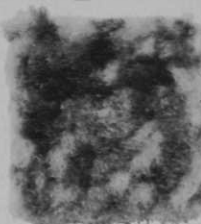


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# HOW THE GOVERNMENT CAN UPSET

By **KEN EMERSON**

Trying to second-guess the Government will add to the frustrations of budget preparation this year. The impending Federal Minimum Wage and Tax Reform bills and increased state taxes could markedly affect clubs: finances. But intelligent predictions of the outcome are almost impossible



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# YOUR PLANS

**T**he club industry will probably remember 1970 as "the year of the budget."

Never before have clubs been more aware of the need for serious budget planning. Never before has it been so difficult to make the kinds of intelligent predictions that are imperative to accurate forecasting.

In many cases the economic waters are being muddied by dramatic changes within the business environment of the clubs and the club memberships. However, with increasing frequency pending governmental activities in both Federal and state legislatures make it difficult to anticipate many of the factors likely to affect a club's budget.

The two areas most likely to be influenced by future legislative action are payroll costs and taxes. While it is entirely possible that more light may have been shed on some parts of the tax picture—principally those affected by the Federal Tax Reform bill—by the time this is read it is highly unlikely that state taxes and payroll costs will be similarly illuminated before mid-1970.

The reason for both uncertainties is essentially the same. Action on state taxes will not take place before the various state legislatures convene for their 1970 sessions; the new Minimum

Wage bill, although introduced in both Houses, is unlikely to come to a vote before Congress meets next year.

However, if workable budget forecasts are to be made, consideration will certainly have to be given to both of these tax areas as well as to the Wage Hour Law. An examination of the three show just how vital they are to the golf industry.

## *Wage Hour Law 1969*

This piece of legislation includes four points that can affect clubs, one or more of them will apply to nearly every club in the country and will result in increased payroll expenses. They are: 1) a minimum hourly wage of \$2; 2) elimination of the culinary overtime exemption; 3) elimination of the tip credit; and 4) elimination of the \$250,000 exemption which will bring all clubs, regardless of gross income, under the law.

Just how seriously the wage law will affect each club depends largely on whether or not that club is presently covered by the law and to what extent it is making use of the various features of the law. It is expected however, that it will have a measurable impact on most clubs. While the National Club Assn. expects to testify during hearings, given the present attitude prevailing

throughout the country, it appears that most provisions of the bill will pass.

## *Tax Reform Act of 1969*

It is probable that this bill will pass the Senate during the current session in substantially the same form approved by the House. The following sections are those most likely to affect a club's budget. The bill extends the unrelated business income tax to private clubs. Unrelated business income is defined as "the gross income (excluding exempt income), less deductions which are directly connected with the production of that income." It also extends the regular corporate tax to the investment income of clubs. A club which is not exempt from taxation will be allowed deductions for goods, services and insurance, only to the extent derived during that year. The bill does *not* call for a tax on capital gains realized from the sale of club properties.

If the bill passes the Senate in its present form it will mean that the only club income exempt from taxes will be "the gross income from dues, fees, charges, or similar amounts paid by members of the club as consideration for providing such members or their guests goods, facilities, or

*continued on page 54*



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## GOVERNMENT CAN UPSET YOUR PLANS

continued from page 53

services in furtherance of the purposes constituting the basis for the exemption of the organization to which such income is paid."

In particular, club budgets will have to provide for taxes on funds set aside in savings accounts or certified deposits and for taxes on that income derived from sources not directly related to the club's tax exempt purpose.

### State taxes

In addition to the Federal Tax Reform Act serious consideration must be given to the possibility of additional state taxes. Until recently the most likely area of increase seemed to be centered around personal property taxes. In some areas these had increased five-fold until clubs in those areas made a concerted effort to pass state recreational land bills which provided some measure of relief.

In the past two months, however, we have seen the emergence of a State Excise Tax on club dues and fees. Should other states follow the lead of Connecticut, and it appears likely that others will certainly try, we can expect to see an increasing number of state tax legislation assessing taxes of up to 10 per cent on all club dues, fees and assessments. Only the greatest vigilance in protecting their interests will give the clubs any relief.

These then are the three areas which must be considered by club budget committees even though final action cannot be accurately predicted at this time. Each club will have to consider its own local situation and its own position in the state economy in order to satisfactorily anticipate probable increases in costs. And even then, a cautious budget committee will undoubtedly want to consider a mid-year meeting with an eye toward revising estimates in the light of a changing situation. □

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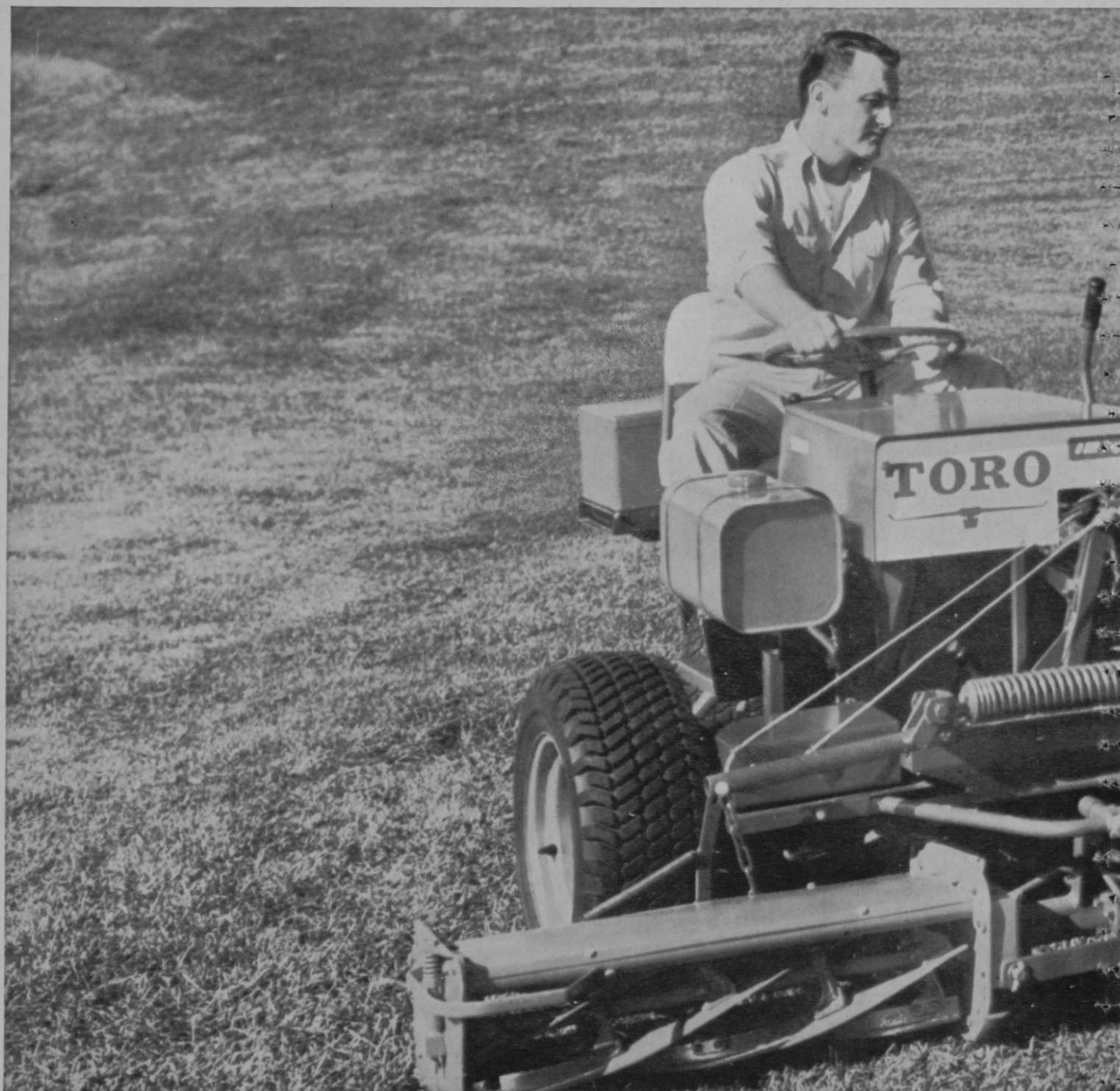


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# Backfire from the golf boom — Lawsuits

Today's final settlements awarded in liability cases are caught up in the inflationary trend.

In the second of this two-part article, the author tells how a country club should insure itself against hefty lawsuits

By JOHN F. GLEASON JR.

What should a country club do to protect itself against liability claims and lawsuits resulting from the types of accidents and injuries such as those described last month in GOLFDOM?

Basically, a country club must protect itself by purchasing adequate insurance to indemnify it against lawsuits by the public and against claims by injured employees. This protection is covered by types of insurance contracts.

1) Comprehensive general liability insurance—to protect a country club against lawsuits filed by members, guests or members of the public who allege bodily injury or property damage claims arising from negligence occurring on or from the club premises or arising out of the country club's operations.

2) Comprehensive automobile liability insurance—to protect the country club against suits filed for negligent operation of automobiles owned, used, hired or driven by others on behalf of the country club. A country club should insist that its comprehensive automobile liability

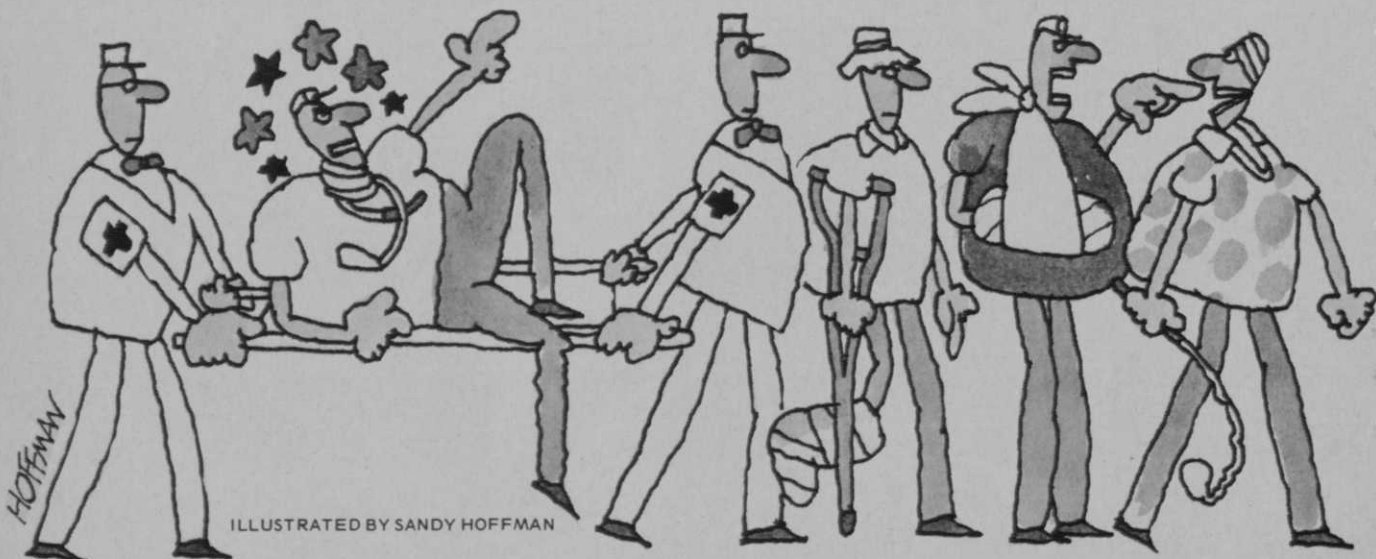
insurance be incorporated into the same contract.

3) Workmen's compensation and employers' liability insurance—to protect a country club for all employee compensation claims and other benefits required by statute to employees injured by accident or disease. This standard contract not only covers statutory benefits accorded employees, but provides liability insurance in those states where employees are allowed to waive statutory benefits and instead sue an employer at common law.

4) Catastrophe umbrella liability insurance—to provide an excess second layer of indemnification in case a large judgment is rendered by the courts against a country club which exhausts the limits of liability provided by one of the other basic policies previously mentioned.

## *Comprehensive general liability*

This insurance protects the country club against bodily injury and property damage claims and suits which may oc-





cur on the premises, while using its facilities and for injuries or sickness resulting from serving food and beverages.

The comprehensive general liability policy is the broadest basic liability contract available to a country club. It not only indemnifies the country club against suits resulting from its present operations, but will automatically cover any new areas which may develop during the policy term—provided the new area is not excluded by the policy provisions.

Attached to this contract is the "clubs endorsement," which modifies the policy to the particular exposures of the average country club. This endorsement broadens coverage in many respects, but also restricts coverage in other areas.

There are certain exclusions in the basic contract and in the clubs endorsement which must be modified or supplemented by other insurance. Without modification, many normal areas of a country club's operation would be unprotected.

There are three exclusions

which must be modified before a country club can feel reasonably secure that its liability insurance will cover claims which may arise in the normal course of its operations. These exclusions must be removed from the contract or supplemented by other insurance. They are: 1) the contractual liability exclusion; 2) the alcoholic beverage exclusion, and 3) the exclusion pertaining to property of others in the care, custody or control of the country club.

The contractual liability exclusion states that the policy does not apply to any liability assumed by the insured under any kind of written agreement or contract.

Frequently, a country club signs various service contracts with outsiders to provide maintenance services, parking service, golf car maintenance, swimming pool maintenance, or a host of other services. Embodied in the written agreement with many of these service organizations are "hold harmless" clauses.

Under these

clauses, the country club agrees to free the service company from any bodily injury or property damage claims which may arise from its operations performed on behalf of the country club.

The basic liability contracts deny protection to a country club for this form of contractual obligation, unless the insurance company has had an opportunity to review the impact of the obligation and has agreed to extend the scope of coverage to include the hold-harmless obligation within the policy by an endorsement.

Sometimes an insurance company will afford what is known as "blanket contractual" liability coverage in which it agrees to protect the insured for any obligation assumed under written contract.

Blanket contractual liability coverage is best for a country club because of the number of contracts which are signed by its officers or manager which may not find their way into the hands of the insurance underwriters for proper handling.



## LAWSUITS

*continued*

Many insurance carriers, however, are reluctant to extend blanket protection to a country club, contending that they reserve the right to review the contractual obligations which it will underwrite.

If your country club does not have blanket contractual liability protection, it is imperative that every contract or service agreement which the club signs be reviewed by the club's attorney and the liability insurance carrier before that agreement or contract is signed.

The second exclusion in the basic liability policies which every country club must know about excludes coverage for any claim or suit resulting from the selling or serving of alcoholic beverages.

This broad exclusion not only includes selling or serving alcoholic beverages in violation of a statute, ordinance or regulation, but further denies protection for a suit in which a country club might be named as a co-defendant following the selling or serving of alcohol to a minor or a person under the influence of alcohol or which causes or contributes to the intoxication of any person.

Nearly every country club serves alcoholic beverages to members or guests. Should a person, after being served a drink on the premises, cause an automobile accident in which others were injured or killed, the country club might be named a defendant in a subsequent lawsuit.

Unless the club has had the alcoholic beverage exclusion removed from its comprehensive general liability policy beforehand, or has purchased a separate liquor liability policy, the basic policy would avoid defense of any claim as well as payment of any judgment that was ren-

dered against the club.

The third troublesome exclusion in the basic policy, which every country club must consider, reads as follows:

"This insurance does not apply to property in the care, custody or control of the insured or as to which the insured is for any purpose exercising physical control."

Nearly every country club has facilities for the safekeeping of property of members, employees and guests, which if damaged, destroyed or stolen, would fall within the interpretation of this exclusion.

Members' golf clubs are usually stored in the pro shop during golf season and in lockers during the winter months. Per-



sonal effects are also kept in lockers, fur coats are checked in the clubhouse coatroom and private cars are parked by the club doorman on the club premises.

These are a few examples of the types of personal property for which the country club legally assumes responsibility. If an automobile were stolen, a checked fur coat missing or other property destroyed by fire, the country club would be held responsible.

Most liability insurance companies will not remove the care, custody or control exclusion from the basic policy. A country club, therefore, must determine the maximum value of other's property for which it assumes

safekeeping and purchase legal liability insurance to adequately protect itself.

Frequently, automobiles may be insured under the comprehensive automobile section by attaching the garagekeepers' legal liability form. Moreover, an "all risk" legal liability policy would protect the country club for loss or damage of other property in its care.

However, all legal liability policies usually exclude employee dishonesty losses; therefore, a fidelity bond on all employees is also required.

Guard against by-laws which hold the member responsible for property entrusted to the country club. These disclaimers do not hold up in court. If a personal automobile was taken from the club premises, for example, the member's automobile insurance carrier would have a legal right to look to the club for reimbursement of the amount of settlement paid the member.

Thus, every country club must protect itself by legal liability insurance for the property of others for which it accords safekeeping.

As stated earlier, the comprehensive general liability policy when written for a country club should have the clubs endorsement attached. If an underwriter has failed to attach this form, the club should insist that it be attached. This endorsement broadens the scope of protection to the particular operations of a club in many ways.

It extends coverage to any member—rather than just officers—while performing activities on behalf of the country club, except practicing for or participating in any game or sport. This would be within the scope of the member's personal comprehensive liability coverage, found in his home-owner's policy or in a separate policy.

The clubs endorsement rede-

*continued on page 82*