



301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

SC REVENUE RULING #91-11

**SUBJECT:** Even/Odd or Wild Numbers  
(Bingo)

**TAX MANAGER:** John P. McCormack

**EFFECTIVE DATE:** December 1, 1991

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

**REFERENCE:** S.C Code Ann. Section 12-21-3330 (Supp. 1990)  
S.C Code Ann. Section 12-21-3410 (Supp. 1990)  
S.C Code Ann. Section 12-21-3420 (Supp. 1990)  
Article 17, Section 7 of S.C. Constitution

**AUTHORITY:** S.C. Code Section 12-4-320 (Enacted June 1991)  
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 A Revenue Ruling is public information and remains a permanent document until superseded by a Regulation or is rescinded by a subsequent Revenue Ruling.

Questions:

1. Can a game of bingo be conducted whereby a ball is randomly selected and the players may cover any number on their cards ending with the same number as the one on the ball that was selected?
2. Can a game of bingo be conducted whereby it is randomly determined that players may cover any number on their cards which is either an even or odd number?

Facts:

South Carolina laws permit certain nonprofit organizations to sponsor bingo games in which bingo cards are sold to players for a chance to win a prize. The nonprofit organization is also allowed to hire a promoter to manage or conduct the games.

From time to time such nonprofit organizations or promoters will conduct games in which the players are allowed to cover all even or all odd numbers on their cards, or may cover all spaces which contain a number ending in a pre-selected number.

For example, prior to an "even/odd" game, the nonprofit organization or promoter selects a ball from the cage at random. If the number selected is "B-14", the players may cover all even numbers on their cards for the game in question. If the game is a "wild card" game, then the selection of "B-14" allows the players to cover all numbers on their cards ending with "4". This method of playing is usually reserved for "bonanza" or "cover-all" games, in which the player must cover every space on his or her card in order to win the prize. In addition, the selection of even, or odd, or a wild card number may be determined right before the game, or may be determined much earlier in the session.

Nonprofit organizations and promoters have been allowed to conduct games in this manner, and the question has been raised as to whether this is permissible under the statute.

Discussion:

The South Carolina Constitution, Article 17, Section 7, reads:

No lottery shall ever be allowed or be advertised by newspapers, or otherwise, or its tickets be sold in this State. The game of bingo, when conducted by charitable, religious or fraternal organizations exempt from federal income taxation or when conducted at recognized annual State and county fairs, shall not be deemed a lottery prohibited by this section.

Code Section 12-21-3330 further declares that "[t]he game of bingo is not a lottery when the game is conducted in accordance with the provisions of Sections 12-21-3410 and 12-21-3420."

Therefore, bingo is a permissible "legalized lottery" when conducted in the manner set forth in the statute. Before we review the sections which describe the manner bingo is to be played, we must review Code Section 12-21-3320.

Code Section 12-21-3320 defines the various terms used in the bingo statute and reads, in part:

- (1) "Bingo" or "game" means a specific game of chance, commonly known as bingo, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers and symbols selected at random.

\* \* \* \*

- (3) "Card" means a printed design on which there are arranged five horizontal rows and five vertical columns forming twenty-five squares. Numbers are printed in twenty-four of the squares, and the term "free", "free square", or "free space" is printed in the square or space located in the center of the card. The five columns are denominated from left to right by the respective letters of the word "B-I-N-G-O". Each square in the "B" column contains a number from one through fifteen inclusive; each square in the "I" column contains a number from sixteen through thirty inclusive; except for the center space which is marked as free, each square in the "N" column contains a

number from thirty-one through forty-five inclusive; each square in the "G" column contains a number from forty-six through sixty inclusive; and each square in the "O" column contains a number from sixty-one through seventy-five inclusive. No number may appear twice on the same card.

\* \* \* \*

- (12) "Drawing" means the indiscriminate selection of a single ball from the cage.

Code Section 12-21-3410 reads:

- (A) The game of bingo must be played in the following manner:
- (1) Bingo is played by more than one player and a caller who is associated with the house. Each player pays an amount certain for each card to be played during the course of a game and may purchase the card for a specified number of games. After the player has purchased a card or cards for a specified number of games, the house cannot require or accept an additional payment or consideration by the player in order to complete the specified number of games.
  - (2) Before each game begins, the caller shall announce to the players the configurations that will win the game. A configuration consists of covering a number of grids in some geometrical design such as, but not limited to, a line, square, or the four corners of the card.
  - (3) At the beginning of each game, the caller also shall announce the prize, specifically stating the dollar amount or merchandise that will be awarded to the winner. After the prize has been announced and the game has begun, the prize must not be diminished or altered. The prize must be awarded to the winner of that game without delay. For multiple winners, the prize must be divided equally among the winners.
  - (4) The caller shall draw numbers from the cage one at a time. As each number is selected, it is announced to the players. If a player has a card with the called number on it, he may use a marker to cover the square which contains the number. After the number is announced, it must be indicated on the master-board by the caller.
  - (5) When a player covers sufficient squares on a card to achieve the winning configuration, he may indicate to the caller. The caller shall then require that the player's card be checked against the master-board in the presence of the other players to determine if the squares were covered accurately. If it is determined by the caller that the player accurately has covered the squares and achieved the preannounced configuration, the player is declared the winner. If it is determined that the player has not covered the squares accurately and achieved the preannounced configuration, play continues in that game.

- (6) All devices, including the master-board, used to show numbers called during a game must not be changed or turned off until the winners are verified.

Code Section 12-21-3420 reads, in part:

In addition to the manner of play prescribed in Section 12-21-3410, the following procedures apply to the conduct of bingo:

\* \* \* \*

- (9) Balls must be selected randomly by an indiscriminate process.
- (10) Only one number may be called at a time.

Therefore, the statute requires bingo to be played in a specific manner, otherwise, the game is an illegal lottery. The statute requires that only one ball be drawn at a time and that the player use a marker to cover the number drawn by the caller. The statute does not provide for the playing of bingo in the manner described in the "Facts" portion of this document.

Furthermore, it should be noted that Code Section 12-21-3410 uses the word "must" in stating how the game is to be played. With respect to the use of the word "must" in the statute, 73 Am. Jur. 2d, Section 22 provides guidance and states that "[t]he intention of the legislature as to the mandatory or directory nature of a particular statutory provision is determined primarily from the language thereof. Words or phrases which are generally regarded as making a provision mandatory include 'shall,' and 'must.'"

Conclusions:

1. A game of bingo may not be conducted whereby a ball is randomly selected and the players are allowed to cover any number on their cards ending with the same number as the one on the ball that was selected.
2. A game of bingo may not be conducted whereby it is randomly determined that players may cover any number on their cards which is either an even or odd number.

SOUTH CAROLINA TAX COMMISSION

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

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

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

Columbia, South Carolina  
July 17, 1991