

Advisory on...

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Membership Fees Paid to Non-Recreational Clubs are not subject to VAT and Income Tax

The Supreme Court declared that membership fees, assessment dues, and fees of similar nature collected by clubs which are organized and operated exclusively for pleasure, recreation, and other non-profit purposes do not constitute as:

- a. the income of recreational clubs from whatever source that are subject to income tax; and
- b. part of gross receipts of recreational clubs that are subject to value-added tax.

It held that membership fees, assessment dues, and other fees of similar nature only constitute contributions to and/or replenishment of the funds for the maintenance and operations of the facilities offered by recreational clubs to their exclusive members. They represent funds “held in trust” be these clubs to defray their operating and general costs and hence, only constitute infusion of capital which are not subject to income tax.

This stands in contrast to the fees received by recreational clubs coming from their income-generating facilities, such as bars, restaurants, and food concessionaires, or from income-generating activities, like the renting out of sports equipment, services, and other accommodations_. In these latter examples, regardless of the purpose of the fees' eventual use, gain is already realized from the moment they are collected because capital maintenance, preservation, or upkeep is not their pre-determined purpose.

For as long as these membership fees, assessment dues, and the like are treated as collections by recreational clubs from their members as an inherent consequence of their membership, and are, by nature, intended for the maintenance preservation, and upkeep of the clubs' general operations and facilities, then these cannot be classified as “the income of recreational clubs from whatever source” that are subject to income tax. Instead, they only form part of capital from which no income tax may be collected or imposed.

The Court, likewise, invalidated the imposition of value-added tax on the membership dues, assessment fees, and the like. Before a transaction is imposed value-added tax, a sale, barter or exchange of goods or properties, or sale of service is required. When the dues are paid, the members are not buying services from the club; hence, there is no economic or commercial activity to speak of as these dues are devoted for the operations/maintenance of the facilities of the organization. Thus, there is no “sale, barter or exchange of goods or properties, or sale of service” to speak of, which would then be subject to value added tax.

ADVISORY

Association of Non-Profit Clubs, Inc. (ANPC), herein represented by its authorized representative, Ms. Felicidad M. Del Rosario, vs. Bureau of Internal Revenue, herein represented by Hon. Commissioner Kim S. Jacinto-Henares, GR No. 228539, June 26, 2019.