

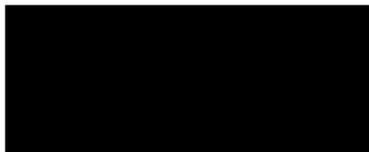
OKLAHOMA TAX COMMISSION



TAX POLICY DIVISION
RICK MILLER, DIRECTOR

PHONE (405) 521-3133
FACSIMILE (405) 522-0063

June 5, 2014



Re: LR-14-001; Taxability of discount club membership

Dear Mr. [REDACTED]:

This is in response to your request for a ruling on the sales taxability of [REDACTED] discount club membership. Set forth are the facts presented in your correspondence and the response thereto.

FACTS

In letter rulings LR-08-176 and 09-080 (see attached), the Oklahoma Tax Commission ruled that fees for discount membership clubs are not subject to Oklahoma sales tax. Our discount membership club is similar to the facts and circumstances in the letter rulings, but there are differences. As such, we request a ruling on the taxability of our discount club membership (membership). The membership benefits are continually expanding and changing. Generally, though, the membership benefits fall into the four categories below.

Free tangible personal property (TPP)

Members receive four issues of a magazine annually.

Discounts on TPP

Members receive coupons, discounts, instant rebates and special pricing at a number of physical and online retailers. The most significant discounts are at our retail stores and website. A membership is not required for entry into or purchase at our stores/website, but members receive "club pricing" on all merchandise. This pricing is lower than our "retail price". Members also receive discounts on:

- Per gallon discounts on fuel purchased at a specific chain of gas stations,
- Prescriptions at 59,000 participating pharmacies,
- Printed travel guides, and
- Various other retailers of TPP

Free services

Members receive the following free services or access to services for free:

- Shipping for purchases over a set dollar value made from our website,
- Access to vehicle purchasing and sales information,
- Annual eight-point vehicle inspection performed by our stores,
Dump station privileges at our stores with such facilities,
Trip routing service,
- Vehicle purchasing service,
- E-newsletter and other electronic updates, and
- Referral program where members receive merchandise cards from our stores if
- They refer someone who makes a major purchase with our stores.

Discounts on services

Members receive discounts on the following services:

- Campground rental fees at a nation-wide chain of parks/campgrounds
- Installation of vehicle parts purchased at our stores

RESPONSE

Section 1354(12) of Title 68 levies a sales tax on “dues or fees to clubs including free or complimentary dues or fees which have a value equivalent to the charge that would have otherwise been made, including any fees paid for the use of facilities or services rendered at a health spa or club or any similar facility or business.” Dues or fees paid for the opportunity to purchase items and services at a discount do not fall within the purview of Section 1354(12). Therefore, charges for discount club membership described above are not subject to sales tax. However, any future “expanding and changing” of membership benefits may alter this ruling.

Please note that purchases in Oklahoma of tangible personal property or taxable services to provide the nontaxable discount club membership are subject to sales tax.¹ Likewise, use tax is due on tangible personal property when purchased out-of-state and brought into Oklahoma for use or consumption.²

¹ Oklahoma Administrative Code 710:65-1-7 and 710:65-19-309

² 68 O.S. § 1402

Copies of the referenced statutory and administrative code provisions are enclosed.

This response applies only to the circumstances discussed in your request of January 3, 2014. Pursuant to Oklahoma Administrative Code Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon only by the entity to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and there has been no change in applicable law.

Sincerely,

OKLAHOMA TAX COMMISSION

A handwritten signature in cursive script that reads "Brenda J. Sullivan".

Brenda J. Sullivan
Tax Policy Analyst