

SC INFORMATION LETTER #12-10

SUBJECT: Coin-Operated Device Licenses – Unlawful Machines or Devices
(Coin-Operated Device License Tax)

DATE: August 21, 2012

REFERENCE: S.C. Code Ann. Section 12-21-2720 (2000)
S.C. Code Ann. Section 12-21-2730 (2000)
S.C. Code Ann. Section 12-21-2724 (2000)
S.C. Code Ann. Section 12-21-2736 (2000)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (2000 and Supp. 2007)
S.C. Code Ann. Section 1-23-10(4) (2005)
SC Revenue Procedure #09-3

SCOPE: An Information Letter is a written statement issued to the public to announce general information useful in complying with the laws administered by the Department. An Information Letter has no precedential value.

It has come to the attention of the Department of Revenue that individuals and businesses are claiming that if a machine or device is licensed under the provisions of Code Sections 12-21-2720 or 12-21-2730 that it is legal to operate that machine or device in South Carolina.

State and local law enforcement agencies, and the judicial system, are the agencies authorized to make the determination as to whether a machine or device is legal or illegal under the laws of South Carolina. The Department of Revenue is not authorized to make this determination. In fact, Code Section 12-21-2724 states that, upon application for a license under these provisions, the Department of Revenue “may presume that the operation of the machine or apparatus is lawful and when a license has been issued for the operation thereof the sum paid for the license may not be refunded notwithstanding that the operation of the machine or apparatus is prohibited.”

Further, it should be noted that Code Section 12-21-2736 states:

The issuance of a license under the provisions of this article by the department does not make lawful the operation of any gambling machine or device, the operation of which is made unlawful under the laws of this State.

Therefore, a license on a machine or device issued pursuant to Code Section 12-21-2720 or Code Section 12-21-2730 “does not make lawful the operation of any gambling machine or device, the operation of which is made unlawful under the laws of [South Carolina];” and no person in possession of any such machine or device may rely upon a license issued pursuant to these code sections as evidence of the legality of a machine or device.