



301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

SC REVENUE RULING #90-4

SUBJECT: Membership Fees To Health Clubs, Spas, Etc...
(Admissions Tax)

TAX ANALYST: Deana West

EFFECTIVE DATE: October 1, 1990

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

REFERENCE: S. C. Code Ann. Section 12-21-2410 (1976)
S. C. Code Ann. Section 12-21-2420 (1976)

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 A Revenue Ruling is public information and remains a permanent document until superceded by a Regulation or is rescinded by a subsequent Revenue Ruling.

Question:

Are charges for membership fees to health clubs, spas, gyms, fitness centers and the like subject to the admissions tax, pursuant to Code Sections 12-21-2410 and 12-21-2420?

Facts:

Health clubs, gyms, fitness centers, spas, and the like offer activities, such as weightlifting, aerobics, indoor running tracks and exercise machines, to the general public for a membership fee.

Individuals obtain access to enter and use the facility by completing a contract specifying the terms of membership, dues and membership expiration date.

Discussion:

Code Section 12-21-2420 imposes the admissions tax and reads, in part:

There shall be levied, assessed, collected and paid upon all paid admissions to all places of amusement within this State a license tax of...four percent...

* * * * *

The tax imposed by this Section shall be paid by the person or persons paying such admission price and shall be collected and remitted to the South Carolina Tax Commission by the person or persons collecting such admissions price (emphasis added).

Code Section 12-21-2410 defines various terms found in Section 12-21-2420 and reads, in part:

For purposes 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.

The Commission has consistently imposed the admissions tax on membership fees to places of amusement, such as golf courses and racquet clubs. This position was upheld in *Venture Management Inc. v South Carolina Tax Commission*, Richland County Circuit Court, Case No. 80-CP-40-4157 (1981). Therefore, charges for membership to places of amusement are subject to the admissions tax. However, the statute does not define the term "amusement".

One of the primary rules of statutory construction is that words used in a statute should be taken in their ordinary and popular meaning, unless there is something in the statute which requires a different interpretation. *Hughes v. Edwards*, 265 SC 529, 220 SE2d 231 (1975); *Investors Premium Corp. v. South Carolina Tax Commission*, 260 SC 13, 193 SE2d 642 (1973).

It is an 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 SE2d 837 (1979); *Fennell v. South Carolina Tax Commission*, 233 SC43, 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 the term "amusement" to mean: "Pastime, diversion, enjoyment. A pleasurable occupation of the senses or that which furnishes it."

The Second College Edition of the American Heritage Dictionary provides the following definitions:

- "Amusement" - 1. The state of being amused, entertained or pleased.
2. Something that amuses.
- "Pastime" - An activity that occupies one's mind and relaxes or entertains.
- "Diversion" - Something that distracts the mind and relaxes or entertains.
- "Enjoyment" - 1. The act or state of enjoying.
2. The use or possession of something beneficial or pleasurable.
3. Something that gives pleasure.

Based on the above definitions, 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.

However, Code Section 12-21-2420(4) provides an exemption from the tax and reads, in part:

...No admission 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.

Conclusion:

Charges for membership to health clubs, spas, gyms, fitness centers and other similar places are subject to the admissions tax, pursuant to Code Sections 12-21-2410 and 12-21-2420.

However, "any charge made to any member of a nonprofit organization for the use of the facilities of the organization" (health club, spa, gym, etc.) are exempt from the admissions tax, pursuant to Code Section 12-21-2420(4).

NOTE: This ruling is effective for membership fees received after October 1, 1990 by health clubs, spas, gyms, fitness centers and other similar places of amusement.

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
June 6, 1990