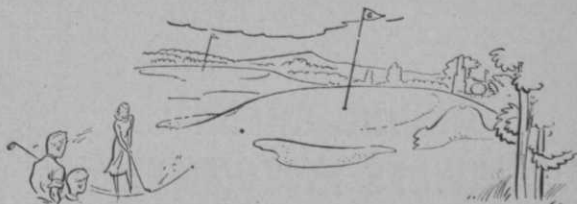
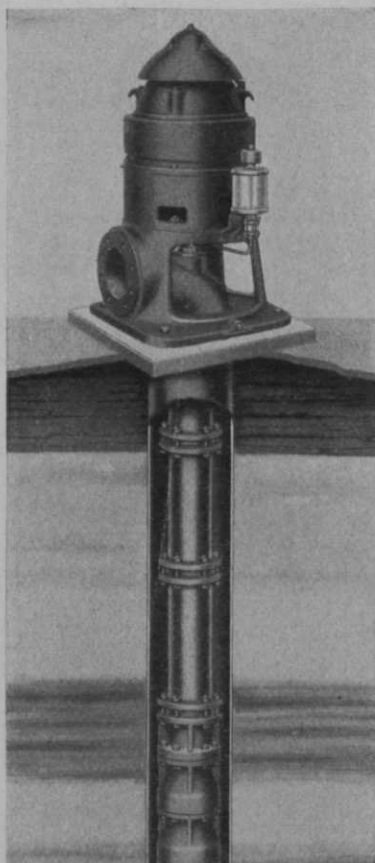


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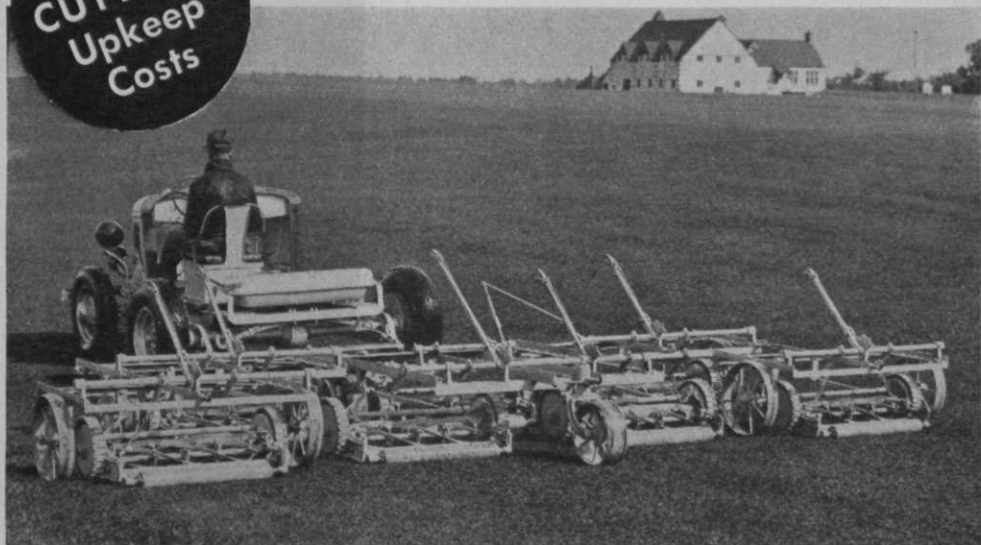
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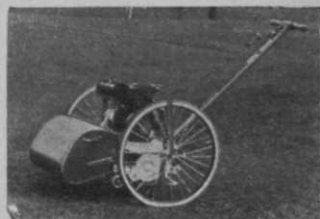


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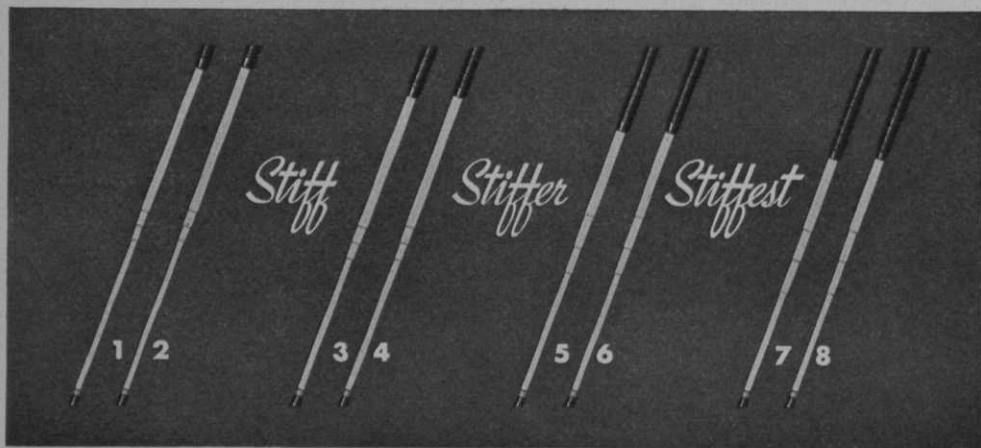
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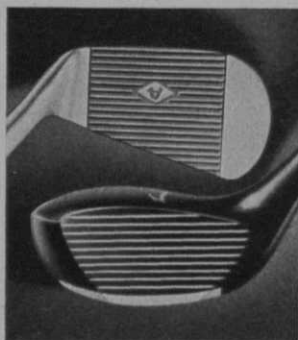
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HOW THE SOCIAL SECURITY TAXES AFFECT CLUBS

By G. O. PODD*

Horwath & Horwath

NOW that many of the forms to be filled out in connection with the Federal Social Security Act have been issued, now that the taxes it imposes have been stated and dates for filing have been set, there is a certain amount of confusion among those who have not been able to analyze the requirements for themselves. Much material has been issued concerning this Act, many speeches made and—what is probably harmful to the lay mind—discussions galore have been and are being entered into by people only partly conversant with the Act. The result is that there are many misconceptions; and, no doubt, many mistakes will be made in filling out forms and in computing and paying taxes.

For this reason it will be beneficial at this time to review the tax sections of the Act, which are the sections of immediate interest to club managers, and to business men in general. I shall merely mention that there are many other features in the eleven titles of the Act regarding benefits and grants to the states, but these have no direct bearing on social security taxes and must not be confused with the tax sections.

A summary of the tax features as they affect clubs, hotels and restaurants, ap-

pears with this article. In looking over this summary, you will note that there are two distinct types of tax: first, the Federal Retirement Tax, and second, the Federal Unemployment Tax. Although they are both computed from the payroll, the basis of tax is not the same and they are to be used for different purposes. Much trouble comes from confusing the requirements of one tax with those of the other. The summary has a column for each tax and tells briefly who is taxable, the basis of tax, the rates of tax payable by employers and employees, and the returns which must be filed.

The Social Security Act became law on August 14, 1935. It provides—among other things that do not directly concern club managers—a retirement benefit or pension for the wage earner when he reaches the age of 65, and it provides for unemployment insurance. Since benefits under the unemployment insurance section are to be administered by the states and not by the federal government, the various states were expected to pass—and to

*Club Managers Association Address

**SUMMARY OF THE PRINCIPAL PROVISIONS OF SOCIAL SECURITY LAWS
AFFECTING HOTEL, CLUB AND RESTAURANT EMPLOYERS**
(Prepared by Horwath & Horwath)

	Federal Retirement Tax	Federal Unemployment Tax	Data on Valuation of Rooms, Meals and Tips
Employers subject to tax or contribution	Every employer	Employers who have eight or more employees on each of some twenty days during the year, each day being in a different calendar week.	
Basis of tax or contribution	Total wages, including the reasonable value of lodging and meals furnished by the employer to his employees, except: (1) Wages of employees over age 65 (2) Wages of any employee over \$3,000.00 a year payable by one employer (Tips are not included in wages)	Total wages, including the reasonable value of lodging and meals furnished by the employer to his employees, except wages paid by an individual employer to his spouse, parent, or child under age 21. (Tips are not included in wages)	The valuation prescribed by the various states authorities will be accepted as a basis of the Federal Tax. As a suggestion for those states which have no Unemployment Insurance laws, the following is the valuation of rooms and meals as determined by the State of New York: Meals—25c a meal Lodging—\$2.50 a week or 40c per day
Rates of tax or contribution payable by employers	1937, 1938, 1939.....1.0% of wages 1940, 1941, 1942.....1.5% of wages 1943, 1944, 1945.....2.0% of wages 1946, 1947, 1948.....2.5% of wages 1949 and after.....3.0% of wages	19361% of wages 19372% of wages 1938 and after.....3% of wages Deductible from this tax as credit; contribution to State Unemployment Fund, up to 90% of this Federal Tax, provided contribution is paid before filing Federal return.	The State of New York made the following ruling on determining the amount of tips: (a) If the average check is less than 50 cents, the tips should amount to five cents per check. (b) If the average check is more than 50 cents and not more than \$1.00, the tips should be 7.5 cents for each check. (c) If the average check is more than \$1.00, the tips should be estimated at 10 per cent of the sales.
Rates of tax or contribution payable by employees. (Must be deducted from each wage payment)	1937, 1938, 1939.....1.0% of wages 1940, 1941, 1942.....1.5% of wages 1943, 1944, 1945.....2.0% of wages 1946, 1947, 1948.....2.5% of wages 1949 and after.....3.0% of wages	NONE	
Tax returns and payment of taxes or contributions	Return due monthly (Form SS-1) on or before the last day of month following the one for which return is made. First return due on or before February 28, 1937. Both employer's and employees' taxes must be paid when return is filed.	Return (Form 940) for each year due on or before January 31 of next year. First return for 1936 due on or before January 31, 1937. Tax payable with return or in four quarterly installments: (1) with return, (2) April 30, (3) July 31, (4) October 31.	
Information returns	Initial information return for the first six months of 1937 due on or before July 31, 1937. Thereafter quarterly information returns will be due for each quarter ending September 30, December 31, March 31, June 30, on or before the last day of the month following the quarter for which return is made. Special returns must be filed for employees who die or reach age of 65, within 15 days after death or 65th birthday.	NONE	

date a majority of them have passed—similar legislation imposing a tax.

We advise you to obtain copies of both federal and state acts and of Treasury department regulations 90 and 91, which deal with these taxes and interpretations of the tax department.

Federal Old Age Benefit

The benefits of the federal old age retirement plan are listed under Title II; and Title VIII describes the taxes in connection therewith.

Basis of Tax—Under this section there is to be an excise tax paid by the employer and an income tax paid by the employee. The employee's income tax will be deducted from his wages every pay day and will be collected by the employer. Both taxes are based on payrolls including not only the cash wages but also the reasonable cash value of all remuneration paid in any other medium than cash, which in your case means room and board.

There has been no federal ruling on the valuation of room and meals; but it is indicated that the government will accept the valuation placed by the respective states for the purpose of their state unemployment taxes. The state of New York passed on a valuation of 25 cents a meal and \$2.50 a week for rooms. Similar values were adopted in the District of Columbia and in Pennsylvania.

Tips are not to be included as taxable wages in hotels, since such transactions are direct between the guests and the employees and do not in any way come under the control of the management, nor can they be accounted for. In clubs, however, where a service fee is added to members' checks in place of the tip, the transaction becomes a part of the accounts of the club and the amount is definitely set by club policy. The service fees, though paid to waiters in lieu of tips, are taxable wages. This matter has not, to my knowledge, been the subject of a ruling as yet; this interpretation is my own based upon the ruling on tips.

Clubs Subject to Tax—For Federal Retirement Taxes, any one employing one or more persons at any time during the calendar year is subject to the excise tax and must deduct the income tax from the wage of the employee.

Insofar as clubs are concerned, the only compensations not included in the total wages on which taxes are based are wages paid to persons over 65 years of age and

wages in excess of \$3,000 paid to any one person in any calendar year.

There is no such thing as casual labor for a corporation, according to the ruling, and since casual labor is defined as labor "not in the regular course of business," I presume that this same ruling applies to clubs.

The tax must be based upon the first \$3,000 received by any one employee in any year and cannot be prorated over the year. For instance if a person is paid \$6,000 a year the tax will be applied only on the wages of the first six months and the payments for the last six months will be exempt from tax.

A ruling on caddies is of interest to club managers. There will be no tax where the caddies are not paid a salary but receive their compensation either directly from the members or indirectly from them through the club which acts as the agent of the player in making the payment and charging the player's account.

Rates of Tax—The same tax rate applies for the excise tax on employers and the income tax on employees, based on total taxable wages, as follows:

Years 1937, 1938 and 1939.....	1.0%
1940, 1941 and 1942.....	1.5
1943, 1944 and 1945.....	2.0
1946, 1947 and 1948.....	2.5
1949 and thereafter.....	3.0

You will note that these taxes start January 1, 1937. On each pay day the employer is also required to give a notation in writing to the employee of the amount of tax deducted from his wages. This may be done by means of an endorsement on the pay-check or by a special slip or stub bearing the notation. No special form is required.

A recent ruling also states that if the employer elects to pay the employee's tax without deducting it from the wages earned, this tax payment will not be considered as taxable wages.

Forms Required—The government has already issued forms numbered from SS-1 to SS-5.

Each employer must file Form SS-4, which is the application for an identification number for the employer. This application is to be filed with the Social Security Board in Washington, or with the field office of the board in your local area.

Each employee must file Form SS-5, which is the application for an account number. This form can be filed directly

by the employee, or through his employer, or through the local labor organization of which he is a member. These forms are to be filed with the local postmaster up to March 31, 1937, and with the Social Security Board thereafter.

Form SS-1 is for the monthly statement of taxable payroll and the computation of tax, and is to be filed monthly on the last day of the month following the month reported on. Taxes are payable at the time the return is filed, the first taxes being payable February 28, 1937.

Form SS-2 is an information return which will have to be filed quarterly. The first return, however, is an exception; for it is due in July, 1937, and covers the first six months of 1937. This form must be accompanied by Forms SS-2a, which are information returns on the individuals on your payroll during these same periods.

Extra employees used for banquets, etc., must be reported on in the same manner as regular employees; and, therefore, it is necessary to have account numbers and detailed information on them too, whether they work one hour or a year.

Incidentally, since the excise tax becomes an operating expense it must be included in all budgets, starting this year.

Form SS-3 is to be filled out and filed with the Social Security Board 15 days after an employee dies or reaches the age of 65.

Payroll Forms—We must have payroll forms designed in such a manner that the information for computing the tax is easily discernible, which means that we must have columns for the value of room and meals, for service fees, for tax deductions and for the amounts of taxable and of exempt wages.

Because the government asks for figures accumulated on each individual, we also suggest a form on which essential data can be posted for each employee including his number, name, position, wages earned, value of room and meals, service fees, tax deductions, etc. This form can be combined with a "rate card" which can be used by your accounting department as authority for putting the employee on the payroll and for any changes in wage rate or position.

Unemployment Insurance

Title IX of the Act describes the tax on employers of eight or more persons, commonly called the Unemployment Insurance tax. Again may I stress that you must

not confuse this tax and its requirements with the Retirement Benefits tax.

Clubs Subject to Tax—This is an excise tax on employers of eight or more persons on at least one day of each of 20 weeks during the calendar year. Seasonal clubs having eight or more employees for less than 20 weeks are not subject to this tax. Organizations operated exclusively for religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty to children or animals, are exempt from Social Security taxes.

Basis of Tax—The tax is again based on total wages earned, which includes cash wages plus the reasonable cash value of remuneration paid in other than cash, such as room and board.

There are no exclusions from wages that are of interest to clubs. If a manager has a contract to operate a catering department or other departments on a concession basis, he is acting as a contractor; and then he, and not the club, becomes responsible for taxes on payrolls in the department he so operates.

Along this line, it is wise in all contracts with concessionaires to specify that the contractor agrees to be responsible for and to pay social security taxes. The definition of an employer states that he must be able not only to hire and fire, and to direct what is to be done but must also be able to specify "how" it is to be done. Thus, we have a ruling on hotel orchestras: where the payment is made to the leader and he in turn pays his band, he is considered the employer. This same ruling applies to clubs.

Rates of Tax—The rates of the Federal Unemployment tax are 1% in 1936, 2% in 1937, 3% in 1938 and thereafter. This tax is payable by the employer without any contribution from the employee.

A provision in the Act states that if taxes are paid to the state on the basis of legislation approved by the Federal Social Security Board, the state tax is to be deducted from the federal unemployment insurance tax up to 90 per cent of the federal tax. In order to obtain this credit, the contribution to the state fund must be actually paid before the federal return is filed. It was because of this provision and because many states have imposed taxes on 1936 payrolls without establishing the means of collecting them, that the general order was issued postponing the

(Please turn to page 79)