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

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SC REVENUE RULING # 97-16

**SUBJECT:** Bingo Card Charges Distributed to the Nonprofit Organization

**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 12-21-4190 (Supp. 1996)  
S. C. Code Ann. Section 12-21-4080 (Supp. 1996)  
S. C. Code Ann. Section 12-21-4090 (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 It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.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:

May money distributed by the department to the nonprofit organization under Code Section 12-21-4190(1) be used to pay expenses (e.g. the promoter's compensation) incurred in the conduct of bingo?

Conclusion:

No.

Facts:

Effective October 1, 1997, the General Assembly enacted the Bingo Act of 1996 which adds Article 24, Chapter 21, Title 12 and repeals Article 23, Chapter 21, Title 12. The Bingo Act of 1996 implements a wide variety of substantial changes to the bingo laws.

The main change concerns the purchase of bingo cards. The following is a brief explanation of this aspect of the law:

1. All bingo operators will be required to obtain their bingo cards by paying a tax to the department. Upon application for the cards, the department will authorize a qualified distributor to sell bingo cards to the bingo operator. The tax must be paid within 15 days of application for the cards.
2. The department must collect 16.5 cents per dollar face value of the bingo cards (except for Class C nonprofit organizations.) Twenty-six percent of this revenue will be distributed to the nonprofit organizations, with the remainder distributed in accordance with the statute for governmental purposes.
3. The department will make distributions to the nonprofit organization (sponsoring charity) from the tax received by the last day of the month following the month the revenue was collected.
4. The nonprofit organization, or the promoter conducting the games on its behalf, may then use the bingo cards purchased from the distributor through this procedure to conduct bingo games in order to raise money in accordance with the law.

Discussion:

The issue is whether a nonprofit organization can pay expenses of the bingo game from money distributed by the department to the nonprofit organization under Code Section 12-21-4190(1).

Code Section 12-21-4190 concerns the payment of the tax to the Department, and reads:

The department shall charge and retain sixteen and one-half cents of the dollar value for each bingo card sold except sales to Class C licensees pursuant to this article. The revenue retained must be distributed as follows:

- (1) twenty-six percent of the revenue must be distributed to the sponsoring charity for which the bingo cards were purchased. The department shall make the distribution to the sponsoring charity by the last day of the next

month following the month the revenue was collected. Distributions under this subsection must be reduced by any delinquent debts as defined in the Setoff Debt Collection Act.

(2) seventy-four percent pursuant to Section 12-21-4200.

Code Section 12-21-4200 distributes the seventy-four percent discussed above among various state agencies.

Code Sections 12-21-4080 and 12-21-4090 concern the procedures for accounting for the funds received in conducting bingo games during a session. Code Section 12-21-4080 reads in part:

(A) Upon completion of the session, the promoter shall deliver to the representative member of the organization the gross proceeds from the session less the amount paid out as prizes and collected as entrance fees.

(B) The representative member of the nonprofit organization shall deposit the funds into the bingo checking account or savings account as described in Section 12-21-4090...

Code Section 12-21-4090 reads in part:

(A) The provisions of this section apply to the licensed nonprofit organization which is responsible for the special checking and savings accounts established by this section.

(B) The organization shall control all deposits, transfers, and disbursements from these accounts, including the payment of compensation to the promoter and employees of the promoter or organization working the bingo games.

(C) An organization receiving an annual license to conduct bingo shall establish and maintain one regular checking account designated the "bingo account" and also may maintain an interest-bearing savings account designated the "bingo savings account." All funds derived from the conduct of bingo, less the amount awarded as cash prizes, must be deposited in the bingo account. No other funds may be deposited in the bingo account. Deposits must be made no later than the next business day following the day of the bingo occasion on which the receipts were obtained. All accounts must be maintained in a financial institution in this State.

\* \* \* \*

(E) Funds received by the nonprofit organization from the department as a result of the sale of bingo cards must be deposited into a separate account and maintained separately from bingo funds and the bingo account referenced in this section.

(F) Checks drawn on the bingo account must be for one or more of the following purposes:

(1) payment of necessary and reasonable bona fide expenses incurred and paid in connection with the conduct of bingo;

(2) payment of necessary and reasonable compensation incurred and paid in connection with the conduct of bingo for personnel and promoters managing and conducting the game;

(3) disbursement of net proceeds derived from the conduct of bingo to charitable purposes or the purpose for which the organization was established;

(4) transfer of net proceeds derived from the conduct of bingo to the bingo savings account pending disbursement to a charitable purpose.

\* \* \* \*

(I) Gross proceeds derived from the conduct of bingo must not be commingled with other funds of the licensed organization.

\* \* \* \*

Based on the above, money distributed by the department to the nonprofit organization under Code Section 12-21-4190(1) may not be used to pay expenses (e.g. the promoter's compensation) of the bingo games. The provisions of Code Section 12-21-4090 require that all expenses of the bingo game must be controlled by the nonprofit organization from the bingo account and that the money placed into this account, which is derived solely from the conduct of bingo, may not be commingled with other funds of the nonprofit organization, the promoter, an employee of the nonprofit organization or promoter, or any other person or entity. Specifically, compensation for the promoter and employees of the game must be paid from the bingo account. In addition, money derived from the conduct of bingo must be kept separate from money distributed by the department to the nonprofit organization under Code Section 12-21-4190(1). See subsections (B), (E) and (I).

In summary, money distributed by the department to the nonprofit organization under Code Section 12-21-4190(1) must be used by the nonprofit organization for charitable purposes or the purpose for which the nonprofit organization was established.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank, III  
Burnet R. Maybank, III, Director

Columbia, South Carolina  
November 3 , 1997