



Bethany Boyd

*Bill Analysis*  
Legislative Service Commission

## **S.B. 59**

125th General Assembly  
(As Introduced)

**Sen. Blessing**

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### **BILL SUMMARY**

- Excludes from the sales tax any transaction in which payments for membership in a recreation and sports club are refundable.
- Retroactively applies the exclusion to any sales of recreation and sports club service made on or after January 1, 1993, that involve initiation fees.

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### **CONTENT AND OPERATION**

#### **Taxation of recreation and sports club service**

(R.C. 5739.01(NN))

Existing law provides that the sale of recreation and sports club service is a transaction subject to the sales tax (R.C. 5739.01(B)(3)(o)). A "recreation and sports club" is an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members, and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization. A transaction by which membership in such a club is granted, maintained, or renewed by the club, which entitles the member to use the facilities of the organization, is taxable, including payments of initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues.

In a recent decision, the Ohio Supreme Court held that the sales tax applied to initiation deposits or membership contributions required by country clubs, even though the initiation deposits were later refunded to members who resigned, and the membership contributions were refunded to resigning equity members once the memberships were resold to new members. *Akron Management Corp., et al. v. Zaino*, 94 Ohio St.3d 101 (2002).

The bill revises the definition of "recreation and sports club service" so that the service is subject to the sales tax if granting, maintaining, or renewing a recreation and sports club membership is by a transaction involving **nonrefundable** payments that entitles the member to use the facilities of the club. In other words, if buying the service involves a **refundable** payment, the service is **not** subject to the sales tax. For example, under the bill, membership dues paid to join a country club that are refundable to the member upon leaving the club would not be subject to the sales tax.

**Retroactive application of bill's changes**

(Section 3)

The bill provides that its provisions are remedial legislation that applies to any sale of recreation and sports club service made on or after January 1, 1993. The bill requires that the Tax Commissioner refund to vendors or consumers the amount of state and local sales taxes paid on that portion of any **initiation fees** paid on or after that date, that were refunded or are refundable. A vendor or consumer may file for the refund not later than 60 days after the bill's effective date, on a form prescribed by the Commissioner. When the form is filed, the Commissioner must determine the amount of the refund due, including interest, and certify that amount to the Director of Budget and Management and the Treasurer of State for payment from the Tax Refund Fund. A vendor that has been reimbursed for the tax by a consumer must pay the refund amount and interest, upon receipt, to the consumer.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	03-25-03	p. 208

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