PUBLIC DRAFT

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SC REVENUE RULING #26-xx [Public Draft – 8/26/2026]

SUBJECT:	Homeowner's Association Membership Fees (Admissions Tax)
EFFECTIVE DATE:	All periods upon under the statute.
SUPERSEDES:	SC Private Letter Ruling #09-2
REFERENCES:	S.C. Code Ann. Section 12-21-2410 (2014) S.C. Code Ann. Section 12-21-2420 (2014)
AUTHORITY:	S.C. Code Ann. Section 12-4-320 (2014) S.C. Code Ann. Section 1-23-10(4) (2005) SC Revenue Procedure #09-3
SCOPE:	The purpose of a Revenue Ruling is to provide guidance to the public. 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 It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Department advisory opinion.

PURPOSE:

The purpose of this ruling is to explain the application of the admissions tax to homeowner's association fees.

LAW AND DISCUSSION:

I. ADMISSIONS TAX

South Carolina law imposes an admissions tax and reads:

> 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]

[1] S.C. Code Ann. § 12-21-2420 (2014).

The word "admission" means "the right or privilege to enter into or use a place or location."[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.[3] Further, the word "place" means "any definite enclosure or location."[4] Therefore, paid admissions (the measure of the admissions tax) is the amount required for the right or privilege to enter into or use a place or location.

The statute does not define the term "amusement." However, it is the Department's long-standing policy that a "place of amusement" is any enclosure or location consisting of an activity that occupies one's spare time, distracts the mind, relaxes, entertains, or gives pleasure.[5]

II. ADMISSIONS TAX AND HOMEOWNERS' ASSOCIATIONS

The Department considers swimming pools, tennis courts, golf courses, and country clubs to be places of amusement,[6] and any charges to enter into or use these places (including pool fees, court fees, and membership dues) are subject to the admissions tax, unless an exemption applies. Some residential developments offer their residents access to country clubs, golf clubs, or other places of amusement upon the payment of a fee to the club or place of amusement. These fees may be mandatory based on residency or voluntary. Residents may pay these fees directly to the club or place of amusement or to an HOA and then the HOA remits the fees to the club or place of amusement. The Department views these types of payments as payments for a resident's right or privilege to enter into or use a place of amusement and therefore, they are subject to admissions tax, unless exempt.

However, fees paid by residents to an HOA for the maintenance and upkeep of commonly owned property including security, landscaping, road maintenance, or even swimming pools, tennis courts, club houses, etc.) are not payments for the right or privilege to enter into a place of amusement and are therefore not subject to the admissions tax as such fees are not "paid admissions."

a. Nonprofit Exemption

South Carolina law exempts from admissions tax charges "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."[7] However, merely forming a nonprofit is not conclusive evidence as to whether an organization or corporation is entitled to the exemption. "In order to determine whether a

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[2] S.C. Code Ann. § 12-21-2410(1) (2014).
[3] See Beach v. Livingston, 248 S.C. 135, 149 S.E.2d 328 (1966) (holding the admissions tax applied to charges paid for the "use" of a bowling alley even though the bowling alley did not require a charge to "enter" the bowling alley).
[4] S.C. Code Ann. § 12-21-2410(2) (2014).
[5] See S.C. Revenue Ruling #26-2 and S.C. Revenue Ruling #89-8.
[6] See S.C. Revenue Ruling #26-2.
[7] S.C. Code Ann. § 12-21-2420(4).

corporation is a nonprofit, one must examine both the operational history and the organizational purposes of the corporation."[8] On this matter, the South Carolina Supreme Court noted:

> The charter or other instrument by which an organization comes into being is not conclusive on the issue of the purposes for which it is organized, and the court may consider extrinsic evidence on the issue . . . . The purpose for which a corporation has been organized is a question of fact, to be determined from all the evidence, including statements in the charter and evidence concerning the circumstances surrounding its organization, the purposes and intentions of the incorporators, and the activities of the corporation and of any predecessor organization.[9]

Furthermore, the Administrative Law Court stated the test to determine whether a corporation is for profit or nonprofit is as follows:

> Generally, the test to be applied to determine whether a given corporation is organized for profit is whether dividends or other pecuniary benefits are contemplated to be paid to its members. However, according to some cases, "profit" does not necessarily mean a direct return by way of dividends, interest, capital account, or salaries. For example, profit may be dispensed to members of a corporation in the form of a saving of expense or the obtaining of a service at a lower price than that which would otherwise be paid for . . . .[10]

Accordingly, HOA fees charged by a nonprofit HOA to residents, a portion of which allow access to and use of facilities owned by the HOA, are exempt from the admissions tax in their entirety, so long as extrinsic evidence of the operational history and the organizational purposes of the HOA prove that the HOA is, in fact, operating as a nonprofit.

Example: HOA fees paid by residents for, among other things, the use and enjoyment of a swimming pool and a tennis court, and charged by an HOA organized as a nonprofit are exempt from admissions tax, so long as the operational history and the organizational purposes of the corporation support that the HOA is a nonprofit.

b. Golf Club Membership Dues Exemption

South Carolina law also exempts "annual or monthly dues paid to a golf club" from admissions tax.[11] Certain HOAs provide residents within a real estate development access to golf clubs and, in some cases, a portion of the HOA fees paid by the residents are used by the association to pay

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[8] *Savannah Lakes Village Club, Inc., v. S.C. Dep't of Revenue*, 1998 WL 141697 (S.C. Admin. Law Judge Div., March 11, 1998) (citing *Columbia Country Club v. Livingston*, 252 S.C. 490, 167 S.E.2d 300 (1969)).
[9] *Columbia Country Club*, at 495, 167 S.E.2d at 303.
[10] *Savannah Lakes Village Club*, at *4 (citing 18 Am.Jr.2d Corporations § 32 (1985)).
[11] S.C. Code Ann. § 12-21-2420(17).

the residents' membership dues to the golf club. In such cases, the portion of HOA fees allocated to pay for membership dues to a golf club or to a country club which provides access to golf are exempt from the admissions tax.

Example 1: XYZ, Inc., a for-profit corporation, is the owner and operator of a residential development known as ABC. Included within the development is a for-profit golf club also owned by XYZ. With monthly membership dues, the golf club includes golf courses, a swimming pool, tennis courts, and a clubhouse. Memberships to the golf club can be purchased by non-property owners. Property owners within the residential development pay HOA fees charged by XYZ, a portion of which XYZ uses to pay for the property owners' membership dues to the golf club. Based on the exemption for "annual or monthly dues paid to a golf club," the HOA fees are exempt in their entirety.

Example 2: XYZ, Inc., a for-profit corporation, is the owner and operator of a residential development known as ABC. Included within the development is a for-profit country club also owned by XYZ. With monthly membership dues, the country club allows access to a swimming pool, tennis courts, and a clubhouse. The country club does not have access to golf. Memberships to the country club can be purchased by non-property owners. Property owners within the residential development pay HOA fees charged by XYZ, a portion of which XYZ uses to pay for the property owners' membership dues to the country club. Because the country club is a for-profit corporation that does not offer access to golf, the portion of the HOA fees used to pay for the property owners' membership dues to the country club are not eligible for the nonprofit or golf club exemptions and are subject to the admissions tax.

III. CALCULATION OF THE ADMISSIONS TAX

As discussed above, some residential developments collect fees that cover access to country clubs or golf clubs and their various amenities, including, but not limited to, golf courses, swimming pools, and tennis courts, but also include charges for upkeep of the common areas of the development (landscaping, security, road maintenance, etc.). Unless a specific exemption applies, the portion of the HOA fees used to pay for a resident's right or privilege to enter into or use a for-profit place of amusement is subject to admissions tax, while the remaining amount is not. The Department provides the following calculation to determine which portion of an HOA fee allows residents within the HOA to enter or use a place of amusement, which is then used as the measure of the admissions tax:

1. Determine a percentage by dividing all the expenses (direct and indirect) associated with all places of amusement for which the HOA fee is paid by the total expenses (direct and indirect) of the residential development.

2. Apply the above percentage to the total monthly HOA membership fee.

3. The result is the portion of the HOA membership fee that allows residents entrance to, and use of, the places of amusements.

Note: The portion of security, landscaping and road maintenance expenses associated with any places of amusement must be included in the expenses (direct and indirect) associated with all places of amusement for which the fee is paid.

CONCLUSION:

Based on the above, whether HOA fees are subject to admissions tax depends on whether the fees charged are for the right or privilege to enter into or use a place of amusement or whether they are for the maintenance and upkeep of commonly owned property. If the fees are for the right or privilege to use or access a place of amusement, they are subject to admission tax unless these payments are exempt. HOA fees may be exempt from admissions tax because they are paid by a member of a nonprofit organization or corporation for the use of the facilities of the organization or corporation. They may also be exempt because they are annual or monthly dues paid to a golf club or a club that provides access to golf. In some cases, HOA fees include both fees for access to places of amusement and fees for maintenance of commonly owned property. In such situations, only the taxable portion of HOA fees are subject to admissions tax.