



SC INFORMATION LETTER #94-13 (TAX)

SUBJECT: (ADMINISTRATIVE PRONOUNCEMENT)
Video Game Machines Act - Single Place or Premises

DATE: May 25, 1994

MODIFIES: SC Revenue Procedure #94-2

SUPERSEDES: All previous documents and any oral directives in conflict herewith.

REFERENCE: S.C. Code Ann. Section 12-21-2804 (Supp. 1993)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 1993)
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 do represent the official position of the Department.

SC Code Section 12-21-2804(A) provides in part:

No person shall apply for, receive, maintain, or permit to be used, and the commission shall not allow to be maintained, permits or licenses for the operation of more than eight machines authorized under Section 12-21-2720(A) (3) at a single place or premises for the period beginning July 1, 1993, and ending July 1, 1994. After July 1, 1994, the commission may not issue nor authorize to be maintained any licenses or permits for more than five machines authorized under Section 12-21-2720 (A) (3) at a single place or premises.

In SC Revenue Procedure #94-2 the Department interpreted the "single place or premises" language of this section by adopting a list of flexible factors to be considered on a case-by-case basis. That Revenue Procedure made it clear that the factors that the Department would consider include the factors listed in that ruling, "but are not limited to" them.

On March 24, 1994, the Attorney General issued an opinion to The Honorable Greg Gregory, Senator for District No. 16, regarding video gambling devices. In that letter the Attorney General states that his office does "not disagree with this approach; nonetheless, these flexible criteria should not be applied in a manner that defeats the legislative intent. Subdividing a single building or structure with partitions to create so-called discrete "premises" is contrary to the legislative scheme."

The Department agreed with the Attorney General when he issued his opinion and remains in agreement with him. Recently it has come to the attention of the Department that some video game operators are using the list of factors in SC Revenue Procedure #94-2 as a litmus test of whether they are operating a "single place or premises," and claiming that they need only "meet" a certain number of the factors to qualify their business enterprise as more than one single place or premises. the Department believes that this interpretation is a misreading of SC Revenue Procedure #94-2 and Section 12-21-2804(A) and a distortion of their purpose and content.

In order to further clarify its position and to give clear notice to video game operations, the Department hereby officially modifies SC Revenue Procedure #94-2 by adopting the Attorney General's opinion as an additional part of that revenue procedure. Therefore, the Department's interpretation of "single place or premises" is now SC Revenue Procedure #94-2 and the Attorney General's opinion read together.

A copy of the Attorney General's opinion is attached.