



STATE OF ARKANSAS
**Department of Finance
and Administration**

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May 13, 2020

Via Mail

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED]
Opinion No. 20180126

[REDACTED],

Your letter requesting a legal opinion from the Arkansas Department of Finance and Administration has been referred to me for response. The specific inquiry and facts that you have provided are as follows:

This firm represents [REDACTED] and we are requesting a legal opinion letter from the Department regarding whether or not the medical services and membership fees of a direct primary care clinic are subject to the Sales and Use Tax in the State.

[REDACTED] is a direct primary care office. Under this model, patients sign a membership agreement and then pay a combination of a monthly membership fee and/or a visit fee to receive certain services, as outlined in the agreement and no third party is billed on a fee for service basis. Services covered by the agreement include check-ups, primary care visits, blood tests, same[-]day appointments, urine pregnancy tests, EKG with interpretation, rapid strep tests, stitches for cuts, the influenza and tetanus/pertussis vaccines, and many others. Certain tests will be covered, but the patient will be responsible for the laboratory costs to read the samples; these include PAP smears, joint injections and skin biopsies to name a few. Prescriptions may be written, but will not be filled or dispensed at the office location. Emergency room stays, hospital visits, specialist care, imaging, and labs are not covered under the agreement between the patient and the clinic.

We are requesting an opinion on whether or not the services offered and the membership fees received by [REDACTED] are subject to Sales and Use Tax in the State of Arkansas.

Your request for an opinion asks whether the gross receipts derived from the membership fee for access to the medical services you have described are subject to sales tax.

RESPONSE

No.

Arkansas Gross Receipts Tax is generally applicable to the sale of tangible personal property and certain enumerated services. *See* Ark. Code Ann. § 26-52-301 (Supp. 2019). Dues and membership fees to health spas, health clubs, and fitness clubs are subject to the tax. Ark. Code Ann. § 26-52-301(6)(A) (Supp. 2019); Gross Receipts Rules GR-11(C). The gross receipts derived from any service provided by or through a health spa, health club, fitness club, or private club are not taxable unless the service is a specifically enumerated taxable service. *See* Ark. Code Ann. § 26-52-301(6)(B)(i) (Supp. 2019). Also subject to tax are contracts, including service contracts, maintenance agreements and extended warranties, which in whole or in part provide for the future performance of or payment for services which are subject to gross receipts tax. *Id.* at (7)(A).

A primary care office is a medical practice and not a health spa, health club, or fitness club. Further, none of the services you describe would be characterized as provided by a health spa, health club, or fitness club. None of the services you have identified are specifically enumerated services subject to tax. Therefore, the gross receipts derived from the services offered and the membership fees you have identified are not subject to sales tax.

This opinion is based on my understanding of the facts as set out in your inquiry as current Arkansas laws, rules and regulations govern those facts. Any change in the facts or law could result in a different opinion. This Opinion shall be binding for three years.

Thank you,

Chris McNeal, Attorney
Revenue Legal Counsel