



SC REVENUE RULING #91-5

**SUBJECT:** Admissions Tax Exemption for Civic or Fraternal Organizations  
(Admissions Tax)

**TAX MANAGER:** John P. McCormack

**EFFECTIVE DATE:** March 20, 1991

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

**REFERENCE:** S.C. Code Section 12-21-2420 (1976, Supp. 1989)

**AUTHORITY:** S.C. Code 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 A Revenue Ruling is public information and remains a permanent document until superseded by a Regulation or is rescinded by a subsequent Revenue Ruling.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:

What requirements must a civic or fraternal organization comply with in order to exempt an event from the admissions tax under Code Section 12-21-2420(11)?

Facts:

From time to time, a civic or fraternal organization will sponsor and operate an event, such as a ball game, carnival or play, in which an admissions fee is charged. The proceeds from the event are then donated to nonprofit organizations such as educational institutions, children's homes, hospitals, and those raising money to cure various diseases.

Discussion:

Code Section 12-21-2420 imposes the State admissions tax on paid admissions to all places of amusement within the State. In order to answer the question at hand, we must review two exemptions found in this section. This section exempts from the tax:

(4) ... admissions charged by an eleemosynary and nonprofit corporation or organization organized exclusively for religious, charitable, scientific, or educational purposes; provided, that the license tax herein levied and assessed shall be collected and paid upon all paid admissions to all athletic events of any institution of learning above the high school level; provided, however, that carnivals, circuses, and community fairs operated by eleemosynary or nonprofit corporations or organizations organized exclusively for religious, charitable, scientific, or educational purposes shall not be exempt from the assessment and collection of admissions tax on charges for admission for the use of or entrance to rides, places of amusement, shows, exhibits, and other carnival facilities, but not to include charges for general gate admissions except when the proceeds of any such carnival, circus, or community fair are donated to a hospital; provided, further, that no admissions tax shall be charged or collected by reason of any charge made to any member of a nonprofit organization or corporation for the use of the facilities of the organization or corporation of which he is a member.

\* \* \* \*

(11) ... admissions to events other than those events enumerated in item (4) of this section, sponsored and operated exclusively by eleemosynary, nonprofit corporations or organizations organized exclusively for religious, charitable, scientific, civic, fraternal, or educational purposes when the net proceeds derived from admissions to the events shall be immediately donated to an organization operated exclusively for charitable purposes. The term "net proceeds" shall mean the portion of the gross admissions proceeds remaining after necessary expenses of the event have been paid. This item shall not apply to an event in which the above organizations receive a percentage of gross proceeds or a stated fixed sum for the use of its name in promoting the event.

In summary, certain religious, charitable, scientific and educational organizations are exempt from the tax on all events operated by them pursuant to Code Section 12-21-2420(4), unless the event is specifically taxed by that section (i.e. certain athletic events, carnival rides).

This exemption does not specify as to how the money is to be used. Code Section 12-21-2420(11) exempts events sponsored and operated by these same organizations, plus civic and fraternal organizations, providing the net proceeds of each event is immediately donated to a charitable organization. In addition, those events and charges specifically taxed under exemption number (4) are not exempt under exemption number (11).

Now we must determine what is meant by the phrase "donated to an organization operated exclusively for charitable purposes" under exemption number (11). More specifically, was the exemption intended to include events in which the net proceeds are donated to religious, scientific and educational organizations.

"The different parts of a statute reflect light upon each other, and statutory provisions are regarded as in *pari materia* where they are parts of the same act. Hence, a statute should be construed in its entirety, and as a whole." 73 Am Jurs.2d Statutes Section 191.

"Where is it possible to do so, it is the duty of the courts, in the construction of statutes to harmonize and reconcile laws, and to adopt that construction of a statutory provision which harmonizes and reconciles it with other statutory provisions." 73 Am Jurs.2d Statutes Section 254.

In reviewing the statute as a whole, the "charitable" organization, to which the net proceeds of an event are donated under exemption (11), must include a broad base of charitable organizations such as those operated exclusively for religious, scientific, and educational purposes. It would be unreasonable to disallow civic and fraternal organizations the exemption under number (11) if they donated the net proceeds to religious, scientific or educational organizations. Such organizations would clearly be exempt under exemption number (4) if they, and not the civic or fraternal organization, had sponsored and operated the event.

It is 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 SE 2d 837 (1979); Fennell v. South Carolina Tax Commission, 233 S.C. 43, 103 SE2d 424 (1958); Etiwan Fertilizer Co. v. South Carolina Tax Commission, 217 SC 484, 60 SE2d 682 (1950).

Black's Law Dictionary, Fifth Edition, defines, in part, the term "charitable purpose" as follows:

"Charitable purpose" for purpose of tax exemption has as its common element the accomplishment of objectives which are beneficial to community or area, and usually recognized charitable purposes, not otherwise limited by statute, are generally classified as: relief of poverty; advancement of education; advancement of religion; protection of health; governmental and municipal purposes; and other varied purposes the accomplishment of which is beneficial to community.

This definition is similar to the definition of "charitable purpose" found in the applicable regulations and rulings of the Internal Revenue Service with respect to IRC Section 501(c)(3). These regulations and rulings should, therefore, provide some guidance in determining whether or not the proceeds are being "donated to an organization operated exclusively for charitable purposes."

Further review of exemption (11) indicates that the net proceeds derived from admissions must be immediately donated to an organization operated exclusively for charitable purposes. What is meant by "immediately"?

Courts throughout the country have given a variety of meanings to the word "immediately", ranging from "without delay", "forthwith" to "as soon as practicable" and "within a reasonable time". In considering the type of events used to raise money for charitable purposes, from a simple carnival to a large concert or sporting event with celebrities or professional athletes, the Commission defines the word "immediately" for purposes of exemption number (11) to mean "within a reasonable period of time depending on the circumstances and facts of the situation".

We must also consider the term "net proceeds", which the exemption defines as "the portion of the gross admissions proceeds remaining after necessary expenses of the event have been paid".

Therefore, the statute requires that each event must be accounted for separately, and the net proceeds of that particular event must be accounted for and distributed to a charitable organization within a reasonable period of time depending on the circumstances and facts of the situation.

Finally, the statute states that the exemption "shall not apply to an event in which the ... [organization sponsoring and operating the event] receive[s] a percentage of gross proceeds or a stated fixed sum for the use of its name in promoting the event."

### Conclusion:

The requirements that a civic or fraternal organization must comply with in order to exempt an event from the admissions tax under Code Section 12-21-2420(11) are:

- (1) The event must be sponsored and operated exclusively by a nonprofit organization organized exclusively for civic or fraternal purposes. (This must be determined on a case by case basis.)
- (2) The net proceeds of the event must be donated to a nonprofit organization operated exclusively for charitable purposes, which include the "accomplishment of objectives which are beneficial to [the] community or area, ... [and] are generally classified as: relief of poverty; advancement of education; advancement of religion; protection of health; governmental and municipal purposes; and other varied purposes the accomplishment of which is beneficial to [the] community." (This must be determined on a case by case basis; however, the applicable regulations and rulings of the Internal Revenue Service with respect to IRC Section 501(c)(3) should provide some guidance.)
- (3) The events and charges must not be one specifically taxed under Code Section 12-21-2420(4). Such events and charges are also subject to the tax under Code Section 12-21-2420(11).
- (4) The net proceeds of each event sponsored and operated by a qualifying organization must be accounted for separately from any other event of the organization.
- (5) The net proceeds of the event must be donated within a reasonable period of time depending on the circumstances and facts of the situation.
- (6) The organization sponsoring and operating the event must not receive a percentage of the gross proceeds or a stated fixed sum for the use of its name in promoting the event.
- (7) The exemption must be determined for each event. The statute does not provide a blanket exemption for civic and fraternal organizations since it must be determined on an event by event basis whether or not the organization receiving the net proceeds is organized exclusively for charitable purposes.

Note: Any event or charge which is subject to the tax under subsections (4) & (11) of Code Section 12-21-2420 may be exempt pursuant to one of the other exemptions found in the section.

The civic or fraternal organization sponsoring and operating the event must maintain adequate records to prove that the organization receiving the net proceeds is organized exclusively for charitable purposes.

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

March 20, 1991