



TYRONE C. FAHNER
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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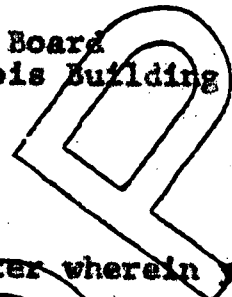
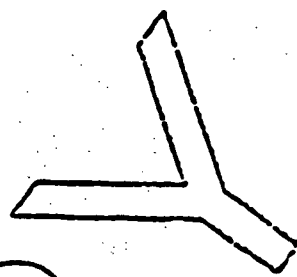
FILE NO. 81-034

SPORTS AND GAMING:
Race Track Admissions Tax

Charles E. Schmidt, Jr.
Chairman, Illinois Racing Board
Room 1000, State of Illinois Building
160 North LaSalle Street
Chicago, Illinois 60601

Dear Mr. Schmidt:

I have your letter wherein you request my opinion regarding the proper basis for calculating the admissions tax liability of an organization licensee under section 25 of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1979, ch. 8, par. 37-25). For the reasons hereinafter stated, it is my opinion that admissions tax liability is properly calculated only on the number of persons actually purchasing and using admission tickets to enter a licensee's track. No admissions tax liability is imposed upon a licensee for the issuance of admission tickets to the classes of persons expressly exempted by the terms of subsection 25(a), nor upon the issuance of any ticket for which no charge is made.



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Section 25 of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1979, ch. 8, par. 37-25) provides, in pertinent part:

"(a) There shall be paid to the Board at such time or times as it shall prescribe, the sum of fifteen cents (15¢) for each person entering the grounds or enclosure of the licensee upon a ticket of admission. If tickets are issued for more than one day then the sum of fifteen cents (15¢) shall be paid for each person using such ticket on each day that the same shall be used. Provided, however, that no charge shall be made on tickets of admission issued to and in the name of directors, officers, agents or employees of the licensee, or to owners, trainers, jockeys, drivers and their employees or to any person or persons entering the grounds or enclosure for the transaction of business in connection with such race meeting. The licensee may, if it desires, collect such amount from each ticket holder in addition to the amount or amounts charged for such ticket of admission.

Accurate records and books shall at all times be kept and maintained by the licensees showing the admission tickets issued and used on each racing day and the attendance thereat of each horse racing meeting. The Board or its duly authorized representative or representatives shall at all reasonable times have access to the admission records of any licensee for the purpose of examining and checking the same and ascertaining whether or not the proper amount has been or is being paid the State of Illinois as herein provided. The Board shall also require, before issuing any license, that the licensee shall execute and deliver to it a bond, payable to the State of Illinois, in such sum as it shall determine, not, however, in excess of fifty thousand dollars (\$50,000), with a surety or sureties to be approved by it, conditioned for the payment of all sums due and payable or collected by it under this Section upon admission fees received for any particular racing meetings. * * *

* * *

(c) For the purpose of this Section, admission ticket means a ticket purchased for entrance into a track. This does not apply to passes.

* * *

(Emphasis added.)

You indicate that, due to differing interpretations of the terms "charge", "ticket of admission", and "admission ticket" used in the above-quoted language, several interpretations concerning the proper tax basis have been proposed. The issue as to the meaning of the terms in question may be resolved by applying recognized rules of statutory construction to the language of section 25.

The primary rule in the construction and interpretation of statutes is that the intent of the legislature in enacting a statute is to be ascertained and given effect, and the legislative intent should be sought from the language employed therein. (Certain Taxpayers v. Sheahan (1970), 45 Ill. 2d 75, 84.) When a statute defines terms therein used, those terms must be construed according to the definitions contained in the statute. Krebs v. Thompson (1944), 387 Ill. 471, 470.

The General Assembly has defined the term "admission ticket" for the purposes of section 25 as "a ticket purchased for entrance into a track". However, the General Assembly has also used the term "ticket of admission" in the context of the section, without defining its meaning. The term "ticket of admission", however, is substantially the same as, and is used interchangeably with, the term "admission ticket". Therefore, the two terms should be given a consistent definition. People v. Lutz (1978), 73 Ill. 2d 204, 212.

The application of a consistent definition to the terms "ticket of admission" and "admission ticket" is supported by reference to the third sentence of subsection 25(a) of the Act, which authorizes an organization licensee to collect admissions tax amounts from ticket holders, in addition to the amount or amounts charged for a ticket. The clear implication of this sentence is that the term "ticket of admission" refers to a ticket purchased for entrance into a licensee's track.

Construing the pertinent provisions of section 25 in this light, the basis for calculating a licensee's admissions tax liability is clear. Generally, a licensee is liable to pay over statutory admissions tax amounts based on the number of persons purchasing and using admission tickets to enter the licensee's track. If a ticket is purchased for admission for more than one day, admissions tax liability is imposed for each day the ticket is used to enter the track. The licensee's admissions tax liability, however, is limited by the proviso contained in the third sentence of subsection 25(a), which provides that no charge shall be made upon tickets of admission issued to specific classes of persons. Because a proviso in a statute generally relates only to that portion which immediately precedes it (In re Estate of Zimmerman (1978), 63 Ill. App. 3d 560, 563), the word "charge" must be construed to refer to the statutory admissions tax otherwise incurred by the entry of a person into the licensee's track upon a ticket of admission. Therefore, the General Assembly has specifically exempted

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licensees from admissions tax liability for tickets issued to those persons expressly named in subsection 25(a), regardless of whether or not an admission fee is collected for such tickets.

You have also asked whether a licensee which admits a person to its track free of any admission fee is liable to pay over admissions tax amounts based on such entry. Because liability for admissions taxes is properly calculated only upon the number of persons purchasing admission tickets and entering a licensee's track, it is clear that no tax liability is incurred unless the purchase of a ticket is required for entry.

Very truly yours,


ATTORNEY GENERAL