



SC REVENUE RULING #90-5

SUBJECT: Change of Bingo Location  
(Bingo)

TAX MANAGER: John P. McCormack

EFFECTIVE DATE: July 1, 1990

SUPERSEDES: All previous documents and any oral directives in conflict herewith.

REFERENCE: S.C. Code Ann. Section 12-21-3400 (Supp. 1989)  
S.C. Code Ann. Section 12-21-3440 (Supp. 1989)  
S.C. Code Ann. Section 12-21-3460 (Supp. 1989)

AUTHORITY: S.C. Code Ann. Section 12-3-170 (1976)  
SC Revenue Procedure #87-3

SCOPE: A Revenue Ruling is the Commission's official interpretation of how tax law is to be applied to a specific set of facts. A Revenue Ruling is public information and remains a permanent document until superseded by a Regulation or is rescinded by a subsequent Revenue Ruling.

Question:

May a nonprofit organization, licensed to conduct bingo at a specific location, change locations prior to the expiration of its annual license?

Facts:

For many reasons, an organization may need or desire to relocate its bingo operations. Such reasons may include: destruction of the location due to fire or flood, loss of lease, or the desire to move to a better facility.

Discussion:

The Bingo Act of 1989 (H.B. 3052) became effective October 1, 1989. The law was codified in Article 23 of Chapter 21 of Title 12, and entitled "Regulation of Bingo Games". This article requires all nonprofit organizations conducting bingo to be licensed with the Tax Commission and to conform to all statutory provisions pertaining to bingo.

Code Section 12-21-3400 imposes certain restrictions on the licenses of promoters and nonprofit organizations, and reads, in part:

(B) The bingo license authorized by this article must not be transferred to any other organization and is valid and continues in force so long as the nonprofit organization to whom it is issued continues to conduct the bingo games at the same location in accordance with the provisions of this article.

Code Section 12-21-3440 establishes five classes of bingo licenses for nonprofit organizations. All classes of licenses, with the exception of licenses for games conducted at recognized state or county fairs (Class "D"), are annual licenses.

Furthermore, Code Section 12-21-3460 reads:

No person or organization may hold more than one class of bingo license and shall operate under that license for one year.

In summary, the statute permits an organization to obtain one annual bingo license, which is valid only for a specific location. However, we must determine whether the requirement that a licensee "operate under [the] license for one year" (Code Section 12-21-3460) prevents such licensee from changing locations prior to the expiration of its current license.

The following quotes from 73 Am. Jurs. 2d., Statutes provide some guidance:

Section 258:

It is generally regarded as permissible to consider the consequences of a proposed interpretation of a statute, where the act is ambiguous in terms and fairly susceptible of two constructions. Under such circumstances, it is presumed that undesirable consequences were not intended; to the contrary, it is presumed that the statute was intended to have the most beneficial operation that the language permits. It is accordingly a reasonable and safe rule of construction to resolve any ambiguity in a statute in favor of a beneficial operation of the law, and a construction of which the statute is fairly susceptible is favored, which will avoid all objectionable, mischievous, indefensible, wrongful, evil, and injurious consequences.

Section 262:

It is not to be presumed that the legislature intended to establish a rule attended with inconvenience, and where a statute is ambiguous and susceptible of two constructions, convenience may be taken into consideration in the interpretation thereof. Moreover, a construction of an ambiguous statute so as to produce convenient results is favored.

Section 265:

A statute subject to interpretation is presumed not to have been intended to produce absurd consequences, but to have the most reasonable operation that its language permits.

If possible, doubtful provisions should be given a reasonable, rational, sensible, and intelligent construction. These rules prevail where they are not restrained by the clear language of the statute. Under this rule, general terms in a statute should be so limited in their application as not to lead to absurd consequences.

In summary, a statute is not presumed to create undesirable consequences or absurd results and, where possible, should not be interpreted in such a manner so as to create such results. Therefore, it would create an undesirable and absurd result to interpret Code Section 12-21-3460 to prevent a licensee, who has lost its building due to fire, flood, loss of lease, or other reason beyond the control of the licensee, from operating until the current license expires.

Conclusion:

A nonprofit organization, licensed to conduct bingo at a specific location, may only change locations prior to the expiration of its annual license if it has lost its building due to fire, flood, loss of lease, or other reasons beyond its control. The nonprofit organization must surrender its current license, if available, and apply for a new license in accordance with the bingo law.

NOTE: The organization must remit all fees with its application and is not entitled to a refund for fees previously paid for the cancelled license.

SOUTH CAROLINA TAX COMMISSION

s/S. Hunter Howard, Jr.  
S. Hunter Howard, Jr., Chairman

s/A. Crawford Clarkson, Jr.  
A. Crawford Clarkson, Jr., Commissioner

s/T. R. McConnell  
T. R. McConnell, Commissioner

Columbia, South Carolina  
June 27, \_\_\_\_\_, 1990