caddie in New York is exempt from the application of the Unemployment Insurance Law.

Since the Unemployment Insurance Laws became effective in the various States, the question as to their application to caddies has arisen and rulings have been made in twelve different States, seven of which have been referred to in previous reports. Additional rulings have been made as follows:

Alabama—Exempts caddies as it exempts any employment excluded from the Federal Unemployment tax.

District of Columbia—Holds that clubs are not employers of caddies who are paid by patrons and perform their services under the direction and control of patrons.

Georgia—If the club regulates the services of the caddies and provides for their constant presence subject to call, having the terms and conditions of service fixed

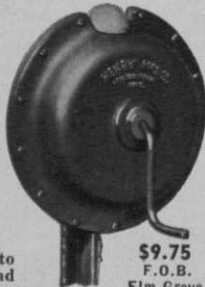
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by the club or management, and especially if the individuals are expected to render any service to the club or management, they would be employees of the club. Georgia does, however, recognize that there may be borderline cases and reserves the right to decide each case upon the facts presented.

South Carolina—Where caddies have no hours and the fee in each case is paid by the golfer and the club pays nothing to the caddies, the club is not liable for contributions on wages received by the caddies. However, caddies may be employees of the club to be counted in determining whether or not such employing unit has eight or more individuals under employment.

Wyoming—Caddies are not employees of the club where their remuneration is received directly from the playing members.

Exempt Caddies from Tax

It will be observed that this question is still open in most of the States and rulings up to date have not been in any sense uniform. It is quite apparent from the decisions that the safest method from the standpoint of golf clubs is to have legislatures exempt caddies from the application of the Act.

Another interesting question which has arisen during the year 1940 is with reference to Sec. 609 of the 1932 Revenue Act, which provides for an excise tax on sporting goods, etc. In one case, *The Chicago Flag & Decorating Co. v. U. S.*, reported in C. C. H. 1940, Vol. 4, at par. 9416, decided April 18, 1940 (U. S. District Court, Northern District of Illinois) opinion by Judge Holly, it was held that a golf flag was neither a game nor a part of a game and that it is neither commonly nor commercially known as sporting goods, and that plaintiff was entitled to recover taxes and penalties paid on the sale of golf flags.

On the other hand, the United States Circuit Court of Appeals for the Third Circuit, Judge Biggs writing the opinion, in the case of *Darby & Son, Inc. v. Rothensties, Collector*, reported in C. C. H. 1940, Vol. 4, at par. 9815, construing the same Act, holds that the phrase "games and parts of games" is itself a kind of catch-all or basket clause intended to bring within the purview of the taxing act all articles designed or intended for games whether included in the thirteen categories mentioned in the statute or not.

So it appears that there have been two

directly opposite holdings during this year on the construction of the aforesaid section. I might say that Section 609, providing for a tax on sporting goods, under the Act of 1932, has been repealed and does not apply to any sales made after 1938. However, the question may well come up with reference to sales made prior to that time.

There has been little so-called golf law or law having reference to happenings on golf courses during the past year. However, a judge in Omaha, Neb., decided that where a player stepped in a gopher hole just after making an approach shot and suffered an injury to his spine, the club was not in any way responsible.

Midwest GA Plans

Turf Meet at U. of C.

MIDWEST GREENKEEPERS' ASSN. held a spirited and well attended annual meeting Jan. 6 at the Hotel Sherman, Chicago, to elect 1941 officers and discuss plans for attending the GSA show in Detroit.

Graham Gardiner (Park Ridge CC) was re-elected to the presidency as a token of the grand job he did in that office during 1940. Other officers are: John Darrah (Beverly CC), vice-pres.; Andy Gillett (Forest Hills, Rockford), 2nd vice-pres.; Bill Stuppel (Exmoor), sec'y-treas.; directors: Al Purvey (McHenry CC), Harold Clemens (Sunset Ridge), Ray Didier (Tam O'Shanter), Fred Ingwerson (Shore Acres) and John Boettger (Olympia Fields).

At the dinner preceding the meeting, no program was planned, but the MGA men found plenty to talk about. In addition to comparing notes on the season just past, major subjects for informal discussions included winter sports maintenance problems and forecasts on the effect the National Defense program will have on course labor payrolls and maintenance supply costs.

Considerable discussion took place regarding the greenkeepers short course conference the Midwest group, in cooperation with the Wisconsin greenkeepers, is sponsoring at the University of Chicago, February 27-March 1.

Dr. E. J. Kraus of the U. of Chicago is general chairman of the conference. Speakers at the educational sessions will include Dr. John Monteith, USGA Green Section; H. B. Musser, Penn State College; James G. Moore, U. of Wisconsin;

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