

TAXATION: MISCELLANEOUS TAXES - ADMISSION TAX.

RELIGIOUS AND CHARITABLE MATTERS; CEMETERIES: - SOLICITATION OF CONTRIBUTIONS.

"Charitable," as used in tax exemption statutes, should be given reasonable interpretation, meaning intended for charity. Its use in admissions tax classification statute may similarly be interpreted. Whether gross receipts received from admission charged to attend event are going to charitable purpose(s) is determination of fact to be made in light of definitions of "charitable," "charitable purpose" and "charity." Gross receipts include total amount of admissions charged to attend event, regardless of any expenses incurred in conducting event. Any deductions from gross receipts must be provided by law. Gross receipts from admission charged for attendance at event may not be used to pay for services of for-profit entity conducting event for charitable organization.

The Honorable William H. Rosser

Commissioner of the Revenue for the City of Petersburg

September 22, 1998

You request an interpretation of the meaning of the terms "charitable purpose" and "gross receipts" as used in § 58.1-3817(1) of the *Code of Virginia*, and you question the applicability of § 58.1-3817 to certain events.

Article 5, Chapter 38 of Title 58.1, §§ 58.1-3817 and 58.1-3818, authorizes certain counties to charge an admissions tax for attendance at events classified in § 58.1-3817. Section 58.1-3817 provides that "events to which admission is charged shall be divided into [six] classes for the purposes of taxation." The statute is a classification statute that permits the taxing authority to treat certain classes of admissions separately.¹ Your inquiry concerns the first classification for "[a]dmissions charged for attendance at any event, the gross receipts of which go wholly to charitable purpose or purposes."² You ask what constitutes "charitable purpose or purposes" and whether the term "gross receipts" includes the expenses of the event, such as professional entertainment or facilities rental.

Section 57-48 defines "charitable purpose" to mean "any charitable, benevolent, humane, philanthropic, patriotic, or eleemosynary purpose." "Charitable" is defined as "[l]iberal in benefactions to the poor; beneficent,"³ and a "charity" is "substantially any scheme or effort to better the condition of society or any considerable portion thereof."⁴ Generally, the word "charitable," as used in the tax exemption statutes, "should be given a fair and reasonable interpretation, and means intended for charity."⁵ Its use in the admissions tax classification statute may similarly be interpreted to mean that the purposes for which the gross receipts for admission to an event are intended should incorporate these characteristics. Whether gross receipts received from the admission charged to attend an event are indeed going to "charitable purpose or purposes" is a determination of fact to be made in light of these definitions.

With respect to the meaning of the term "gross receipts," such term generally refers to the total amount of money or other consideration received from selling property or from performing services.⁶ This term contemplates the "whole, entire, total receipts,"⁷ and any deductions therefrom must be provided by law.⁸ Thus, it is my opinion that the use of the term "gross receipts" in § 58.1-3817(1) is intended to include the total amount of admissions charged to attend the event, regardless of any expenses incurred in conducting the event.

Your inquiry also involves a situation wherein a charitable organization enters into an agreement with a for-profit entity to conduct an event for which admission is charged. This entity pays the expenses of the event and receives a fee for its services. Any proceeds remaining after these expenses are remitted to the charity. You ask whether the admission charged for the event falls within the § 58.1-3817(1) classification and is thus entitled to separate tax treatment.

Section 58.1-3817(1) specifies that the gross receipts from admissions charged for attendance at any event "*go wholly to charitable purpose or purposes.*" (Emphasis added.) It is well-settled that when the language of a statute is plain and unambiguous, and its meaning perfectly clear and definite, effect must be given to it.⁹ Furthermore, a word that is not defined by statute must be given its usual and ordinary meaning.¹⁰ The word "wholly" is generally defined to mean "[i]n a whole or complete manner; entirely; completely."¹¹ Thus, the gross receipts referenced in § 58.1-3817(1) are designated as entirely and completely going to charitable purposes. In the circumstances you present, this proviso is not fulfilled when the receipts are used to pay, among other things, for the services of a for-profit entity. Accordingly, it is my opinion that the admission charged under this scenario does not fall within the purview of the classification set forth in § 58.1-3817(1).

¹ See *City of Portsmouth v. P.T.A.*, 217 Va. 199, 200, 227 S.E.2d 691, 692 (1976) (holding that classification statute is not tax exemption statute and does not prohibit city from imposing admissions tax on charities so separately classified or from imposing different rates on different classes).

² Section 58.1-3817(1).

³ *City of Richmond v. United Givers Fund*, 205 Va. 432, 436, 137 S.E.2d 876, 879 (1964) (citation omitted); see *also* 1969-1970 Op. Va. Att'y Gen. 35, 36.

⁴ 1976-1977 Op. Va. Att'y Gen. 22, 22.

⁵ *Manassas Lodge v. County of Prince William*, 218 Va. 220, 224, 237 S.E.2d 102, 105 (1977) (quoting *City of Richmond v. United Givers Fund*, 205 Va. at 436, 137 S.E.2d at 879).

⁶ Op. Va. Att'y Gen.: 1990 at 217, 219; 1989 at 311, 312.

⁷ *Savage v. Commonwealth*, 186 Va. 1012, 1018, 45 S.E.2d 313, 317 (1947).

⁸ See *Alexandria v. Morrison-Williams*, 223 Va. 349, 288 S.E.2d 482 (1982) (holding that gross receipts tax applies to gross receipts of advertising agency without allowance for deductions paid by agency to media sources); see *also* 1990 Op. Va. Att'y Gen. 224, 225 (holding that gross receipts of motor vehicle dealer shall not include amount of any trade-in allowance; no other deductions are allowable).

⁹ See *Temple v. City of Petersburg*, 182 Va. 418, 29 S.E.2d 357 (1944); 1996 Op. Va. Att'y Gen. 192, 193.

¹⁰ See 1996 Op. Va. Att'y Gen. 49, 50.

¹¹ Black's Law Dictionary 1597 (6th ed. 1990).