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State of South Carolina  
**Department of Revenue**  
300A Outlet Pointe Blvd. P. O. Box 125, Columbia, South Carolina 29214

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SC REVENUE PROCEDURE #14-2

**SUBJECT:** Penalty Guidelines for Violations of the Bingo Laws

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

**SUPERSEDES:** SC Revenue Procedure #97-7 and all previous documents and any oral directives in conflict herewith

**REFERENCES:** S. C. Code Ann. Sections 12-21-3910 through 12-21-4300 (Title 12, Chapt. 21, Art. 24) (2014)  
S. C. Code Ann. Section 12-54-90 (2014)

**AUTHORITY:** S. C. Code Ann. Section 12-4-320 (2014)  
SC Revenue Procedure #09-3

**SCOPE:** A Revenue Procedure is a statement that provides information of a procedural nature. It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Procedure or Revenue Ruling.

**INTRODUCTION:**

This advisory opinion provides guidelines to be used by Department employees in assessing administrative penalties for violations of the statutes governing bingo. The purpose of this procedure is to promote uniform penalty application. Flexibility is allowed in situations that do not fall exactly within the guidelines.

**APPLICABLE LAW:**

Under the Bingo Tax Act of 1996, Article 24 of Chapter 21, Title 12, penalties for administrative violations by licensed promoters and nonprofit organizations are governed by Code Section 12-21-4140, which states:

A penalty of up to five thousand dollars and revocation of the license at the discretion of the department may be imposed for a violation of this article.

Each violation and each day in violation of a provision of this article constitutes a separate offense.

Also applicable is Code Section 12-54-90, which states:

(A) When a person fails, neglects, violates, or refuses to comply with a provision of law or regulation administered by the department, the department, in its discretion, may refuse to issue a license to a taxpayer and may revoke one or more licenses held by the taxpayer.

(B) A person whose license has been revoked must not be issued a new license until all outstanding liabilities are satisfied.

(C) The department may review and determine whether a new license may be issued according to guidelines established by it.

These two provisions, Code Sections 12-21-4140 and 12-54-90 set forth the Department's authority with respect to penalties for all administrative violations by nonprofit organizations and promoters licensed under the Bingo Tax Act of 1996.

Finally, Code Section 12-21-3960 provides for joint and several liability, as follows:

The promoter and the nonprofit organization are jointly and severally liable for all taxes, penalties, interest, and fines imposed by this article and Chapter 54 of this title.

## **PROCEDURES:**

### **General Guidelines**

The Department recognizes that ensuring compliance with the law and protecting the public, not punishment, are the reasons for administrative penalties. Accordingly, except for serious administrative violations, the Department adopts a progressive response to assessing penalties.

The penalties outlined below include a monetary amount or a license revocation or both. These are guidelines only, and this advisory opinion does not establish a binding norm. There often will be circumstances present that call for either more severe or less severe sanctions for a violation or a group of violations discovered during an inspection, an audit, or otherwise. These guidelines do not restrict the Department's authority to impose any sanctions within the statutory parameters set by the General Assembly. Nor do these guidelines alter the joint and several liability of the licensed promoter and nonprofit organization for the relevant taxes, penalties, interest and fines.

All administrative violations within the preceding three years, regardless of type, will be considered in determining the appropriate penalty. However, only a repeat violation involving the identical statutory provision will automatically constitute a "Second Violation" or "Third Violation" for purposes of this document.

### **Classes of Bingo Violations**

Administrative violations will be divided into four classes, with the recommended penalty to be assessed based on whether the violation is considered a Class I, Class II, Class III or Class IV violation. The following outlines the recommended action for each class of violation:

<b><u>Class</u></b>	<b><u>First Violation</u></b>	<b><u>Second Violation</u></b>	<b><u>Third Violation</u></b>
I	\$250	\$1,000	\$5,000 and revocation of licenses of the promoter and the organization
II	\$1,000	\$2,000	\$5,000 and revocation of licenses of the promoter and the organization
III	\$2,000	\$3,000	\$5,000 and revocation of licenses of the promoter and the organization
IV	\$3,000	\$5,000 and revocation of licenses of the promoter and the organization	Not Applicable

### **Common Bingo Violations and Recommended Action (Class of Violation)**

Below are common bingo violations and the recommended penalty:

**1. Description of the Violation:** Failing to notify the Department of changes in the information supplied on the original application regarding the operation or location of the game.

**Violation Section**                      12-21-3940(C)

**Recommended Action**                Class I

**2. Description of the Violation:** Failing to notify the Department of changes in the information supplied on the original promoter's application.

**Violation Section**                      12-21-3950

**Recommended Action**                Class I

**3. Description of the Violation: Failure to play the game of bingo in the manner prescribed by law** – Code Sections 12-21-3990 and 12-21-4000 establish the manner in which bingo must be played and certain procedures that must be followed.

**Violation Section** 12-21-3990 and 12-21-4000

**Recommend Action** Class I

**4. Description of the Violation: Exceeding prize limits** – Code Section 12-21-4020 establishes the prize limitations for the various types of bingo licenses (*e.g.*, a Class B licensee offering more than \$8,000 in prizes in a particular bingo session).

**Violation Section** 12-21-4020

**Recommended Action** Class II

**5. Description of the Violation: Charging a player an amount more than the face of the cards** – Code Section 12-21-4030 states that, except for the entrance fee allowed by law, a promoter or organization may not charge a player more than the face value of each card sold to play bingo.

**Violation Section** 12-21-4030

**Recommended Action** Class II

**6. Description of the Violation: Allowing certain persons prohibited from assisting with bingo operation to assist in the bingo operation** – Code Section 12-21-4060 provides that a person who has been convicted within the last 20 years of violating a state or federal statute relating to gaming or gambling, or who has been convicted of any other crime that has a sentence of two or more years, or where applicable, whose promoter's license has been revoked, is not permitted to manage or conduct a game or assist in any manner with the bingo operation.

Note: The Department will issue a notice to the bingo operation that a specific person listed on an application (original and as amended) is prohibited under Code Section 12-21-4060 from assisting with the bingo operation. This penalty is assessed if it is determined such person is still assisting with the bingo operation after the notice has been issued.

**Violation Section** 12-21-4060

**Recommended Action** Class II

**7. Description of the Violation: Failure to file quarterly reports** – Code Section 12-21-4100(A) provides that each nonprofit organization licensed to conduct bingo games must submit a quarterly report to the Department on the last day of the month following the close of the calendar quarter.

**Violation Section** 12-21-4100

**Recommended Action** Class II

**8. Description of the Violation: Failure to meet the site system and electronic dabber specifications prescribed by law** – Code Section 12-21-4007 establishes the specifications for a site system and electronic dabber and the applicable procedures.

**Violation Section** 12-21-4007

**Recommended Action** Class III

**9. Description of the Violation: Failure of the promoter or the organization member representative to deposit the gross proceeds from the session less the amount paid out as prizes into the bingo checking account.**

**Violation Section** 12-21-4080

**Recommended Action** Class III

**10. Description of the Violation: Failure to adhere to the requirements regarding bingo checking and savings accounts** – Code Section 12-21-4090(A) - (J) includes several rules that apply to licensed nonprofit organizations regarding the maintenance of bingo banking accounts, depositing of bingo proceeds, payment of bingo expenses, etc. When found in the course of an audit, multiple violations of any one of these specific requirements will generally be considered a single violation of that one requirement for the entire audit period. For example, if an organization fails to note the nature of the payment on the face of 10 checks issued during the audit period, this will generally be considered one single violation for the audit period.

**Violation Section** 12-21-4090(A) - (J)

**Recommended Action** Class III

**11. Description of the Violation: Use of net bingo proceeds for a political purpose** – Code Section 12-21-4090(K) provides that the net bingo proceeds must not be used directly or indirectly by a licensed authorized nonprofit organization to support or oppose a candidate or slate of candidates for public office, to support or oppose a measure submitted to a vote of the people, or to influence or attempt to influence legislation.

**Violation Section** 12-21-4090(K)

**Recommended Action** Class III

**12. Description of the Violation: Failure to maintain records required by statute** – Code Section 12-21-4100(B) provides that each nonprofit organization licensed to conduct bingo games must maintain records to substantiate the contents of each quarterly report filed with the Department. In addition, Code Sections 12-21-4090 and 12-21-4295 place restrictions on transfer and disbursement of funds received by the nonprofit organization from the conduct of bingo, from the Department as a distribution of bingo tax revenue, or from others for a charitable purpose.

**Violation Section** 12-21-4100(B); 12-21-4090(E), (H), (I) and (K);  
12-21-4295

**Recommended Action** Class III

**13. Description of the Violation: Allowing video poker play** – Video poker play is prohibited.

**Violation Section** 12-21-3935

**Recommended Action** Class IV

**14 Description of the Violation: Operating more than one bingo operation in a building** – Code Section 12-21-4050 provides that only one nonprofit organization may operate or cause the operation of bingo per building. Code Section 12-21-3920(17) defines a “building” to mean a structure surrounded by exterior walls or permanent firewalls.

**Violation section** 12-21-4050

**Recommended Action** Class IV

**15. Description of the Violation: Failure to permit inspection of records and other items** – Code Section 12-21-4160 allows the Department to enter the premises where bingo is played or the business premises of another person and examine books, papers, records, memoranda, commodities, or other things bearing upon the amount of taxes or fees payable or the proper conduct of games under the Bingo Tax Act of 1996.

**Violation Section** 12-21-4160

**Recommended Action** Class IV

**16. Description of the Violation: Use of bingo cards not obtained in accordance with the provisions of Code Sections 12-21-4190, 12-21-4220, 12-21-4270 and 12-21-4275** – These provisions set forth the requirements for card design, the application and tax payment process, and restrictions on sale or transfer.

**Violation Section** See statutes cited above.

**Recommended Action** Class IV

**17. Description of the Violation: Failure to renew bond** – Code Section 12-21-4230 requires the organization and the promoter to obtain and maintain separate bonds.

**Violation Section** 12-21-4230

**Recommended Action** Class IV

**18. Description of the Violation: Failure to remit bingo tax** – Bingo license holders must pay a percentage of the face value of bingo cards sold to the Department in a timely fashion. Code Section 12-21-4190(A) specifies the percentage applicable to each class of bingo license. Code Section 12-21-4270 sets out the procedure for application and remittance of the tax.

**Violation Section** 12-21-4190(A); 12-21-4270

**Recommended Action** Class IV

**19. Description of the Violation: Other violations** – Any civil violation of the Bingo Tax Act of 1996 not specifically listed in this revenue procedure.

**Recommended Action** \$250 - \$5,000 and revocation of licenses of the promoter and the organization, depending on the type of violation, the number of times a penalty has been imposed for the specific violation during the preceding three years, and the facts and circumstances of the violation.

## **RELATIONSHIP TO OTHER PENALTIES AND ENFORCEMENT PROVISIONS:**

Nothing in this document shall restrict the Department's authority to impose any sanctions or pursue any criminal prosecution with respect to the violations described in this revenue procedure or otherwise authorized under the South Carolina Code of Laws. For example, persons who operate without a bingo license or otherwise willfully disregard statutory restrictions on playing the game of bingo may be prosecuted for a misdemeanor under Code Section 16-19-10 (Lotteries), which authorizes, upon conviction, a penalty of \$1000 and imprisonment for one year.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Rick Reames III  
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Rick Reames III, Director

September 4, 2014  
Columbia, South Carolina