



Charges for personal training instruction sessions and for participation in a weight loss challenge

LR: 2017-2-SUT – Issued July 21, 2017
Tax: Sales and Use Tax

Taxpayers requested a Letter Ruling on the application of the New Jersey Sales and Use Tax Act to charges for personal training and fees for participating in a weight loss challenge.

Facts

Taxpayers provide personal training instruction on both an individual basis, and in a group setting. These sessions are pre-scheduled and are by appointment only. The fees the customer pays to the Taxpayers are for the classes only, and do not entitle the student to facility or equipment access outside the realm of the training sessions. There is no option for a “gym access” membership, as the courses are designed to be facilitated by a certified instructor only. Additionally, the members may elect to pay a fee to participate in a weight loss challenge to win a cash prize.

Issues

1. Whether sales of personal training sessions are subject to New Jersey Sales Tax.
2. Whether charges for participating in a weight loss challenge in which the participant may win a cash prize, are subject to New Jersey Sales Tax.

Discussion

The Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.) imposes tax on charges for enumerated services unless a valid exemption exists. N.J.S.A. 54:32B-3. Charges in the nature of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization are subject to Sales Tax. N.J.S.A. 52:32B-3(h).

All fees that are required to be paid in order to gain access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization in New Jersey are subject to tax as a “charge in the nature of...” Examples include, but are not limited to, joining fees, registration fees, sign-up fees, enrollment fees, etc. See Tax Notes – Initiation Fees, Membership Fees and Dues available at <http://www.state.nj.us/treasury/taxation/membership.shtml>.

A separately stated charge for a class where an instructor is present is not subject to tax (i.e., karate, jazzercise, dance class, pilates, yoga, etc.). Charges for personal instruction are not subject to tax. See N.J.S.A. 54:32B-2(e) (4) (A).

Conclusion

1. The Taxpayers do not charge for access to or use of health and fitness facilities. Rather, all use is either through individual or group personal training sessions. The charge for “membership” is merely a pre-paid charge for a certain amount of classes per month. As such, the charge does not constitute a fee to access a health and fitness facility, but rather it is a personal service which

is not subject to Sales Tax. N.J.S.A. 54:32B-2(e) (4). Any fees associated with the personal training service, such as processing fees, are part of the sales price, and follow the taxability of the service. N.J.S.A. 54:32B-2(oo). As such, processing fees for the personal training session would also be non-taxable.

2. The entry charge for participating in a weight loss challenge in which the participant may win a cash prize, is not an enumerated service, and therefore is not subject to Sales Tax. N.J.S.A. 54:32B-3.

A Letter Ruling is limited to the facts set forth therein and is binding on the Division of Taxation only with respect to the person or entity to whom it is issued and only if the person or entity fully and accurately describes all relevant facts. A Letter Ruling is based on the law, regulations, and Division policies in effect as of the date the Letter Ruling is issued or for the specific time period at issue in the Letter Ruling.