



SC REVENUE RULING #94-8 (ABC)

**SUBJECT:** Beer Price Promotions  
(ABC Laws)

**EFFECTIVE DATE:** Applies to all periods open under the statute.

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

**REFERENCE:** S.C. Code Ann. Section 61-9-315(F) and (G) (Rev. 1990)

**AUTHORITY:** S.C. Code Ann. Section 12-4-320 (Supp. 1993)  
SC Revenue Procedure #93-6

**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 It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

Questions:

1. May a brewery offer promotions involving a beer price reduction to wholesalers contingent upon the wholesalers passing price savings on to retailers?
2. May a wholesaler offer promotions involving a beer price reduction to retailers contingent upon the retailers passing price savings on to consumers?

Conclusion:

A brewery may offer promotions involving a beer price reduction to wholesalers contingent upon the wholesalers passing price savings on to retailers, and a wholesaler may offer promotions involving a beer price reduction to retailers contingent upon the retailers passing price savings on to consumers, provided:

- (1) the normal quantity discounts apply to beer purchased under this proposal;

- (2) the discounts are based on price only (No free beer, promotional items, or equipment is involved in the discount.);
- (3) the discounts appear on the sales records;
- (4) the discounts are available to all wholesalers, or retailers, wishing to participate; and,
- (5) participation by wholesalers, or retailers, is totally voluntary and wholesalers, or retailers, are not required to advertise or to participate in this promotion.

Facts:

A brewery may offer a beer promotion in which it will grant an allowance to a beer wholesaler in the amount equal to one-half of the wholesaler's price reduction to the retailer. The promotion will specify that participation by the wholesaler is entirely voluntary. Similarly, wholesalers may offer similar promotions to retailers.

Discussion

Code Section 61-9-315(F) reads:

A manufacturer, brewer, importer, or wholesaler of beer may discount product price based on quantity purchases provided that all discounts must be on price only, must appear on the sales records, and must be available to all customers.

Code Section 61-9-315(G) reads:

No person or entity in the beer business on one tier may require any person or entity in such business on another tier to advertise or participate in a discount or special promotional<sup>1</sup>.

Where the words of a statute are clear there is no room for construction and such terms must be given their literal meaning. Duke Power Co. v. South Carolina Tax Commission, 292 S.C. 64, 354 S.E.2d 902 (1987).

In addition, in Beaty v. Richardson, 56 S.C. 173, 180, 34 S.E. 73, 76 (1899), the Court stated the rule as follows:

The legislature must have intended to mean what it has plainly expressed, and consequently there is no room for construction... Where the words of a statute are plainly expressive of an intent, not rendered dubious by the context, the interpretation must conform to and carry out that intent. It matters not, in such a case, what the consequences may be.

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<sup>1</sup>The beer industry is made up of the following tiers:

1. Manufacturers, Breweries, and Importers,
2. Wholesalers, and
3. Retailers.

Based on the above, the promotion will meet the provisions of the statute if:

- (1) the normal quantity discounts apply to beer purchased under this proposal;
- (2) the discounts are based on price only (No free beer, promotional items, or equipment is involved in the discount.);
- (3) the discounts appear on the sales records;
- (4) the discounts are available to all wholesalers, or retailers, wishing to participate; and,
- (5) participation by wholesalers, or retailers, is totally voluntary and wholesalers, or retailers, are not required to advertise. While participation in a discount or special promotion cannot be mandatory, once a wholesaler or a retailers agrees to participate, the wholesaler or retailer can be required to pass any savings on to his customers.

SOUTH CAROLINA DEPARTMENT OF REVENUE

Columbia, South Carolina  
April 26 \_\_\_\_\_, 1994

For questions concerning the issues addressed in this ruling, contact Nicholas Sipe at (803) 734-0478.