



SC TECHNICAL ADVICE MEMORANDUM #90-9

TO: Mr. Marvin N. Davant, Director
Field Services Division

FROM: John P. McCormack, Manager
Tax Policy and Procedures Department

DATE: March 21, 1990

SUBJECT: Revocation of Promoter's License
(Bingo)

REFERENCE: SC Code Ann. Section 12-21-3470 (Supp. 1989)
SC Code Ann. Section 12-54-190 (Supp. 1989)

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

SCOPE: A Technical Advice Memorandum is a temporary document issued to an individual within the Commission, upon request, and it applies only to the specific facts or circumstances related in the request. Technical Advice Memoranda have no precedential value and are not intended for general distribution.

Question:

May a bingo promoter's license, which has been revoked, be reinstated pursuant to Code Section 12-54-90(C)?

Facts:

Code Section 12-21-3470, entitled "Certain persons prohibited from assisting in any manner with bingo operation", reads:

A person who has been convicted of violating a state or federal statute relating to gaming or gambling, a crime that has a sentence of two or more years, or, where applicable, whose promoter's license has been revoked by the commission is not permitted to manage or conduct a game or assist in any manner with the bingo operation.

Code Section 12-54-90, entitled "Revocation of license to do business for failure to comply with law", reads:

- (A) When a person fails, neglects, violates, or refuses to comply with a provision of law or regulation administered by the commission, the commission, in its discretion, may revoke one or more licenses held by the taxpayer within ten days of notification in writing of the taxpayer's failure to comply. The notification may be served by certified mail or personally.
- (B) A person whose license has been revoked must not be issued a new license until all outstanding liabilities are satisfied.
- (C) The commission may review and determine whether a new license may be issued according to guidelines established by it.

Discussion:

The issue at hand concerns the possible conflict of two statutes regarding the revocation and possible reinstatement of a promoter's license.

The question then is which of the two conflicting statutes is controlling. The South Carolina Supreme Court said in *Jolly v. Atlantic Greyhound Corporation et al*, 207 SC 1, 35 SE 2d 42 (1945), that where two sections of a statute are irreconcilable, the subsequent section, or the "last legislative expression", prevails over the prior one.

Code Section 12-54-90 was enacted pursuant to Act No. 201 of 1985 and became effective September 1, 1985. This section was amended effective October 1, 1989 by Act No. 188 of 1989; however, subsection (C) was unchanged. Code Section 12-21-3470 was enacted pursuant to Act No. 188 of 1989 and became effective October 1, 1989.

Furthermore, when a conflict arises "between a statute dealing generally with a subject, and another dealing specifically with a certain phase of it, the specific legislation controls in a proper case." 73 AmJur 2d, Statutes, Section 258.

In summary, Code Section 12-21-3470 constitutes the "last legislative expression". In addition, it specifically deals with the revocation of a promoter's license and reads, in part:

A person...whose promoter's license has been revoked by the commission is not permitted to manage or conduct a game or assist in any manner with bingo operation.

Conclusion:

A bingo promoter's license, which has been revoked, may not be reinstated, pursuant to Code Section 12-21-3470.