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No Service Charge Tax
if Minimum Spending
Isn't Required by Club

In a ruling made about a year ago covering the touchy excise tax-service charge issue, the Internal Revenue Service conceded that the dues tax imposed by section 4241 (a)(1) of the IRS Code does not apply to service charges for food and drink when a club doesn't require that a fixed sum must be spent by a member in the restaurant and bar.

The Midwestern club that made the request for the ruling was one of several involved in another tax case (Golfdom, Oct., 1962, p. 25) in which the IRS made an administrative settlement outside of court where a required purchase in contrast to a required contribution was being tested.

In the present case, the club submitted a variable monthly charge schedule to the revenue service and asked that it be declared not subject to a 20 per cent excise tax because of its non-compulsory nature.

The service charge schedule follows:

\$20 added to the restaurant-bar expenditure by a member if the monthly sum spent by him is less than \$10;

\$16 added for less than \$20 expenditure;

\$12 added for less than \$30 expenditure;

\$8 added for less than \$40 expenditure;

\$4 added for less than \$50 expenditure;

5 deducted from expenditures over \$75;

\$10 deducted from expenditures over \$100.

Cites Fixed Charges

In making its plea for tax relief in this case, the club pointed out that the operation of its restaurant and bar poses problems different from those of comparable public establishments. Its patronage, it said, is restricted to members and their guests, and use of the dining and drinking facilities is dictated largely by the availability of golf and swimming facilities. There are certain fixed charges such as for the salaried staff, fringe costs, depreciation, property tax, heat, etc. that continue, the club pointed out, regardless of the volume realized from the restaurant-bar operation.

Effective financial operations of the taxpayer and simple good business practice, the club further contended, make it



General Manager Martin Berry (center) and the Westchester CC did such fine jobs in playing hosts to the Metropolitan PGA tournament last fall that Mike Turnesa (r), tourney chairman, and Jack Mallon, pres. of the section, showed their appreciation by presenting a plaque to the club. Dave Marr beat Doug Ford in a playoff to win the Met title.

necessary that the cost of fixed charges be met out of what remains from operating revenue after the purchase of food, liquor, linens and miscellaneous items plus the cost of extra help is deducted. The proposed service charge, the club said, is devised to recover necessary fixed costs and serve as an inducement for a member to increase his patronage of club facilities. As an example, it was pointed out that if a member had spent \$10 in any given month he might as well spend up to another \$10 to take advantage of a \$4 reduction in his service charge.

IRS Explains Waiver

In waiving a claim to excise tax on the service charge, the Internal Revenue Service said that the total amount paid by a member of the club in question for food and drink would not be a required minimum expenditure for such items; nor would it be required as a condition of membership. However, the IRS reiterated, as it has so many times, that the tax applies to any amount required to be paid where the member's purchases of food or drink are less than certain designated amounts.

Precedence for the latter stipulation was made clear in 1958 when IRS ruled that minimum charges to members of Congressional CC in Washington had to be kept on a voluntary basis if they were to be excise tax free.

After the government had ruled favorably, the district association to which the

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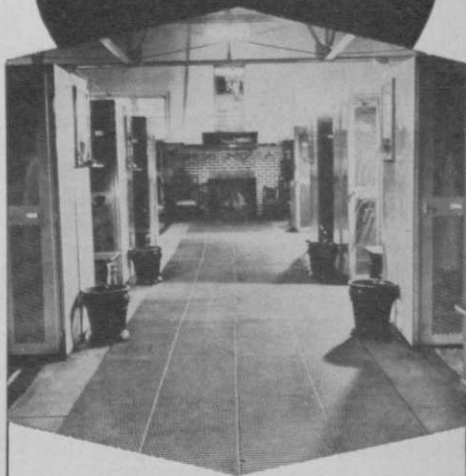
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BTH/451C

above club belongs, drew up two suggested schedules for determining variable monthly service charges. Here is a summary of them:

Schedule I — Determine the break-even level, variable profit margin and constant cost level by one of these three methods:

(a) Comparison with previous years . . . Measure increase in cost dollars and per cent of sales dollars. Eliminate known price increase factors. Use such an indication of variable nature to restate the prior years' operations, applying the variable rate to volume determining variable costs. Deduct from total to derive the constant.

(b) Selective cost method . . . Visually scan three or four years of comparative figures (ratios can be used). Select a reasonable constant level in each cost item or, if it can be done, on total expense. The remaining portion of the operating expense constitutes the variable element.

(c) Comprehensive cost analysis . . . This isn't recommended because of its complexity. It involves an item by item study as to variable, constant character.

Schedule II — Determine necessary sales to the member by the month.

(a) Show constant cost, divided by number of members. Divide this by number of months of operation. This is the amount required each month from each member to cover the constant cost of operation.

(b) Determine the amount of profit contribution required from the operation after operation costs are met.

(c) Using your own variable rate, multiply the necessary monthly sales level by your variable rate. This is the service charge for the lowest level of use.

(d) Determine the steps brackets — \$5 or \$10 a step.

(e) Decrease each subsequent bracket by the amount of the step times the variable rate.

Reduce Playing Time In Walker Cup Matches

When U.S. and British Walker Cup teams meet May 24-25 at Turnberry in Scotland, matches will be played at 18 rather than the traditional 36 holes. The USGA and Royal and Ancient recently agreed on the reduction in playing time. The U.S. team for the 1963 matches will be announced at the USGA's annual meeting in New York this month.