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CITY COUNCIL MEETING

NOVEMBER 3, 1982

PUBLIC HEARING Following introduction of the matter by City Attorney Stein,
SET TO CONSIDER Council, on motion of Councilman Pinkerton, Murphy second,
PROPOSED ORD- set a Public Hearing for 8:00 p.m. November 17, 1982 to
INANCE LEGALIZ- consider a proposed Ordinance legalizing Bingo in the City of
ING BINGO IN THE Lodi as authorized by State Law.
CITY OF LODI

NOTICE OF PUBLIC HEARING BY THE CITY
COUNCIL OF THE CITY OF LODI TO CONSIDER
A PROPOSED ORDINANCE LEGALIZING BINGO
IN THE CITY OF LODI AS AUTHORIZED BY
STATE LAW

NOTICE IS HEREBY GIVEN that on Wednesday, November 17, 1982, at the hour of 8:00 p.m. or as soon thereafter as the matter may be heard, the Lodi City Council will conduct a public hearing in the Council Chambers, City Hall, 221 West Pine Street, Lodi, California, to consider a proposed ordinance legalizing Bingo in the City of Lodi as authorized by State Law which shall read in full as follows:

An Ordinance of the City of Lodi Authorizing
Qualified Organizations to Conduct Bingo Games
within the City of Lodi

BE IT ORDAINED by the City Council of the City of Lodi as follows:

Section 1.

Sections are hereby added to the City Code of the City of Lodi authorizing qualified organizations to conduct Bingo Games within the City of Lodi as follows:

Sec. AUTHORITY

This part is enacted pursuant to the authority of Section 326.5 of the Penal Code.

Sec. AUTHORIZED ORGANIZATION

All organizations qualified pursuant to Section 326.5 of the Penal Code are hereby authorized to conduct Bingo Games within the City of Lodi.

Sec. COMPLIANCE WITH PENAL CODE

All authorized organizations shall conduct Bingo Games in strict compliance with Section 326.5 of the California Penal Code.

Sec. HOURS OF OPERATION

No authorized organization shall conduct any Bingo Game or Games more than once a week nor more than six (6) hours in length. No Bingo Game or Games shall be conducted prior to the hour of 10:00 A.M. or after 2:00 A.M.

Section II.

This Ordinance shall take effect and be in full force from and after thirty (30) days from its final passage.

Information regarding this item may be obtained in the office of the City Clerk at 221 West Pine Street, Lodi, California. All interested persons are invited to present their views either for or against the above proposal. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein and oral statements may be made at said hearing.

Dated: November 3, 1982

By Order of the City Council


ALICE M. REIMCHE
City Clerk

MEMORANDUM

To: City Manager
From: City Attorney
Re: Bingo Ordinance
Date: October 25, 1982

Hank, I received this letter from Bob Elliott asking that the City prepare a bingo ordinance.

I enclose herewith a copy of Stockton's bingo ordinance.

Would you like me to proceed with preparing an ordinance for the City? Please let me know.



RON

ROBERT H. RINN
ROBERT K. ELLIOTT

RINN & ELLIOTT
ATTORNEYS AT LAW
228 WEST PINE STREET
LODI, CALIFORNIA 95240

TELEPHONE
3-69-2781

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October 11, 1982

Mr. Ron Stein
City Attorney
City of Lodi
City Hall
Lodi, CA 95240

Re: Loel Center

Dear Mr. Stein:

The undersigned is one of the members of the Board of Directors of the Loel Center. I have been asked by the other Directors to contact the City, through your offices, in connection with Bingo games which the Loel Center desires to conduct in order to raise funds for the carrying on of the Loel Center's functions, as well as providing entertainment and amusement for the people who use the facilities of Loel Center.

It is my understanding that the City of Lodi has not specifically enacted any ordinances making the conduct of such Bingo games by non-commercial charitable organizations legal. The Loel Center has been advised by its accountant that under federal law, income from Bingo games would be tax-exempt so long as the games were being conducted legally under the authority of the applicable law of the jurisdiction. In the event the games were being conducted "illegally", then any income would be subject to a special federal tax known as the Unrelated Business Income Tax. I am sure that there are other non-profit organizations in Lodi who would desire to conduct such games and would be faced with similar penalties under federal tax laws. Accordingly, it would be appreciated if you would prepare and submit to the City Council at your earliest convenience, a form of proposed ordinance legalizing Bingo in the City of Lodi as authorized by state law. I understand that the City of Stockton and the County of San Joaquin have, in fact, enacted such ordinances.

If I can be of any assistance in this matter, please feel free to call me.

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Ron Stein, Esq.
October 11, 1982
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Thanking you, I am,

Yours very truly,

RINN & ELLIOTT

By Robert K. Elliott
Robert K. Elliott

RKE/nkk

cc: Loel Center

K-2

**ORDINANCE NO. 2840-C.S.
AN ORDINANCE TO ADD PART XIV TO
CHAPTER 3 OF THE STOCKTON MUNI-
CIPAL CODE AUTHORIZING QUALI-
FIED ORGANIZATIONS TO CONDUCT
BINGO GAMES WITHIN THE CITY OF
STOCKTON.**

Be it ordained by the Council of the
City of Stockton, as follows:

SECTION I.
Part XIV is added to Chapter 3 of the
Stockton Municipal Code, adding Sec-
tions 5-400 to 5-403 inclusive, authorizing
qualified organizations to conduct
Bingo Games within the City of Stock-
ton, and shall be as follows:

**PART XIV
SEC. 5-400. AUTHORITY**

This part is enacted pursuant to the
authority of Section 226.5 of the Penal
Code.

**SEC. 5-401. AUTHORIZED ORGANIZA-
TION**

All organizations qualified pursuant
to Section 226.5 of the Penal Code are
hereby authorized to conduct Bingo
Games within the City of Stockton.

**SEC. 5-402. COMPLIANCE WITH
PENAL CODE**

All authorized organizations shall
conduct Bingo Games in strict compli-
ance with Section 226.5 of the California
Penal Code.

SEC. 5-403. HOURS OF OPERATION

No authorized organization shall con-
duct any Bingo Game or Games more
than once a week nor more than six (6)
hours in length. No Bingo Game or
Games shall be conducted prior to the
hour of 10:00 A.M. or after 2:00 A.M.

SECTION II.

This ordinance shall take effect and
be in full force from and after thirty
(30) days from its final passage.

CERTIFICATE

This is to certify that Ordinance No.
2840-C.S. was passed to print by the
City Council of the City of Stockton, on
the 4th day of October 1976, by the fol-
lowing vote:

Ayes—Councilmen Bott, Davis, Na-
bark, O'Brien, Ramoa, Rua, White and
Mayor Madden.

Noes—None.
Absent—Councilman Silverio.

Stockton, Cal., October 4, 1976.
JOHN AL JARRETT,
City Clerk of the City of Stockton.
LAJZ Oct. 8



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§ 23701 BANK AND CORPORATION TAX LAW

Div. 2

Where amending Bank and Corporation Franchise Tax Act, which became effective June 6, 1935, authorized the levying and collecting of franchise taxes based on new net income tax system for entire calendar year of 1935, notwithstanding taxes had been levied and collected for fiscal year ending July 1, 1935, the statute providing for the subsequent levy was not objectionable merely because it applied retrospectively as to the portion of the taxable year which had not elapsed before the statute became effective since neither the federal constitution nor the constitution of California prohibits the enactment of retrospective laws. *Id.*

The fact that previous taxes which were levied against a utility corporation as ad valorem taxes for fiscal year ending July 1, 1935, were declared to be in lieu of all other taxes and licenses, did not preclude the imposing of additional franchise taxes for the calendar year of 1935, pursuant to a statute which became effective June 6, 1935, and which specifically authorized such franchise taxes. *Id.*

3. Jurisdiction

Where injunction was improperly sought against assessment and collection of taxes under California Bank and Corporation

Franchise Tax Act, but plaintiff also sought injunction against suspension and forfeiture of taxpayer's corporate powers and prosecution of its officers, directors and agents, which threatened to deprive corporation of property exceeding \$3,000 in value without due process of law, three-judge court had jurisdiction. *Birch v. McColgan* (D.C.1941) 30 F.Supp. 358.

4. Review

Where California supreme court determined that corporate taxpayer had not furnished any explanation of why its California business differed so from the average that the formula used by California in assessing corporate franchise tax produced an erroneous result, denial of taxpayer's petition for rehearing did not result in denial of procedural "due process of law", so as to authorize remandment, notwithstanding that a stipulation stated that, if taxpayer failed to establish any fact necessary to a decision, case should be reopened, where the taxpayer had a full opportunity to be heard on the issues which it tendered and the California court created no innovation when it placed on the taxpayer the burden of establishing that the formula taxed extraterritorial values. *Butler Bros. v. McColgan* (1942) 62 S.Ct. 701, 315 U.S. 501, 86 L.Ed. 991.

✓ § 23701a. Labor, agricultural, or horticultural organizations

Labor, agricultural, or horticultural organizations other than cooperative organizations described in Section 24404 or 24405.

For purposes of this section, the term "agricultural" includes the art or science of cultivating land, harvesting crops or aquatic resources, or raising livestock.

(Added by Stats.1949, c. 557, p. 976, § 1. Amended by Stats.1951, c. 343, p. 779, § 2, eff. May 5, 1941; Stats.1955, c. 938, p. 1574, § 13, eff. June 6, 1955; Stats.1977, c. 1079, § 118, eff. Sept. 26, 1977.)

Historical Note

As added in 1949, the section read: "Labor organizations."

The 1951 amendment rewrote the section in its present basic form.

For provisions of the 1951 act relating to effective date, operative date, and application, see Historical Note under § 23701.

The 1955 amendment referred to "Section 24404 or 24405" instead of to "Section 24121m or 24121n". For additional

provisions of the 1955 act, see Historical Note under § 23701.

The 1977 amendment added the second paragraph.

1977 amendment applicable in computation of taxes for income years beginning after Dec. 31, 1976 see Historical Note under § 23404.

Derivation: See Derivation under § 23701.

Cross References

Imposition of tax upon unrelated business taxable income, see §§ 23731, 23732.



Library References

Taxation ☞ 1048

C.J.S. Taxation § 1098.

United States Code Annotated

Federal income tax provisions, see 26 U.S.C.A. § 501(c)(5).

§ 23701b. Fraternal beneficiary societies, orders, or organizations; conditions

Fraternal beneficiary societies, orders, or organizations, (i) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (ii) providing for the payment of life, sick, accident, or other benefits to the members of such society, order or organization or their dependents.

(Added by Stats.1951, c. 343, p. 779, § 3, eff. May 5, 1951.)

Historical Note

For provisions of the 1951 act relating to effective date, operative date, and application, see Historical Note under § 23701.

Former § 23701b was renumbered by Stats.1951, c. 343, p. 779, § 8, and now appears as § 23701h.

Derivation: Former § 23731a; Stats. 1937, c. 765, p. 2181, § 4; Stats.1939, c. 1049, p. 2903, § 3.5; Stats.1941, c. 697, p. 2210, § 1; Stats.1943, c. 887, p. 2728, § 1; Stats.1945, c. 859, p. 1573, § 2.

Cross References

Information return, see § 23772.

Library References

Taxation ☞ 1048.

C.J.S. Taxation § 1098.

United States Code Annotated

Federal income tax provisions, see 26 U.S.C.A. § 501(c)(8).

§ 23701c. Nonprofit cemetery companies; conditions

Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for the purpose of the disposal of bodies by burial or cremation which is not permitted by its charter to engage in any business not necessarily incident to that purpose and no part of the net earning of which inures to the benefit of any private shareholder or individual.

(Formerly § 23701d, added by Stats.1949, c. 557, p. 976, § 1. Renumbered § 23701c and amended by Stats.1951, c. 343, p. 779, § 4, eff. May 5, 1951; Stats.1963, c. 1028, p. 2305, § 3, eff. June 26, 1963; Stats.1971, Ex.Sess., c. 1, p. 5057, § 218, eff. Dec. 8, 1971.)

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§ 23701c BANK AND CORPORATION TAX LAW

Div. 2

Historical Note

This section, as originally enacted, read as follows:

"Cemetery companies owned and operated exclusively for the benefit of their members; or which are not operated for profit; or any corporation chartered for cemetery purposes and permitted by its charter to engage in any business related to that purpose, no part of the net earnings of which inures to the benefit of any shareholder or member thereof."

The 1951 act, in renumbering this section, made no change in the section.

For provisions of the 1951 act relating to effective date, operative date, and application, see Historical Note under § 23701.

The 1963 amendment rewrote the section to read as follows:

"Cemetery companies owned and operated exclusively for the benefit of their members; or which are not operated for profit; or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual."

The 1971 amendment rewrote the section to read as it now appears.

Former § 23701c was renumbered by Stat. 1951, c. 343, p. 780, § 13, and now appears as § 23701m.

Derivation: See Derivation under § 23701.

Cross References

Installment obligation, effect of transfer, see § 24672.

Library References

Taxation ⇐ 104R

C.J.S. Taxation § 1098.

United States Code Annotated

Federal income tax provisions, see 26 U.S.C.A. § 501(c)(13).

Notes of Decisions

1. In general

Within meaning of constitutional provision stating that all property used or held exclusively for burial or other permanent deposit of human dead or for care of such property or such dead, except as used or held for profit, shall be free from taxation (see, now, Const., Art. 13, § 3), property purchased by nonprofit cemetery association and used or held by it exclusively for burial or other deposit of human dead was not, by reason of its acquisition under percentage sales price contract, "used or held for profit" where relationship between association and vendors was that of debtor and general creditors and there was no relationship of joint venture, partnership after ego or trust between parties; and the property was exempt from taxation so far as cemetery association was concerned. Westminster Memorial Park v. Orange County (1960) 6 Cal.Rptr. 775, 354 P.2d 247, 54 C.2d 488.

ation under percentage sales price contract, "used or held for profit" where relationship between association and vendors was that of debtor and general creditors and there was no relationship of joint venture, partnership after ego or trust between parties; and the property was exempt from taxation so far as cemetery association was concerned. Westminster Memorial Park v. Orange County (1960) 6 Cal.Rptr. 775, 354 P.2d 247, 54 C.2d 488.

✓ § 23701d. Religious, charitable, scientific, literary, educational, amateur sports or humanitarian corporations

Corporations, community chests or trusts, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involves the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder

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or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation (except as otherwise provided in Section 23704.5), and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office. An organization is not organized exclusively for exempt purposes listed above unless its assets are irrevocably dedicated to one or more purposes listed in this section. Dedication of assets requires that in the event of dissolution of an organization or the impossibility of performing the specific organizational purposes the assets would continue to be devoted to exempt purposes. Assets shall be deemed irrevocably dedicated to exempt purposes if the articles of organization provide that upon dissolution the assets will be distributed to an organization which is exempt under this section or Section 501(c)(3) of the Internal Revenue Code or to the federal government, or to a state or local government for public purposes; or by a provision in the articles of organization, satisfactory to the Franchise Tax Board; that the property will be distributed in trust for exempt purposes; or by establishing that the assets are irrevocably dedicated to exempt purposes by operation of law. The irrevocable dedication requirement shall not be a sole basis for revocation of an exempt determination made by the Franchise Tax Board prior to the effective date of this amendment.

(Formerly § 23701c, added by Stats.1949, c. 557, p. 976, § 1. Renumbered § 23701d and amended by Stats.1951, c. 343, p. 779, § 5, eff. May 5, 1951; Stats.1969, c. 1320, p. 2661, § 4; Stats.1971, Ex.Sess., c. 1, p. 5058, § 219, eff. Dec. 8, 1971; Stats.1971, Ex.Sess., c. 2, p. 5164, § 40, eff. Dec. 30, 1971; Stats.1977, c. 1079, § 119, eff. Sept. 26, 1977.)

Historical Note

The 1951 act, in renumbering this section, also changed the section number.

For provisions of the 1951 act relating to effective date, operative date, and application, see Historical Note under § 23701.

The 1969 amendment added the second through sixth sentences.

The 1971 amendments included "community chests or trusts", added "testing for public safety" as a purpose, and excluded exemption if organization participates or intervenes in campaign for political candidate.

Application of amendments by Stats. 1971, Ex.Sess., c. 2, to bank and corporation tax law, see Historical Note under § 23038.

Purpose of 1971 Ex.Sess. technical correction act, see Historical Note under § 23701.

The 1977 amendment included provisions relating to amateur sports and the parenthetical exception relating to propaganda or attempts to influence legislation.

The 1977 amendment is applicable in computing taxes for income years beginning after Dec. 31, 1976, see Historical Note under § 23701.

Former § 23701d was renumbered by Stats.1951, c. 343, p. 779, § 4, and now appears as § 23701c.

Derivation. See Derivation under § 23701.

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§ 23701d BANK AND CORPORATION TAX LAW

Div. 2

Cross References

Church exemption, see § 206; Const. Art. 13, §§ 3, 5.
 Deductions for charitable contributions, see § 24357 et seq.
 Denial of welfare exemption to organization not qualified under this section, see § 214.8.
 Imposition of tax upon unrelated business taxable income, see §§ 23731, 23732.
 Information return, see § 23772.
 Prohibited transactions, see § 23736 et seq.
 Returns of exempt organizations, see § 23772.
 Taxation of employee annuities, see § 17511.
 Trust organized for purposes stated in this section considered a corporation, see §§ 17009, 23034.
 Volunteer fire department qualified under this section, property tax exemption, see § 218.7.

Law Review Commentaries

California welfare exemption. (1968)
 41 So. Cal. L.R. 844.

Library References

Taxation ⇐ 1048.

C.J.R. Taxation § 1096.

United States Code Annotated

Federal income tax provisions, see 26 U.S.C.A. § 501(c)(3).

Notes of Decisions

1. In general

Ordinance which imposed a special tax on retired persons occupying nonprofit retirement homes, while exempting from the tax persons occupying profit-motivated retirement homes, was unconstitutional, since there was no possible or logical difference between an occupant living in a charitable retirement home and one living in a profit-motivated retirement home that would justify imposing a tax on the former while exempting the latter. *John Tennant Memorial Homes, Inc. v. City of Pacific Grove* (1972) 103 Cal.Rptr. 215, 27 C.A.3d 372.

Sections 214, 254, 254.5, 200, 4986 to 4994 (§§ 4983, 4994, repealed; see, now, §§ 4991, 4992), 5008 to 5107, and this section, properly construed, provide that while there is no time limit upon right to cancellation of taxation under welfare exemption, refund can be had only after presentation of proper claim showing right thereto which must be filed within three years after payment of sum sought to be refunded, and subject to further condition that suit must be brought, if at all, within six months after rejection. *Sarmakand of Santa Barbara, Inc., v. Santa Barbara County* (1963) 31 Cal.Rptr. 151, 216 C.A.2d 341.

✓ **§ 23701e. Business leagues, chambers of commerce, real estate boards, and boards of trade; conditions**

Business leagues, chambers of commerce, real estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(Formerly § 23701f, added by Stats.1949, c. 557, p. 977, § 1. Renumbered § 23701e and amended by Stats.1951, c. 343, p. 780, § 6, eff. May 5, 1951.)

Historical Note

The 1951 act, in renumbering this section, made no change in the section.

For provisions of the 1951 act relating to effective date, operative date, and application, see Historical Note under § 23701.

Former § 23701e was renumbered by Stats.1951, c. 343, p. 779, § 5, and now appears as § 23701d.

Derivation: See Derivation under § 23701.

Cross References

Imposition of tax upon unrelated business taxable income, see §§ 23731, 23732.

Library References

Taxation ☞ 1048.

C.I.S. Taxation § 1098.

United States Code Annotated

Federal income tax provisions, see 26 U.S.C.A. § 501(c)(6).

§ 23701f. Civic leagues; social welfare and employees' organizations; conditions

Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local organizations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational or recreational purposes.

An organization is not organized exclusively for exempt purposes listed above unless its assets are irrevocably dedicated to one or more purposes listed in this section.

(Added by Stats.1951, c. 343, p. 779, § 7, eff. May 5, 1951. Amended by Stats.1971, Ex.Sess., c. 1, p. 5058, § 220, eff. Dec. 8, 1971.)

Historical Note

For provisions of the 1951 act relating to effective date, operative date, and application, see Historical Note under § 23701.

The 1971 amendment added the second paragraph.

Former § 23701f was renumbered by Stats.1951, c. 343, p. 779, § 6, and now appears as § 23701e.

Derivation: Former § 23731b, Stats.1937, c. 765, p. 2181, § 1; Stats.1939, c. 1049, p. 2903, § 35; Stats.1941, c. 697, p. 2210, § 1; Stats.1943, c. 887, p. 2728, § 1; Stats.1945, c. 859, p. 1573, § 2.

Cross References

Voluntary fire department qualified under this section, property tax exemption, see § 2137.

Library References

Taxation ☞ 1048.

C.I.S. Taxation § 1098.

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§ 23701f BANK AND CORPORATION TAX LAW

Div. 2

Pt. 1

United States Code Annotated

Federal income tax provisions, see 26 U.S.C.A. § 501(c)(4).

✓ § 23701g. Nonprofit pleasure and recreation clubs

Clubs organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

(Added by Stats.1949, c. 557, p. 977, § 1.)

Historical Note

Derivation: See Derivation under § 23701.

Cross References

Unrelated business taxable income, see § 23732.

Library References

Taxation ⇄ 104A

C.J.S. Taxation § 1008.

United States Code Annotated

Federal income tax provisions, see 26 U.S.C.A. § 501(c)(7).

§ 23701h. Holding corporations for benefit of exempt organizations

Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from taxes imposed on or measured by income.

(Formerly § 23701b, added by Stats.1949, c. 557, p. 976, § 1. Renumbered § 23701h and amended by Stats.1951, c. 343, p. 779, § 8, eff. May 5, 1951; Stats.1957, c. 544, p. 1602, § 4, eff. May 30, 1957.)

Historical Note

The 1951 act, in renumbering this section, made no change in the section. For provisions of the 1951 act relating to effective date, operative date, and application, see Historical Note under § 23701.

The 1957 amendment substituted the words "from taxes imposed on or measured by income", at the end of the section, for the words "from the tax imposed by this part". Former § 23701h was renumbered by Stats.1951, c. 343, p. 780, § 11, and now appears as § 23701k.

Derivation: See Derivation under § 23701.

Cross References

Imposition of tax upon unrelated business taxable income, see §§ 23731, 23732.

Prohibited transactions, see § 23736.1.

Restriction on operation of section, see § 23702.

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§ 23701j BANK AND CORPORATION TAX LAW

Div. 2

Historical Note

For provisions of the 1951 act relating to effective date, operative date, and application, see Historical Note under § 23701. Derivation: Former § 23731d; Stats. 1937, c. 705, p. 2184, § 4; Stats. 1939, c. 1049, p. 2903, § 3.5; Stats. 1941, c. 697, p. 2210, § 1; Stats. 1943, c. 887, p. 2728, § 1; Stats. 1945, c. 859, p. 1573, § 2.

United States Code Annotated

Federal income tax provision, see 26 U.S.C.A. § 501(c)(11).

Library References

Taxation ⇐ 1048.

C.J.S. Taxation § 1098.

§ 23701k. Religious or apostolic corporations having common or community treasury; members' returns

Religious or apostolic corporations, if such corporations have a common treasury or community treasury even if such corporations engaged in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the net income of the corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

(Formerly § 23701h, added by Stats. 1949, c. 557, p. 977, § 1. Renumbered § 23701k and amended by Stats. 1951, c. 343, p. 780, § 11, eff. May 5, 1951.)

Historical Note

The 1951 act, which renumbered this section, in the first sentence, omitted a comma which formerly appeared following the words "community treasury" in the phrase "if such corporations have a common treasury or community treasury even if such corporations engaged in business", etc.

For provisions of the 1951 act relating to effective date, operative date, and application, see Historical Note under § 23701.

Derivation: See Derivation under § 23701.

Cross References

Church exemption, see § 206; Const. Art. 13, §§ 3, 5.

Library References

Taxation ⇐ 1048.

C.J.S. Taxation § 1098.

United States Code Annotated

Federal income tax provisions, see 26 U.S.C.A. § 501(d).

§ 23701l. Domestic fraternal societies, orders or associations; conditions

Domestic fraternal societies, orders or associations, operating under the lodge system—the net earnings of which are devoted exclu-

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sively to religious, charitable, scientific, literary, educational, and fraternal purposes and, which do not provide for the payment of life, sick, accident, or other benefits. For the purposes of this section, the term "domestic" means created or organized in the United States or under the law of the United States or of any state or territory.

(Added by Stats.1971, c. 72, p. 98, § 3, eff. May 14, 1971.)

Historical Note

Application of 1971 addition, see Historical Note under § 23701i.

Former § 23701i, added by Stats.1951, c. 343, p. 780, § 12, relating to voluntary employees' beneficiary organizations made up of employees of the United States government, was repealed by Stats.1971, c.

72, p. 98, § 2. Former § 23701i was derived from former § 23731e; Stats.1937, c. 765, p. 2184, § 4; Stats.1939, c. 1049, p. 2983, § 3.5; Stats.1941, c. 497, p. 2210, § 1; Stats.1943, c. 887, p. 2728, § 1; Stats.1945, c. 859, p. 1573, § 2.

Cross References

Taxability of corporation on distribution, see § 24481.5.

Library References

Taxation ⊕1048.

C.S.S. Taxation § 1098.

United States Code Annotated

Federal income tax provisions, see 26 U.S.C.A. § 501(c)(10).

§ 23701m. Diversified management companies

Corporations classified as diversified management companies under Section 5 of the Federal Investment Company Act of 1940,¹ and registered as provided in that act.

(Formerly § 23701c, added by Stats.1949, c. 557, p. 976, § 1. Renumbered § 23701m and amended by Stats.1951, c. 343, p. 780, § 13, eff. May 5, 1951.)

¹ 15 U.S.C.A. § 80a-5.

Historical Note

The 1951 act, in renumbering this section, made no change in the section.

Application, see Historical Note under § 23701.

For provisions of the 1951 act relating to effective date, operative date, and ap-

Derivation: See Derivation under § 23701.

Library References

Taxation ⊕1048.

C.S.S. Taxation § 1098.

§ 23701n. Trust for payment of supplemental unemployment compensation benefits

(1) A trust or trusts forming part of a plan providing for the payment of supplemental unemployment compensation benefits, if—

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person who aids or assists, either by printing, writing, advertising, publishing, or otherwise in setting up, managing, or drawing any lottery, or in selling or disposing of any ticket, chance, or share therein, is guilty of a misdemeanor. [1872.] *22 Cal Jur 3d Criminal Law § 3141; Witkin Crimes p 555.*

§ 323. **Lottery offices: [Keeping or] advertising lottery offices.** Every person who opens, sets up, or keeps, by himself or by any other person, any office or other place for the sale of, or for registering the number of any ticket in any lottery, or who, by printing, writing, or otherwise, advertises or publishes the setting up, opening, or using of any such office, is guilty of a misdemeanor. [1872.] *22 Cal Jur 3d Criminal Law §§ 3141, 3274; Witkin Crimes p 555.*

§ 324. **Insuring lottery tickets: Publishing offers to insure.** Every person who insures or receives any consideration for insurance for or against the drawing of any ticket in any lottery whatever, whether drawn or to be drawn within this state or not, or who receives any valuable consideration upon any agreement to repay any sum, or deliver the same, or any other property, if any lottery ticket or number of any ticket in any lottery shall prove fortunate or unfortunate, or shall be drawn or not be drawn, at any particular time or in any particular order, or who promises or agrees to pay any sum of money, or to deliver any goods, things in action, or property, or to forbear to do anything for the benefit of any person, with or without consideration, upon any event or contingency dependent on the drawing of any ticket in any lottery, or who publishes any notice or proposal of any of the purposes aforesaid, is guilty of a misdemeanor. [1872.] *22 Cal Jur 3d Criminal Law § 3141; Witkin Crimes p 555.*

§ 325. **[Property offered for disposal in lottery forfeited: Attachment.]** All moneys and property offered for sale or distribution in violation of any of the provisions of this chapter are forfeited to the state, and may be recovered by information filed, or by an action brought by the Attorney General, or by any district attorney, in the name of the state. Upon the filing of the information or complaint, the clerk of the court must issue an attachment against the property mentioned in the complaint or information, which attachment has the same force and effect against such property, and is issued in the same manner as attachments issued from

the superior courts in civil cases. [1872; 1951 ch 1608 § 4; 1953 ch 617 § 1; 1977 ch 1257 § 118, effective October 3, 1977.] *22 Cal Jur 3d Criminal Law § 3150, Forfeitures and Penalties § 3; Witkin Crimes p 921.*

§ 326. **Letting [or permitting use of] building [or vessel] for lottery purposes.** Every person who lets, or permits to be used, any building or vessel, or any portion thereof, knowing that it is to be used for setting up, managing, or drawing any lottery, or for the purpose of selling, or disposing of lottery tickets, is guilty of a misdemeanor. [1872.] *22 Cal Jur 3d Criminal Law § 3141; Witkin Crimes p 556.*

§ 326.5. **[Bingo games]** (a) Neither this chapter nor Chapter 10 (commencing with Section 330) applies to any bingo game which is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the State Constitution, provided that such ordinance allows games to be conducted only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701i of the Revenue and Taxation Code and by mobilehome park associations and senior citizens organizations; and provided that the receipts of such games are used only for charitable purposes.

(b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution. Security personnel employed by the organization conducting the bingo game may be paid from the revenues of bingo games as provided in subdivisions (j) and (k).

(c) A violation of subdivision (b) of this section shall be punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine shall be deposited in the general fund of the city, county, or city and county which enacted the ordinance authorizing the bingo game. A violation of any provision of this section, other than subdivision (b), is a misdemeanor.

(d) The city, county, or city and county which enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section.

(e) No minors shall be allowed to participate in any bingo game.

(f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, or property whose use

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is donated to the organization, and which property is used by such organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by or whose use is donated to the organization be used or leased exclusively by or donated exclusively to such organization.

(g) All bingo games shall be open to the public, not just to the members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization which organized it. Such members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such game, or participate in the promotion, supervision, or any other phase of such game. This subdivision does not preclude the employment of security personnel who are not members of the authorized organization at such bingo game by the organization conducting the game.

(i) No individual, corporation, partnership, or other legal entity except the organization authorized to conduct a bingo game shall hold a financial interest in the conduct of such bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such profits shall be used only for charitable purposes.

(k) With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by organizations not within subdivision (j). Such proceeds shall be used only for charitable purposes, except as follows:

(1) Such proceeds may be used for prizes.

(2) A portion of such proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or one thousand dollars (\$1,000) per month, whichever is less, may be used for rental of property, overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel.

(3) Such proceeds may be used to pay license fees.

(4) A city, county, or city and county which enacts an ordinance permitting bingo games may specify in such ordinance that if the monthly gross receipts from bingo games of an organization within this subdivision exceed five thousand dollars (\$5,000), a minimum percentage of the proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and that the balance shall be used for prizes, rental of property, overhead, administrative expenses and payment of license fees. The amount of proceeds used for rental of property, overhead, and administrative expenses is subject to the limitations specified in paragraph (2) of this subdivision.

(f) (1) A city, county, or city and county may impose a license fee on each organization which it authorizes to conduct bingo games. The fee, whether for the initial license or renewal, shall not exceed fifty dollars (\$50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization.

(2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars (\$50) paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee of 1 percent of the monthly gross receipts over five thousand dollars (\$5,000) derived from bingo games shall be collected monthly by the city, county, or city and county issuing the license.

(m) No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place in which the bingo game is being conducted.

(n) The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars (\$250) in cash or kind, or both, for each separate game which is held.

(o) As used in this section "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. Notwithstanding Section 330c, as used in this section, the game of bingo shall include cards having numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the

playing or operating such preprinted cards "for sale or use or rized under California local ordinance." Legislature that 1 subdivision applies and shall not be a or enforcement of law. [1975 ch 869 at Primary Election 271 § 1, effective J § 1; 1980 ch 997 §

§ 327. ["Endless tion.] Every person sets up, proposes, chain is guilty of a this section, an "e scheme for the di property whereby a able consideration compensation for i additional persons scheme or for the c sation when a pe participant introdu

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playing or operation of the bingo game. All such preprinted cards shall bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance." It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law. [1975 ch 869 § 1, ACA No. 3 adopted at Primary Election, June 8, 1976; 1977 ch 271 § 1, effective July 8, 1979; 1979 ch 1006 § 1; 1980 ch 997 § 1; 1981 ch 804 § 1.]

§ 327. ["Endless chain" scheme: Definition.] Every person who contrives, prepares, sets up, proposes, or operates any endless chain is guilty of a misdemeanor. As used in this section, an "endless chain" means any scheme for the disposal or distribution of property whereby a participant pays a valuable consideration for the chance to receive compensation for introducing one or more additional persons into participation in the scheme or for the chance to receive compensation when a person introduced by the participant introduces a new participant.

Compensation, as used in this section, does not mean or include payment based upon sales made to persons who are not participants in the scheme and who are not purchasing in order to participate in the scheme. [1968 ch 1468 § 1.] 22 *Cal Jur 3d Criminal Law* § 3143.

§ 328. [Printing or production services; Advertising.] Nothing in this chapter shall make unlawful the printing or other production of any advertisements for, or any ticket, chance, or share in a lottery conducted in any other state or nation where such lottery is not prohibited by the laws of such state or nation; or the sale of such materials by the manufacturer thereof to any person or entity conducting or participating in the conduct of such a lottery in any such state or nation. This section does not authorize any advertisement within California relating to lotteries, or the sale or resale within California of lottery tickets, chances, or shares to individuals, or acts otherwise in violation of any laws of the state. [1980 ch 216 § 1, effective June 23, 1980.]

CHAPTER 10

Gaming

§ 330. Gaming: Punishment.

§ 330a. Possession or keeping of slot or card machine, card dice or dice having more than six faces: Punishment.

§ 330b. Possession or keeping of slot machines or devices.

§ 330c. "Punchboard" defined.

§ 330.1. Manufacture, etc., of slot machine: Definition: Punishment.

§ 330.2. "Thing of value" defined.

§ 330.3. Seizure and disposal of slot machines.

§ 330.4. Possession and control of slot machines prohibited: Permitting placement, etc., of slot machines: Confiscation.

§ 330.5. Application of §§ 330.1-330.4.

§ 330.6. Slot machines located on or transported by vessels in interstate or foreign commerce.

§ 330.7. Antique slot machines: Defense to prosecution: Purpose of section.

§ 330.8. Authorized sale, transportation, storage, and manufacture of gambling devices for transportation in interstate or foreign commerce.

§ 331. Permitting gambling in house by owner or tenant.

§ 332. Obtaining money or property by fraudulent game or trick.

§ 333. Witnesses neglecting or refusing to attend trial.

§ 334. Punishment for operating concession, or fraudulently obtaining money by means of hidden mechanical device with intent to diminish chance of patron to win prize: Manufacturer's punishment: Restrictive regulation by local government not prohibited.

§ 335. Duties of district attorneys, sheriffs, and others: Neglect of duty.

§ 335a. Seizure and destruction of gambling devices: Notice of intent to destroy: Waiting period: Jurisdiction of actions for recovery of devices: Disposition of seized money.