



SC PRIVATE LETTER RULING #91-5

TO: X Management

TAX ANALYST: Deana West

SUBJECT: ABC Country Club
(Admissions Tax)

REFERENCE: S. C. Code Ann. Section 12-21-2420 (Supp. 1990)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Enacted June 1991)
SC Revenue Procedure #87-3

SCOPE: A Private Letter Ruling is a temporary document issued to a taxpayer, upon request, and it applies only to the specific facts or circumstances related in the request.

Private Letter Rulings have no precedential value and may not be relied upon by anyone other than the taxpayer to whom it is issued.

Questions:

1. What portion of the membership fees paid to the XYZ Club is included in the measure of the admissions tax?
2. Is ABC Country Club, B Club or XYZ Club responsible for collecting the admissions tax?

Facts:

ABC Country Club (ABC) and B Club are for-profit clubs that have recently formed the XYZ Club (XYZ) in order to allow their respective members to share the facilities of both clubs. The facilities at ABC include golf, tennis, swimming and a clubhouse. The B Club only has dining facilities.

Currently, XYZ membership dues are \$175.00 per month. Upon application for membership to XYZ, ABC members pay \$175.00 to ABC and B Club members also pay \$175.00 to the B Club. For each of its' XYZ members, ABC retains \$147.50 and remits the remaining \$27.50 to the B

Club. For each of its' XYZ members, the B Club retains \$55.00 and forwards the \$120.00 balance to ABC.

Prior to the formation of XYZ, ABC members were paying admissions tax on the dues which relate to the use of athletic or recreational facilities, while dues for social facilities such as the clubhouse were not taxed. Full memberships, entitled to use all of the facilities, were taxed on the incremental charge in excess of a social membership. B Club members were not paying admission tax for use of the dining facilities.

X Management is requesting advice to determine the proper measure of the admissions tax and the party who must remit the tax, with respect to memberships to the XYZ Club.

Discussion:

1. The first issue involves determining what amount of membership fees are included in the measure of the admissions tax. The Tax Commission's policy regarding this issue will change effective April 1992, therefore, in addressing this question, it is necessary to discuss the Commission's present and future policy.

Code Section 12-21-2420 imposes the admissions tax and reads, in part:

There shall be levied, assessed, collected and paid upon all paid admissions to all places of amusement within this State a license tax of...four percent...

During the past legislative session, the General Assembly amended Code Section 12-21-2420, as stated above, to increase the admissions tax from 4% to 5% effective February 1, 1992.

Policy Prior to April 1, 1992

The Commission has consistently imposed the admissions tax on membership fees. This position was upheld in Commission Decision L-D-31, dated November 28, 1973, which provided:

...separate charges made by a profit organization for the use of a golf course and swimming pool which the corporation owns and operates are admissions to places of amusement and are taxable.... We are here of the opinion, however, that the charges for social membership in the club are not taxable admission charges. All other charges for the use of the club facilities are in our opinion taxable admissions tax charges...

The Tax Commission's Audit Manual provides an example of how to calculate the tax due on membership golf courses and country clubs in accordance with Commission policy as set forth in the above discussion. The manual states that social membership dues "are not subject to admissions tax only if the social member is entitled exclusively to the use of the clubhouse, lounge and any social gatherings held at the club. Social members may not receive any discount or privileges for the use of a golf course, swimming pool and/or tennis courts". The manual provides the following example:

<u>Membership</u>	<u>Cost/Month</u>	<u>Social Portion</u>	<u>Taxable Portion</u>
1. Full family	\$100	\$20	\$80
2. Golf	50	20	30
3. Tennis	35	20	15
4. Pool	15	20% or \$3	12
5. Racquetball	10	20% or \$2	8
6. Social	20	-	0

In this example, the social members are bona-fide "social members" who do not receive additional membership benefits or discounts. Therefore, the social dues are exempt from the admissions tax. The \$20 social portion is deducted from the full family, golf, and tennis memberships to arrive at a taxable portion for each. In the case of the pool and racquetball memberships where the social dues are more expensive, a percentage (20%) based on a ratio of social dues to the top of the line membership (full family) is used.

In reviewing the above discussion regarding the Commission's admissions tax policy prior to April 1, 1992, it may be summarized that the admissions tax is imposed on (1) a for-profit country clubs membership dues that are in excess of social membership dues; (2) certain other separate charges, such as green fees and court fees; and (3) the cover charges and other charges for the right to enter special events or parties. The admissions tax is not imposed upon the membership dues of a bona-fide social member of a for-profit country club and members of a for-profit dining club.

Policy As of April 1, 1992

South Carolina Revenue Ruling #91-18 addressed the imposition of the admissions tax on social membership dues paid to a for-profit country club and concluded the following:

Membership dues paid to a for-profit country club that allows social members discounts or privileges for the use of the other club facilities are subject to the admissions tax for all periods open under statute. Effective April 1, 1992, all other social membership dues paid to a for-profit country club are subject to the admissions tax.

All other types of memberships to a for-profit country club, such as golf, tennis and swimming memberships, are no longer taxed only on the membership dues exceeding the social portion of the dues. Instead, the entire amount of these membership dues are subject to the admissions tax, effective April 1, 1992.

Additionally, it should be noted that the Commission's policy with respect to for-profit dining clubs has not changed. Membership dues paid to a for-profit dining club, therefore, are not subject to the admissions tax.

2. The second issue concerns identifying the person who is liable for remittance of the admissions tax collected and is addressed by Code Section 12-21-2420 which reads in part as follows:

The tax imposed by this section shall be paid by the person or persons paying such admission price and shall be collected and remitted to the South Carolina Tax Commission by the person or persons collecting such admission price.

Conclusion:

1. Membership fees paid to the XYZ Club are subject to the admissions tax. The amount of membership fees subject to the admissions tax is determined by the date the membership dues are paid and is calculated as follows:

ABC COUNTRY CLUB MEMBERS JOINING THE XYZ CLUB

Membership Fees Payment Date:

	<u>Before 4/1/92</u>	<u>On or After 4/1/92</u>
XYZ Club Dues	\$175.00	\$175.00
Less: Payment to B Club	27.50	27.50
Social Dues to ABC Country Club	45.00	0.00
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Taxable Membership Fees	\$102.50	\$147.50

B CLUB MEMBERS JOINING THE XYZ CLUB

Membership Fees Payment Date:

	<u>Before 4/1/92</u>	<u>On or After 4/1/92</u>
XYZ Club Dues	\$175.00	\$175.00
Less: Payment to B Club	55.00	55.00
Social Dues to ABC Country Club	45.00 0.00	
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Taxable Membership Fees	\$ 75.00	\$120.00

2. Pursuant to Code Section 12-21-2420, ABC Country Club is responsible for collecting and remitting the admissions tax for all members of the XYZ Club.