
State of South Carolina
Department of Revenue
301 Gervais Street, P. O. Box 125, Columbia, South Carolina 29214

SC REVENUE RULING # 09-12

SUBJECT: Tournament Participation Entry Fees
(Admissions Tax)

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

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

REFERENCES: S. C. Code Ann. Section 12-21-2410 (2000)
S. C. Code Ann. Section 12-21-2420 (2000; Supp. 2008)
S. C. Code Ann. Section 12-21-2440 (2000)
S. C. Code Ann. Section 12-21-4010 (2000)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (2000)
S. C. Code Ann. Section 1-23-10(4) (Supp. 2008)
SC Revenue Procedure #09-3

SCOPE: The purpose of a Revenue Ruling is to provide guidance to the public and to Department personnel. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

Question:

Are tournament participation entry fees, or any portion of such fees, subject to the State admissions tax?

Conclusion:

It is the opinion of the Department that tournament participation entry fees are not subject to the admissions tax. However, charges for use of the place of amusement as a result of a tournament are subject to the admissions tax, unless otherwise exempt under Code Section 12-21-2420, as follows:

- (1) If the tournament is conducted by the operator of the place of amusement (*e.g.*, member-guest golf tournament), then the portion of each tournament participation entry fee that represents the normal and customary charge to utilize the place of

amusement (*e.g.*, the green fee, court fee, driving range fee) is subject to the admissions tax and the place of amusement is responsible for remitting the tax to the Department.

(2) If the tournament is conducted by someone other than the operator of the place of amusement (*e.g.*, a business or nonprofit organization), then the amount paid to the operator of the place of amusement by the person conducting the tournament for each participant's use of the place of amusement (*e.g.*, green fee, court fee, driving range fee) is subject to the admissions tax and the place of amusement is responsible for remitting the tax to the Department.

(3) If the tournament is conducted by someone other than the operator of the place of amusement and the operator of the place of amusement is not charging such person for use of the place of amusement (*e.g.*, the course's golf pro, a nonprofit organization), then the portion of the tournament participation entry fee that represents the normal and customary charge to utilize the place of amusement (*e.g.*, the green fee, court fee, driving range fee) is subject to the admissions tax and the person conducting the tournament must be licensed and is responsible for remitting the tax to the Department.

However, if the operator of the place of amusement and the person conducting the tournament agree in writing that the applicable admissions tax will be turned over to the operator of the place of amusement, then the operator will also be held accountable to the State for such taxes and must maintain proper records with respect to the tournament, as such monies are being held in trust for and as a debt to the State.

(4) If the tournament is conducted by someone other than the operator of the place of amusement and that person rents the entire facility (clubhouse, parking area, course, courts, restaurants, etc.) from the operator of the place of amusement, then the portion of the tournament participation entry fee that represents the normal and customary charge to utilize the place of amusement (*e.g.*, the green fee, court fee, driving range fee) is subject to the admissions tax and the person conducting the tournament must be licensed and is responsible for remitting the tax to the Department.

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Note #1: If the normal and customary charge to utilize the place of amusement (*e.g.*, the green fee, court fee, driving range fee) is more than the tournament participation entry fee, then the person conducting the tournament must remit the admissions tax on a portion of

the tournament participation entry fee that reasonably represents the charge to utilize the place of amusement. If the charge to utilize the place of amusement is not reasonable or is not supported by the books and records of the person conducting the tournament, then the admissions tax will apply to the entire tournament participation entry fee.

Note #2: With respect to Conclusions #2, #3 and #4 above, the exemption in Code Section 12-21-2420(4) for charges to members of certain nonprofit clubs for use of the facilities of the nonprofit club of which they are a member is not applicable since the tournaments in these conclusions are not being conducted by the nonprofit club that operates the place of amusement. This exemption for charges to members would only apply to tournaments conducted by such nonprofit clubs.

Note #3: See Code Section 12-21-2420 for a list of exemptions from the admissions tax that, depending on the facts and circumstances, may apply.

Facts:

Many golf courses and tennis facilities conduct or allow tournaments at their facilities for both members and non-members. Persons participating in these tournaments pay an entry fee that typically covers green fees or court fees, awards, administrative costs of the tournament and food. In addition to tournaments conducted by the operator of the golf course or tennis facility, tournaments may also be conducted by businesses and nonprofit organizations.

The issue has been raised as to the application of the state admissions tax to these tournaments and tournament entry fees.

Discussion:

Code Section 12-21-2420 imposes the admissions tax and states 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. The license tax may be listed separately from the cost of admission on an admission ticket. ...¹

* * * *

The tax imposed by this section must be paid by the person or persons paying the admission price and must be collected and remitted to the South Carolina Department of Revenue by the person or persons collecting the admission price. ... (Emphasis added.)

¹ Code Section 12-21-2420 also provides for various exemptions from the admissions.

Code Section 12-21-2410 defines the terms “admissions,” “place,” and “person” and states:

For the purpose of this article and unless otherwise required by the context:

- (1) The word “admission” means the right or privilege to enter into or use a place or location;
- (2) The word “place” means any definite enclosure or location; and
- (3) The word “person” means individual, partnership, corporation, association, or organization of any kind whatsoever.

In summary, the admissions tax is imposed upon the paid right or privilege to enter into or use a place of amusement.²

Furthermore, Code Section 12-21-3010 reads, in part:

The taxes and penalties imposed by this chapter shall be deemed a debt owing to the State by the person against whom they shall be charged... (Emphasis added).

The word “charged” is not defined in the statute; however, it is an accepted practice in South Carolina to resort to the dictionary to determine the literal meaning of words used in statutes. For cases where this has been done, see *Hay v. South Carolina Tax Commission*, 273 SC 269, 255 S.E.2d 837 (1979); *Fennell v. South Carolina Tax Commission*, 233 S.C. 43, 103 S.E.2d 424 (1958); *Etiwan Fertilizer Co. v. South Carolina Tax Commission*, 217 SC 484, 60 S.E.2d 682 (1950). The Second College Edition of the American Heritage Dictionary defines "charge" as: “To entrust with a duty, responsibility or obligation ...”

In summary, the admissions tax is paid by the person paying for the right or privilege to enter or use a place of amusement. However, the person or persons collecting the admissions charge have an obligation, or a duty, to collect and remit the tax and, therefore, have a debt to the State for the taxes required to be collected.

With respect to tournament participation entry fees, SC Revenue Ruling #05-14 states:

It should be noted that it has been the longstanding position of the Department that (1) fees for golf, tennis, dancing, and self-defense lessons from an instructor; (2) tournament participant entry fees (exclusive of the normal and customary charges to utilize the place of amusement, i.e. green

² It is important to note that the statute taxes charges to "use" a place of amusement, as well as charges to enter a place of amusement. This is seen in *Beach v. Livingston*, 248 SC 135, 149 SE2d 328 (1966), where the South Carolina Supreme Court held that the admissions tax applied to charges paid for the "use" of a bowling alley even though no charge was required for a person to “enter” the bowling alley. In addition, for examples of “places of amusements” that are subject to the admissions tax, see SC Revenue Ruling #05-14.

or court fees); (3) fees for boat, carriage, helicopter, plane or bus rides for touring, charter, fishing, or excursion (see SC Technical Advice Memorandum #95-2.); (4) golf cart fees (subject to sales tax as rentals); (5) “trail fees” (fees charged by golf courses for someone using their own golf cart); (6) boat or jet ski rental fees (subject to sales tax); (7) fees for using tanning beds; (9) initiation fees for country clubs, golf clubs, tennis clubs and similar facilities³ provided the initiation fee is a one-time (nonrecurring) charge paid as a prerequisite to joining the club; and (10) fees for equestrian lessons are not fees to enter or use a place of amusement and are not subject to the admissions tax. (Emphasis added.)

Furthermore, Code Section 12-21-2440 reads, in part:

Before engaging in business every person operating a place of amusement within the State subject to the tax imposed by this article shall file with the Commission an application for a permanent license permitting him to engage in the business.

In summary, any person operating a place of amusement, whether as the owner or lessee of such place, must obtain an admissions tax license.

Based on the above and longstanding policy, it is the opinion of the Department that tournament participation entry fees are not subject to the admissions tax. However, charges for use of the place of amusement as a result of a tournament are subject to the admissions tax, unless otherwise exempt under Code Section 12-21-2420, as follows:

(1) If the tournament is conducted by the operator of the place of amusement (*e.g.*, member-guest golf tournament), then the portion of each tournament participation entry fee that represents the normal and customary charge to utilize the place of amusement (*e.g.*, the green fee, court fee, driving range fee) is subject to the admissions tax and the place of amusement is responsible for remitting the tax to the Department.

(2) If the tournament is conducted by someone other than the operator of the place of amusement (*e.g.*, a business or nonprofit organization), then the amount paid to the operator of the place of amusement by the person conducting the tournament for each participant’s use of the place of amusement (*e.g.*, the green fee, court fee, driving range fee) is subject to the admissions tax and the place of amusement is responsible for remitting the tax to the Department.

³ An initiation fee should not allow a person to utilize the facilities of the club without payment of a recurring charge (membership dues). In other words, a one-time charge that is a substitute for recurring membership dues is not an initiation fee.

(3) If the tournament is conducted by someone other than the operator of the place of amusement and the operator of the place of amusement is not charging such person for use of the place of amusement (e.g., the course's golf pro,⁴ a nonprofit organization), then the portion of the tournament participation entry fee that represents the normal and customary charge to utilize the place of amusement (e.g., the green fee, court fee, driving range fee) is subject to the admissions tax and the person conducting the tournament must be licensed and is responsible for remitting the tax to the Department.

However, if the operator of the place of amusement and the person conducting the tournament agree in writing that the applicable admissions tax will be turned over to the operator of the place of amusement, then the operator will also be held accountable to the State for such taxes and must maintain proper records with respect to the tournament, as such monies are being held in trust for and as a debt to the State.⁵

(4) If the tournament is conducted by someone other than the operator of the place of amusement and that person rents the entire facility (clubhouse, parking area, course, courts, restaurants, etc.) from the operator of the place of amusement, then the portion of the tournament participation entry fee that represents the normal and customary charge to utilize the place of amusement (e.g., the green fee, court fee, driving range fee) is subject to the admissions tax and the person conducting the tournament must be licensed and is responsible for remitting the tax to the Department.

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Note #1: If the normal and customary charge to utilize the place of amusement (e.g., the green fee, court fee, driving range fee) is more than the tournament participation entry fee, then the person conducting the tournament must remit the admissions tax on a portion of the tournament participation entry fee that reasonably represents the charge to utilize the place of amusement. If the charge to utilize the place of amusement is not reasonable or is not supported by the books and records of the person conducting the tournament, then the admissions tax will apply to the entire tournament participation entry.

⁴ At some golf courses, the golf pro is allowed to conduct one or more golf tournaments a year with the golf course not charging the golf pro for use of the golf course.

⁵ This requirement represents longstanding Department of Revenue policy. See SC Technical Advice Memorandum #89-26.

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Note #3: See Code Section 12-21-2420 for a list of exemptions from the admissions tax that, depending on the facts and circumstances, may apply.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Ray N. Stevens

Ray N. Stevens, Director

September 17 _____, 2009
Columbia, South Carolina