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BEFORE THE INTERPRETATION AND APPEALS SECTION  
DEPARTMENT OF REVENUE  
STATE OF WASHINGTON

In the Matter of the Petition )	<u>D</u> <u>E</u> <u>T</u> <u>E</u> <u>R</u> <u>M</u> <u>I</u> <u>N</u> <u>A</u> <u>T</u> <u>I</u> <u>O</u> <u>N</u>
For Correction of Assessment )	
)	No. 87-113
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. . . )	Registration No. . .
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[1] **RCW 82.04.4282, RULE 114:** B&O -- DEDUCTION -- GOLF -- PRIVATE GOLF COURSES -- PUBLIC GOLF COURSES -- MARKET COMPARISON -- AVERAGE COMPARABLE CHARGES -- GREENS FEES. Greens fees of both public and private golf courses must be considered for purposes of determining "(t)he average comparable charges for such goods and services by other commercial businesses" where taxpayer, a private golf course, elects the "actual records of facilities usage" method to determine its Retailing B & O and retail sales tax liability in respect to rounds of golf provided to its members.

Headnotes are provided as a convenience for the reader and are not in any way a part of the decision or in any way to be used in construing or interpreting this Determination.

TAXPAYER REPRESENTED BY: . . .

NATURE OF ACTION:

The taxpayer has petitioned for a correction of an assessment for additional taxes and interest. The assessment followed an examination of the taxpayer's account for the period January 1, 1981 through June 30, 1985. The taxpayer assigns error to the valuation method used by the auditor for purposes of determining Retailing B & O tax and retail sales tax liability in respect of rounds of golf provided by the taxpayer to its members.

## FACTS:

Rosenbloom, A.L.J.--The taxpayer operates a country club offering such amenities as golf, tennis, swimming, and a restaurant and bar. Use of the taxpayer's facilities is restricted to its members and their guests.

In order to determine Retailing B & O tax and retail sales tax liability in respect to rounds of golf provided to its members, the taxpayer has elected the "actual records of facilities usage" method described in WAC 458-20-114. The taxpayer conducted a market comparison and calculated the average of greens fees charged by approximately fifty eighteen-hole golf courses, both public and private, throughout western Washington. The taxpayer computed an average charge, including sales tax, of \$10.79 per round for weekdays and \$11.96 per round for weekends. Multiplying the weekday rate by five, the weekend rate by two, and dividing the sum of these by seven, the taxpayer arrived at a weighted average of \$11.12 per round, including sales tax, or \$10.32 per round exclusive of sales tax.

The auditor accepted the taxpayer's data as far as the private golf courses were concerned; however, the auditor systematically excluded the public golf courses from the sample. The auditor computed an average charge, exclusive of sales tax, of \$12.31 per round for weekdays and \$14.03 per round for weekends. The auditor divided the sum of these by two to arrive at a simple average of \$13.17 per round, exclusive of sales tax.

The taxpayer's representative asserts that more rounds are played on an average weekday than on an average weekend. Nevertheless, the taxpayer proposed to weight the weekday and weekend average charges by a factor of five and two, respectively, in the interest of expediency. The auditor rejected this approach, opting instead for a simple average of the weekday and weekend rates.

## TAXPAYER'S EXCEPTIONS:

The taxpayer asks that its tax liability in respect to rounds of golf provided to its members be determined by reference to the weighted average of greens fees charged for weekday and weekend play by both public and private golf courses in western Washington.

In the alternative, the taxpayer asks that its tax liability be determined by reference to its own greens fees. These lie approximately midway between the average of greens fees charged by private golf courses only and the average of greens fees charged by both public and private golf courses.

#### DISCUSSION:

RCW 82.04.4282 allows a deduction for amounts derived from bona fide initiation fees and dues, with the following proviso:

If the dues are in exchange for any significant amount of goods or services rendered by the recipient thereof to members without any additional charge, or if dues are graduated upon the amount of goods or services rendered, the value of such goods or services shall not be considered as a deduction hereunder.

WAC 458-20-114 provides alternative methods by which persons who receive amounts derived from dues and who render any significant amount of goods or services may calculate the value of those goods or services.

The taxpayer provides golf to its dues paying members at no additional charge and has chosen to determine its tax liability in respect thereto based on the "actual records of facilities usage" method using "(t)he average comparable charges for such goods and services made by other commercial businesses." WAC 458-20-114.

The term "other commercial businesses" includes both public and private golf courses. Local governmental and quasi-governmental entities are subject to B & O tax liability the same as any other taxpayer when they operate a golf course. (See ETB 533.04.08.189.) They compete openly and directly with private courses for golf revenues by offering similar goods and services for a fee. Greens fees charged by public courses tend to be lower than those charged by private golf courses; however, a greater volume of play is normally anticipated as a result. On the other hand, some private golf courses artificially inflate greens fees to discourage greater usage because their members prefer to play on an uncrowded course.

[1] Be that as it may, the regulation refers to "average comparable charges," which means that both high greens fees

and low greens fees must be considered. A survey which includes only greens fees charged by private golf courses is no more valid than one which includes only public golf courses. Both public and private golf courses must be considered in order to make a valid market comparison.

We also agree with the weighting method employed by the taxpayer. Since, according to the taxpayer, more rounds are played on an average weekday than on an average weekend day, we see nothing wrong with weighting the weekend and weekday rates by a factor of five and two, respectively, for purposes of determining the average comparable charge. In fact, the state comes out ahead.

#### DECISION AND DISPOSITION:

The taxpayer's petition for correction is granted. The Audit Section shall redetermine the taxpayer's B & O tax and retail sales tax liability in respect to rounds of golf provided to its members using the average of greens fees charged by both public and private courses, or \$10.32 per round, as the "average comparable charge."

DATED this 17th day of April 1987.