



SC REVENUE RULING #89-18

SUBJECT: Bingo

EFFECTIVE DATE: October 1, 1989

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

REFERENCE: Bingo Act of 1989 (H.3052)

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 A Revenue Ruling is public information and remains a permanent document until superseded by a Regulation or is rescinded by a subsequent Revenue Ruling.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

1. May holders of Class "A" bingo licenses, in effect on or after October 1, 1989, offer prizes between \$6,000 and \$30,000 a session?
2. What is the effective date for the new provisions of the Bingo Act of 1989 (i.e.: special checking account, written contracts with promoters, etc.)?

Facts:

The following is a partial comparison of the present bingo law and the Bingo Act of 1989 (H.B. 3052).

Bingo - Present Law:

<u>Class</u> <u>Limitations</u>	<u>License Cost</u>	<u>Prize Limitations</u>	<u>Session</u>
AA	\$4000	\$30,001 to \$250,000	1/month
A	\$2000	\$6000 to \$30,000	1/month
B	\$1000	0 to \$6000	3/week
C	-0-	\$20/game	N/A
D (Fairs)	\$100 or \$200	\$50 merchandise/game	Duration of the fair
E	\$500	0 to \$4,000	1/week

Bingo - Bingo Act of 1989 (H.B.3052):

<u>Class</u> <u>Limitations</u>	<u>License Cost</u>	<u>Prize Limitations</u>	<u>Session</u>
AA	\$4000	\$50,000 to \$250,000	1/month
B	\$1000	0 to \$8000	3/week
C	-0-	\$20/game	N/A
D	\$100 or \$200	\$50 merchandise/game	Duration of the fair
E	\$500	0 to \$4000	1/week

The classifications remain essentially the same; however, the Class "A" license was eliminated and the minimum prize payout for a Class "AA" was raised from \$30,000 to \$50,000.

Furthermore, Sections 3, 4 and 5 of the Bingo Act, read:

SECTION 3. (A) Sections 12-21-2580 through 12-21-2630 and Chapter 17 of Title 52 of the 1976 Code are repealed.

(B) All persons or organizations subject to those provisions of law repealed by subsection (A) of this section are liable for all taxes and fees for periods remaining within the applicable statute of limitations.

SECTION 4. Licenses in effect on October 1, 1989, remain valid until their expiration and no holder of such a license may apply for renewal between the effective date of this section and October 1, 1989.

SECTION 5. This act takes effect October 1, 1989, except for Section 4, which takes effect upon approval by the Governor.

The Governor approved the Bingo Act of 1989 on June 6, 1989.

Discussion:

The question at hand is: What is the effective date of the various provisions of the Bingo Act of 1989?

The statute creates an interesting dilemma, in that, the statute repeals the old law effective October 1, 1989 while Section 4 of the Act states that licenses in effect on October 1 are valid until their expiration date. In addition, Class "A" licenses have been eliminated. Sections 3, 4 and 5 appear to conflict with each other to make portions of the new statute a nullity.

However, the following quotes from 73 Am. Jur. 2d, Statutes, provide some guidance.

Section 145

...a construction adopted should not be such as to nullify, destroy, or defeat the intention of the legislature.

Section 249

In the construction of statutes, the courts start with the assumption that the legislature intended to enact an effective law, and the legislature is not to be presumed to have done a vain thing in the enactment of a statute. Hence, it is a general principle that the courts should, if reasonably possible to do so, interpret the statute, or the provision being construed, so as to give it efficient operation and effect as a whole. An interpretation should, if possible, be avoided, under which the statute or provision being construed is defeated, or as otherwise expressed, nullified, destroyed, emasculated, repealed, explained away, or rendered insignificant, meaningless, inoperative, or nugatory.

Section 254

In the absence of a showing to the contrary, all laws are presumed to be consistent with each other. Where it is 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. These rules are particularly applicable to statutes passed at or about the same time, or at the same session of the legislature, since it is not to be presumed that the same body of men would pass conflicting and incongruous acts.

Likewise the various provisions of a single act should be so read that all may, if possible, have effect without repugnancy or inconsistency, so as to render the statute a consistent and harmonious whole.

Although the courts cannot add to, take from, or change, the language of a statute to give effect to any supposed intention of the legislature, words and phrases may be altered and supplied when that is necessary to obviate repugnancy and inconsistency and to give effect to the manifest intention of the legislature.

In summary, the statute in question should not be interpreted so as to make it ineffectual. The statute is entitled to a reasonable construction, harmonious with the intent of the legislature and consistent with other statutory provisions.

In light of the aforementioned, and in reviewing the Act in its entirety, the following conclusions can be made:

1. All provisions of the present law, including prize limitations of a Class "A" license, are repealed, effective October 1, 1989.
2. Section 4 of the Act permits licenses in effect on October 1, 1989 to remain valid until their expiration date.
3. The provisions of the Act are effective beginning October 1, 1989.

Conclusions:

1. Based on the above discussion, holders of Class "A" bingo licenses, in effect on October 1, 1989, may offer prizes between \$6,000 and \$30,000 until their expiration date.
2. The effective date for the new provisions of the Bingo Act of 1989 (i.e.: special checking account, written contracts with promoters, etc.) is October 1, 1989. All promoters and nonprofit organizations, no matter when their licenses expire, must comply with these provisions on and after October 1, 1989.

SOUTH CAROLINA TAX COMMISSION

s/S. Hunter Howard, Jr.

S. Hunter Howard, Jr., Chairman

s/A. Crawford Clarkson, Jr.

A. Crawford Clarkson, Jr., Commissioner

Columbia, South Carolina
July 5, _____ 1989