1981 S.C. Op. Atty. Gen. 60 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-39, 1981 WL 96565

Office of the Attorney General

State of South Carolina
Opinion No. 81-39
April 21, 1981

***1 SUBJECT: Admissions Tax**

(1) A charge to enter into a place for the purpose of playing bingo, whereby one is allowed to play a certain number of games, is subject to an admissions tax.

(2) A charge for a card to play bingo is subject to an admissions tax even though there is no charge to enter into the establishment where bingo is played.

To: Mr. J. W. Lawson
Director
License Tax Division
South Carolina Tax Commission

QUESTIONS:

1. Would a charge to enter into and use a place for the purpose of playing bingo, if the price of admission entitled the player to play a certain number of games, be subject to an admissions tax?

2. Would a charge for a card to play bingo be subject to the admissions tax even though there is no charge to enter the establishment where bingo is being played?

APPLICABLE LAW:

§§ 12–21–2410 and 12–21–2420, 1976 Code of Laws.

DISCUSSION:

Question 1. Section 12–21–2420 provides for a tax 'upon all paid admissions to all places of amusement'. A charge of admission to enter a place for the purpose of playing bingo would be taxable under the provisions of this section if that place could be considered a place of amusement.

Section 12–21–2410 defines 'place' as a definite enclosure or location, while the word 'amusement' has been held to mean to occupy attention with something pleasing. Radcliff v. Query, 153 S.C. 76, 150 S.E. 352. Furthermore, the Court in State v. Crayton, Ala. Civ. App., 344 So.2d 771, has held that a bingo parlor is a place of amusement for tax purposes. Based on the above, it appears that a place used for playing bingo is a place of amusement. A charge of admission for entry into that place would therefore be taxable in accordance with § 12–21–2420.

CONCLUSION:

A charge to enter into a place for the purpose of playing bingo, whereby one is allowed to play a certain number of games, is subject to an admissions tax.

Question 2: The tax provided for in § 12–21–2420 applies to 'all paid admissions'. The definition of 'admission', according to § 12–21–2410, includes the right or privilege to use a place of amusement as well as the right or privilege to enter into such a place.

The use of a place of amusement has been discussed in Beach v. Livingston, 248 S.C. 135, 149 S.E.2d 328. In that case the Court upheld an admissions tax on charges collected by a bowling center for the use of its facilities by stating:
'It is logical to conclude that the word 'use', as such is employed here, means that a tax is imposed upon a person who avails himself of the facilities of a place of amusement, * * *.'

Of further importance is the rationale used in Garrison v. South Carolina Tax Commission, a 1964 Charleston County Court case. In that particular case the plaintiff was the owner of a golf driving range. He claimed that his establishment should not be subject to an admissions tax as he made no charge for the right to enter into or use his driving range. Rather, he charged a rental for the use of his golf balls. The Court, however, in upholding the tax, noted that:
***2** '* * * the charges made for the rental of the golf balls are a charge for admissions enabling a person to use the offered facilities.'

In light of the above, a charge for a card to play bingo is subject to the tax provided for in § 12–21–2420. The charge for the card is actually a charge for the use of the establishment. The card merely allows one to avail himself of the amusement offered by the establishment.

CONCLUSION:

A charge for a card to play bingo is subject to an admissions tax even though there is no charge to enter into the establishment where bingo is played.

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