



SC REVENUE RULING #94-3

SUBJECT: Paid Admissions
(Admissions Tax)

EFFECTIVE DATE: Applies to all periods open under the statute.

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

REFERENCE: S.C. Code Ann. Section 12-21-2410 (1976)
S.C. Code Ann. Section 12-21-2420 (1976; Supp. 1992)
S.C. Code Ann. Section 12-21-2420 (1976)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 1992)
SC Revenue Procedure #93-6

SCOPE: Revenue Ruling is the Department of Revenue's official interpretation of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and applies to all persons or a particular group. It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

Questions:

1. Is revenue from paid admissions reported to the Department of Revenue ("Department") on the admissions tax return for the month in which the patron pays for the ticket, the month in which the patron is issued the ticket, or the month the event is held?
2. If a place of amusement sells gifts certificates that can be redeemed for tickets prior to the event, is revenue reported to the Department for admissions tax purposes in the month the gift certificate is sold; the month the gift certificate is redeemed for a ticket; or the month the event is held?
3. Is a handling fee charged by a place of amusement for a "restaurant package", as described in the Facts, subject to the admissions tax?

Conclusions:

1. Revenue from paid admissions must be reported to the Department on the admissions tax return for the month in which the patron is issued the ticket, or is notified that he will receive a ticket, to attend the event.

However, if the admissions price has not been paid at the time the patron is issued the ticket or is notified he will receive a ticket, then the revenue from the admissions must be reported to the Department on the admissions tax return for the month in which the patron paid for the ticket.

2. If a place of amusement sells gifts certificates that can be redeemed for tickets prior to the event, the revenue is reported to the Department for admissions tax purposes in the month the gift certificate is redeemed for a ticket.
3. The handling fee charged by a place of amusement for a "restaurant package", as described in the Facts, is not subject to the admissions tax.

Facts:

Many sporting events, theaters, and other entertainment activities and facilities sell tickets in advance either through season tickets or passes or on an individual ticket basis. In some instances, groups that make reservations for a large number of people are allowed to pay for their tickets after the event. In addition, many places of amusement sell gift certificates that can be redeemed for tickets prior to the event. The question has arisen as to when the receipts from these sales must be reported to the Department for admissions tax purposes.

Also, several theaters in the State, that offer live entertainment, are offering "restaurant packages" to groups. Under these packages, theaters have entered into agreements with local restaurants. The theater will collect from the group the entire amount for the package in advance. The theater will then book the reservation for the restaurant for the group and will remit the restaurant's portion of the package to the restaurant. For booking the restaurant reservation and paying the restaurant, the theater charges a nominal handling fee, usually one dollar (\$1.00) per person in the group. Of course, the group has the option of purchasing the tickets for the theater and booking the restaurant reservation on their own. The question has arisen as to whether this handling fee is subject to the admissions tax.

Discussion:

The first issue concerns when the receipts from advance ticket sales and from gift certificates must be reported to the Department for admissions tax purposes.

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

There must be levied, assessed, collected and paid upon paid admissions to places of amusement within this State a license tax of five percent. (Emphasis added.)

* * * *

The tax imposed by this section shall be paid by the person or persons paying such admissions price and shall be collected and remitted to the South Carolina Department of Revenue and Taxation by the person or persons collecting such admissions price. ...

Code Section 12-21-2410 defines the various terms used in the admissions tax law and reads in part:

(1) The word "admission" means the right or privilege to enter into or use a place or location;

In SC Revenue Ruling #88-11, the Commissioners held that a paid admissions is one in which money or its equivalent, such as goods or services, are exchanged for the right to enter or use a place of amusement.

In summary, the admissions tax is imposed upon the paid right or privilege to enter into or use a place of amusement. Therefore, revenue from paid admissions must be reported to the Department on the admissions tax return for the month in which the patron is issued the ticket, or is notified that he will receive a ticket, to attend the event. If a group is allowed to pay the admissions price after the event, then these receipts must be reported in the month the admissions price is paid since it is not a "paid admissions" until paid. Finally, the taxpayer for purposes of this tax is the patron.

With respect to a gift certificate which is redeemed prior to the event, the right to enter or use the place of amusement is not granted until the gift certificate is exchanged for a ticket.

The second issue concerns a handling fee for "restaurant packages" and whether these fees are part of "paid admissions". As stated above, "paid admissions", the measure of the admissions tax, is the amount required to be given for the right or privilege to enter into or use a place of amusement.

A similar issue was addressed in the New Jersey case of Ticketron, Inc. v. Director, Division of Taxation, Division of Tax Appeals, April 5, 1979. Ticketron, an independent ticketbroker, used computer-directed remote terminals located in retail stores and banks to sell tickets. This allowed customers to purchase tickets at alternative locations at the established box office price plus an additional separate fee, referred to as a service charge. In determining that the service charge was not taxable as an admission charge, the Division of Tax Appeals concluded:

Ticketron's fee or "service charge" does not purport to be an admission charge. It is a separate service charge for which the purchaser receives a separate receipt. It is not tied to admission since a customer can gain admission to the event involved without paying Ticketron's fee by simply buying the ticket at the box office in person or by mail.

* * * *

From the facts in the case before me, it is clear that the Ticketron fee is not an admission charge because one need not pay the Ticketron fee in order to gain admission. The fee is simply a service charge for making tickets available to customers at remote locations.

The Commissioners, in SC Revenue Ruling #90-10, cited the above case in reviewing the issue of whether certain service charges and credit card user fees were a part of "paid admissions".

As set forth in SC Revenue Ruling #90-10, for each ticket purchased through remote ticket outlets, mail or telephone, a separate fee (service charge) was assessed and the service charge was divided between the remote ticket outlet and the computerized ticket sales company. Customers purchasing by credit card were charged an additional fee for the system to process the charge transaction (credit card processing fee)

In the ruling, the Commissioners held:

1. Service charges imposed by computerized ticket sales companies, and paid by all persons entering an event, are included in the measure of the admissions tax.

Service charges imposed by computerized ticket sales companies, but only paid by persons purchasing the tickets at remote locations or by mail, are not included in the measure of the admissions tax.

2. Credit card processing fees imposed by ticket sales companies are not included in the measure of the admissions tax unless all persons entering an event are required to pay by credit card.

While the handling fee in question is charged by the theater, and not a third party as in SC Revenue Ruling #90-10, the principle is the same. The handling fee in question is not part of "paid admissions" since it is a separate charge "not tied to admission since a [group] can gain admission to the event involved without paying [the restaurant package handling] fee by simply buying the ticket[s]" and making the restaurant reservation on their own. The fee is simply a service charge for booking the restaurant reservation and paying the restaurant.

It should be noted that any service charge that is merely an expense of the place of amusement, and is tied to the admissions, would be part of the "paid admissions" subject to the tax.

While it is not directly relevant to the question at hand, SC Private Letter Ruling #92-5 states that the charge by a dinner theater for a ticket is subject to both the sales tax and the admissions tax. However, the dinner theater is only required to remit the sales tax on that portion of the charge representing the price of the meal and the admissions tax on that portion of the charge representing the price of the admissions, provided the price breakdown is reasonable and supported by the records of the taxpayer.

With respect to the restaurant packages in question, a theater is only required to remit the admissions tax on that portion of the charge representing the price of the admissions, provided it is supported by the theater's records. The restaurant is required to remit the sales tax on the portion of the ticket that is paid to the restaurant by the theater.

SC Revenue Ruling #94-3

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/A. Crawford Clarkson, Jr. _____
A. Crawford Clarkson, Jr., Chairman

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

s/James M. Waddell, Jr. _____
James M. Waddell, Jr., Commissioner

Columbia, South Carolina
March 1 _____, 1994

For questions concerning the admissions tax, contact David Shiver of the Office Services Division at (803) 737-4845 or John P. McCormack at (803) 737-4438.