by Ken Emerson

ACCENT ON MANAGEMENT

Tax Reform adds to budgeting woes

One of the fringe benefits of putting my vacation on wheels and driving cross-country to "there" and "back" is the unique opportunity to make leisurely visits with club managers and to see some of the finer golf clubs in this country.

This year "there" was Denver, Colo. "Back" was, of course, Washington, D.C. Clubs in between were Columbus, Cincinnati, Dayton, St. Louis, Kansas City, Denver, Omaha and Des Moines.

Conversations were varied. Managers between Washington and Kansas City were worried about the lack of rain—which came in quantities while we visited them. Denver and Omaha managers were concerned about the heat and its effect on the grass. But whatever the section of the country, one question was uppermost in the minds of every club executive: "What effect will the Tax Reform Act have on my club's financial future?"

The answer, as readers of this column know, is that clubs, whether or not they are non-profit, must now begin to pay taxes on all their outside income.

Unfortunately, even though many clubs have already been operating under this law for eight months, the Internal Revenue Service has still to provide the industry with any solid answers to the important questions of what is outside income and what is exempt from tax.

On the question of outside income, the matter of greatest concern today is whether IRS will consider payments made on a member's account by corporation check as "unrelated to the exempt purpose of the club" and so subject to the tax. Because no ruling has yet been handed down, it is not yet possible to provide a definite answer to this question. But it was very evident in my talks with club executives that more and more clubs are requiring all member accounts to be paid by personal check.

These actions are being taken on the basis of IRS rulings and statements that, while not bearing on the immediate question, do have a clear relationship.

There are, basically, two types of reimbursements. The first occurs when a guest reimburses a member. The second is when the member is reimbursed by a third party, such as an employer.

The first situation is exemplified by the typical membership sponsored party where the member may not even know the name of his guest. The IRS has usually viewed this as "outside income."

The second includes both the situation in which the employer pays the members' own charges, such as dues, as well as the one in which the employer is reimbursed for charges to guests at a business lunch. The IRS has frequently taken the position that this is nonmember business as well. It seems far easier for them to avoid the guest issue and hold simply that the funds were not paid by a member and thus are not deductable.

Because it is axiomatic in tax law that the burden is on the taxpayer to prove his deductions, many clubs today are seeking to avoid the possibility of future litigation by insisting that their members pay charges by personal check.

Just as the lack of guidelines poses real problems to clubs planning next year's budgets, so will the new requirements on record

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keeping. It is now apparent that each club which accepts an "outside" party will have to keep a separate set of books detailing that income and the expenses directly connected with it.

With all the problems the Tax Reform Act raises for the nonprofit club, many are now questioning the advisability of relinquishing their exemptions from income tax and operating as regular business enterprises. Those clubs considering such a move would be well advised to review the position with care.

Many private clubs cooperate in this manner with great success. This is certainly true of those clubs which are not trying to circumvent the law and are in fact private clubs. The guidelines establishing a club's privacy are pretty well defined, as far as the tax laws are concerned, by IRS regulations and rulings. More recently two Federal courts have laid down additional criteria. One such decision, handed down last January, sets forth some 18 points by which a club can establish its privacy.

The most important of these were the factors which determined whether the club's membership was genuinely selective on some reasonable basis.

Other categories included the question of who controls the operation of the club, the manner in which the membership corporation was created, the purpose of the club, the formalities of the club's organization and whether a club possesses the characteristics of a typical private club.

Another, more recent decision, has added a new factor: whether a club is non-profit. Although this particular question was posed in relation to guest privileges at a Texas hotel private club, it does raise some concern as to its effect on other clubs, a fact which many clubs may want to consider before relinquishing their own non-profit exemptions.

Copies of both of these decisions are available from National Club Assn., 1522 K Street N.W., Washington, D.C. 20005. □