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

SC REVENUE RULING # 97-13

SUBJECT: Local Taxes – “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.

REFERENCES: S. C. Code Ann. Section 12-21-2410 (1976)
S. C. Code Ann. Section 12-21-2420 (1976; Supp. 1996)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 1996)
SC Revenue Procedure #97-8

SCOPE: A Revenue Ruling is the Department of Revenue's official advisory opinion of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and is provided as guidance for 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 It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

Question:

Is a local tax, as described in the facts, charged by a business to a customer as part of the amount paid to enter into or use a place of amusement a part of “paid admissions” and subject to the state admissions tax?

Conclusion:

A local tax, as described in the facts, charged by a business to a customer as part of the amount paid to enter into or use a place of amusement is a part of “paid admissions” and subject to the state admissions tax. The local tax is subject to the state admissions tax regardless of whether the local tax is imposed by the city or county upon the business or upon the customer with the business serving as a collection agent for the city or county.

Facts:

Cities and counties are imposing local taxes upon businesses that charge to enter into or use a place of amusement, such as a theater, golf course, or a water park. The taxes are generally incorporated into the charge for admissions. For example, a charge to play golf includes the local tax as well as the 5% state admissions tax. However, some taxes are not incorporated into the charge and are added to the advertised price at the time the player pays. As such, when the player arrives at the course, the state admissions tax and the local tax are added to the charge in much the same manner as a merchant adds the sales tax to the price of the merchandise being sold.

Questions have arisen as to whether these local taxes on businesses that operate places of amusements are includable in "paid admissions," and therefore, subject to the state admissions tax. More specifically, if the total amount paid includes the green fee, the state admissions tax and the local tax, is the state admissions tax based on a paid admission of the green fee plus the local tax or is the state admissions tax based on a paid admission of the green fee only.

Discussion:

The issue is whether or not the local tax, as described in the facts, is a part of the "paid admissions" subject to the state admissions tax.

Code Section 12-21-2410 reads:

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.

Code Section 12-21-2420 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.

* * * *

The tax imposed by this section shall be paid by the person or persons paying such admission price.....

In summary, the tax is upon "paid admissions" and the person paying the admission is the taxpayer with respect to the tax, whether that person is an individual, a partnership, or corporation. Furthermore, "paid admissions" constitute the amounts paid by patrons to enter into or use a place of amusement.

Over the years, the Department of Revenue has reviewed several times the issue of what charges are includable in "paid admissions." Essentially, the determination is based on what the patron must pay to enter into or use a place of amusement.

In Commission Decisions L-D-25 and 91-43 and in SC Technical Advice Memorandum #89-26, the department reviewed the issue of whether "seat charges" assessed by an auditorium on all tickets were includable in "paid admissions." These "seat charges" were used for capital improvements or to pay off bonds and were imposed by the governing board of the auditorium - a political subdivision of the state. The department determined that such charges were includable in "paid admissions" and subject to the state admissions tax since patrons were required to pay the seat charge in order to enter into or use the place of amusement.

In SC Revenue Ruling #90-10 the department reviewed the issue of whether service charges imposed by computerized ticket sales companies or credit card processing fee imposed on persons using a credit card to purchase tickets were includable in "paid admissions." These charges were only imposed on persons who purchased tickets through a computerized ticket sales company or purchased tickets via a credit card. The department determined that such charges were includable in "paid admissions" and subject to the state admissions tax if all persons entering the event were required to pay these charges. Such charges were not includable in "paid admissions" and therefore not subject to the state admissions tax if only persons purchasing tickets at remote outlets or by credit card were required to pay these charges. The department reached a similar conclusion in SC Revenue Ruling #94-3 with respect to a "handling fee" charged by a place of amusement for a "restaurant package."

Finally, Commission Decision #91-43 provides further guidance in its review of Code Section 12-21-2420 in determining that "seat charges" were includable in "paid admissions." The department held:

Our determination on this matter is in keeping with the intent of the General Assembly. Section 12-21-2420 provides certain exclusions from the admissions tax. Among these is that provision which states:

... The tax imposed by this section shall not apply to any amount separately stated on the ticket of admission for the repayment of money borrowed for the purpose of constructing an athletic stadium or field by any accredited college or university ...

The above exclusion describes a situation very similar to the present one, i.e., separate charges used to retire a debt arising from the construction of recreation facilities. Thus, the enactment of this exclusion indicates the Legislature considered these types of charges to be taxable as paid admission under 12-21-2420. If this were not so, there would have been no need to enact the said exclusion. (Emphasis added.)

Based on the above, a local tax imposed by a city or county upon businesses that charge to enter into or use a place of amusement is a part of “paid admissions” and therefore subject to the state admissions tax. In addition, a local tax imposed by a city or county upon customers of such businesses, whereby the businesses are merely collection agents for the city or county, is also a part of “paid admissions” and therefore subject to the state admissions tax. A local tax may not be deducted from the total amount paid by the patron in calculating the state admissions tax since all patrons must pay the local tax in order to enter into or use the place of amusement.

Note: The General Assembly, during its 1997 session, placed certain limitations on the authority of a city or county to impose a tax. For information on this matter, see Article 3 of Chapter 1 of Title 6 of the South Carolina Code of Laws (Act 138 of 1997).

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank III

Burnet R. Maybank, III, Director

Columbia, South Carolina
September 16 _____, 1997