

SC INFORMATION LETTER #95-11 (TAX)

SUBJECT: Regulation - Single Place or Premises
(Video Game Machines)

DATE: June 13, 1995

SUPERSEDES: SC Revenue Procedure #94-2
SC Information Letter #94-13
All other documents and oral directives in conflict herewith.

REFERENCES: S. C. Code Ann. Section 12-21-2804 (Supp. 1994)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 1994)
SC Revenue Procedure #94-1

SCOPE: An Information Letter is a document issued for the purpose of disseminating general information or information concerning an administrative pronouncement.

Information Letters issued to disseminate general information have no precedential value and do not represent the official position of the Department. Information Letters designated as administrative pronouncements represent the official advisory opinion of the Department.

**NOTICE TO ALL OWNERS AND OPERATORS OF
VIDEO GAMING MACHINES**

Recently, the General Assembly approved four regulations recommended by the Department of Revenue concerning video game machines. One of the regulations concerns what constitutes a single place or premises under the law.

A joint resolution approving the regulations was signed by the Governor. The regulations will become effective on **June 23, 1995**, the date they will be published in the State Register. A copy of these regulations has been attached for your review.

When the regulation on what constitutes a "single place or premises" under the Video Game Machine Act becomes effective on **June 23, 1995**, the regulation will supersede the following Department of Revenue advisory opinions:

SC Revenue Procedure #94-2
SC Information Letter #94-13

All persons operating locations with video game machines should review the regulation on what constitutes a "single place or premises" carefully. Each location must be in compliance with the regulation by **June 23, 1995**.

In addition, the Department has issued an advisory opinion on this matter. SC Revenue Ruling #95-7 has been issued so that all owners and operators of video gaming machines will have a better understanding of the Department of Revenue's opinion with respect to various questions that have arisen concerning the new regulation on what constitutes a "single place or premises". This revenue ruling is effective **June 23, 1995**. A copy of this revenue ruling may be obtained at your local Department of Revenue Taxpayer Service Center.

If you have any questions concerning this matter and other video game machine issues, please contact John McCormack at (803) 737-4438 or contact one of the following Department of Revenue Taxpayer Service Centers:

Aiken	(803) 641-7685	Greenville	(803) 241-1200
Beaufort	(803) 524-2852	Myrtle Beach	(803) 293-6550
Charleston	(803) 852-3600	Rock Hill	(803) 324-7641
Columbia	(803) 737-4602	Spartanburg	(803) 594-4900
Florence	(803) 661-4850		

NEW VIDEO GAME MACHINE REGULATIONS - EFFECTIVE JUNE 23, 1995

SINGLE PLACE OR PREMISES

The Video Game Machines Act, found in Article 20, Chapter 21 of Title 12, limits the number of machines that may be located in a "single place" or "premises".

A single place or premises must be a fixed location. It does not include moving property such as a boat or a train, unless such property is permanently affixed to a specific location.

A "single place" or "premises" means a structure surrounded by exterior walls or firewalls consistent with the requirements of the applicable building code (or where no building code is applicable, a one hour rated firewall), provided such exterior walls and firewalls may not have any windows, doors or other openings leading to another area where video game machines are located.

If a structure surrounded by exterior walls has two or more areas where video game machines are located, each surrounded by exterior walls or firewalls as defined and required above, the Department must review all the facts and circumstances to determine if each area in reality constitutes a single place or premise for video game machines. In determining whether each entity is in fact a single place or premises, the Department of Revenue will consider the following factors: (1) Does each entity or business have a separate electric utility meter? (2) Does each entity or business have at least one separate employee on the premises during business hours? (3) Does each entity or business have a separate local business license where required? (4) Does each entity or business have a separate state sales tax licenses? A positive answer to these four questions is required for each area to be considered a "single place or premise" for purposes of The Video Game Machines Act.

INDUCEMENTS

The Video Game Machines Act, found in Article 20, Chapter 21 of Title 12, prohibits the offering of any special inducements to a person for the playing of video game machines

Therefore, any attempt to influence a person to play video game machines is an inducement and is strictly prohibited by the statute.

A location will be subject to the various civil or criminal penalties imposed by the statute for offering any of the following inducements:

1. Free or discounted food or beverages,
2. Free or discounted games,
3. Prizes, either at the door or through drawings or other means,
4. Coupons offering any of the above,
5. Cash, or,
6. Any other valuable consideration.

If a location engages in activities other than the operation of video game machines, then that location will also be subject to the various civil or criminal penalties imposed by the statute for offering any inducement unless the location can establish that the inducements it offers are not directed at video game machine players **and** if the location can establish that such offerings are part of the normal business practice of similar activities in South Carolina.

For example, a lounge that offers entertainment and dancing and sells alcoholic beverages may provide a complimentary buffet for its patrons. If this lounge also has video game machines, then the complimentary buffet is not an inducement to play video game machines as long as the location can establish that it is not directed at video game machine players **and** the location can establish that it is a part of the normal business practice of similar activities in South Carolina.

The above list of inducements is not all inclusive. Any other attempts to influence a person to play a video game machine will also be subject to the various civil or criminal penalties imposed by the statute.

ADVERTISING

The Video Game Machines Act, found in Article 20, Chapter 21 of Title 12, states that no person who maintains a place or premises for the operation of video game machines as defined in Code Section 12-21-2772(5) may advertise in any manner for the playing of the machines.

Therefore, any attempt to call attention to, or make known, to the general public that video game machines as defined in Code Section 12-21-2772(5) are available for play is advertising and is strictly prohibited by the statute.

MEASUREMENT OF DISTANCE

Code Section 12-21-2793 provides that any location which operates or allows the operation of coin-operated machines which provide payouts may not be located within five hundred feet within a county and within three hundred feet in a municipality of a public or private elementary, middle, or secondary school; a public or private kindergarten; a public playground or park; a public vocational or trade school or technical education center; a public or private college or university; or house of worship. This regulation is for the purpose of further clarifying the distance and how it shall be measured.

With respect to a church or a school, the distance shall be measured from the nearest entrance of the place of business by following the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare to the nearest point of entrance to the grounds of the church or school, or any building in which religious services or school classes are held, whichever is the closer. The Department of Revenue has determined that the grounds in use as part of the church or school is restricted to the grounds immediately surrounding the building or buildings which provide ingress or egress to such building or buildings and does not extend to the ground surrounding the church which may be used for beautification, cemeteries, or any purpose other than such part of the land as is necessary to leave the public thoroughfare and to enter or leave such building or buildings. Only one entrance to the grounds of a church or a school shall be considered to wit: the entrance to the grounds nearest an entrance to the church or school building. Where no fence is involved, the nearest entrance to the grounds shall be a straight line from the public thoroughfare to the nearest door. The nearest point of the grounds in use as part of a playground shall be limited to the grounds actually in use as a playground and the grounds necessary for ingress or egress to such grounds from the public thoroughfare.

The term "school" as used herein refers to a public or private elementary, middle, or secondary school; a public or private kindergarten; a public playground or park; a public vocational or trade school or technical education center; and a public or private college or university. The term "church" as used herein refers to all houses of worship.