



STATE OF SOUTH CAROLINA  
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210  
P.O. Box 12265, Columbia, South Carolina 29211

SC REVENUE RULING #16-3

**SUBJECT:** Electronic Tablet Table Top Ordering and Bill Payment Devices Used by Restaurants  
(Coin Operated Devices Licensing Requirement)

**REFERENCES:** S.C. Code Ann. Section 12-21-2720 (2014)

**AUTHORITY:** S.C. Code Ann. Section 12-4-320 (2014)  
S.C. Code Ann. Section 1-23-10(4) (2005)  
SC Revenue Procedure #09-3

**SCOPE:** The purpose of a Revenue Ruling is to provide guidance to the public. It is an advisory opinion issued to apply principles of tax law to a set of facts or a general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Department advisory opinion.

**Question**

Is a "table top ordering device" used by restaurants at each dining table to streamline customer ordering and customer payment, as described in the facts stated herein, subject to a license tax on coin-operated amusement machines or devices under Code Section 12-21-2720(A)?

**Conclusion**

Based on the facts presented herein, the purpose and intended use of the "table top ordering device" used by restaurants at each dining table is to streamline customer ordering and customer payment, not the playing of amusements or video games. The "table top ordering device" is therefore not subject to a license tax on coin-operated amusement machines or devices under Code Section 12-21-2720(A).

**NOTE:** This advisory opinion reflects the Department's official position regarding electronic "table top ordering devices" used by restaurants at this time under the facts as stated herein. Since the use of these devices in the restaurant industry could change and new technologies continue to emerge, the Department's position as to the use of these devices by the restaurant industry is subject to change due to a future statute, regulation, court decision, advisory opinion, or changes in the restaurant industry's usage and application of these devices. Any change in South Carolina's position will be prospective. The Department's position regarding the use of a "table top device" in other industries is dependent on the purpose and intended use of the device as determined by a review of all the facts surrounding the particular device.

## **Facts**

Restaurants in South Carolina have begun utilizing electronic tablet table top ordering and bill payment devices (hereafter, “table top ordering devices” or “devices”). The purpose and intended use of these devices is to streamline the ordering and bill payment processes by allowing restaurant patrons the ability to order food and beverages through a mobile menu and to pay for meals on demand.

Restaurants using these devices place one device at each dining table. The devices display detailed descriptions of menu items, including dietary/nutritional information. In some cases the devices provide pictures of menu items and videos of food preparations. Advertisements and promotions may be displayed on the device during the meal, and patrons may use the device to call their waiter or waitress. The device may also present customer satisfaction surveys, comment/suggestion cards, and information regarding customer loyalty programs.

In addition, the devices may contain ancillary software programs for customers to use or play educational applications, puzzles, cartoons, videos, and/or games.<sup>1</sup> For a small, one-time fee, typically \$0.99, patrons receive unlimited use of the educational applications, puzzles, cartoons, videos, and/or games. The fee is added to the patron’s bill along with the patron’s food and beverage orders.

The bill for restaurant charges and games, if any, is paid at the end of the patron’s visit by credit card, debit card, coupon, or gift card through the device or by traditional means through restaurant staff.

The purpose of this advisory opinion is to address South Carolina’s licensure requirements as applied to these table top ordering devices used by restaurants as described in the facts herein.

## **Discussion**

Code Section 12-21-2720(A) imposes a license tax on various amusement machines or devices. In particular, Code Section 12-21-2720(A)(2) imposes a license requirement on coin-operated machines for the playing of games or amusements.<sup>2</sup> This provision reads:

(A) Every person who maintains for use or permits the use of, on a place or premises occupied by him, one or more of the following machines or devices shall apply for and procure from the South Carolina Department of Revenue a license

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<sup>1</sup> With regard to games, the device contains no free play feature, is not used for gambling, and does not contain poker, blackjack, keno, lotto, bingo, craps, or any other game of chance of whatever name or kind. It should be noted that any video game machine with a free play feature or any machine or device licensed pursuant to Section 12-21-2720 and used for gambling or other device used for the play of poker, blackjack, keno, lotto, bingo, craps, or pertaining to games of chance of whatever name or kind is illegal under Section 12-21-2710 and is subject to seizure and destruction pursuant to Section 12-21-2712.

<sup>2</sup> Another provision, Code Section 12-21-2730, authorizes the licensure of billiard or pocket billiard tables, foosball tables, bowling lane tables, and skeeball tables owned or operated for profit and which do not require a slot. This provision, however, is not applicable to *video games* of billiards, pocket billiards, foosball, bowling, and skeeball. It is the longstanding position of the Department that such video games are subject to the taxes imposed by Code Section 12-21-2720.

effective for two years for the privilege of making use of the machine in South Carolina and shall pay for the license a tax of fifty dollars for each machine in item (1), two hundred dollars for each machine in item (2), and four thousand dollars for each machine in item (3):

\* \* \*

(2) a machine for the playing of amusements or video games, without free play feature, or machines of the crane type operated by a slot in which is deposited a coin or thing of value and a machine for the playing of games or amusements, which has a free play feature, operated by a slot in which is deposited a coin or thing of value, and the machine is of the nonpayout pin table type with levers or "flippers" operated by the player by which the course of the balls may be altered or changed. A machine required to be licensed under this item is exempt from the license fee if an admissions tax is imposed.

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Based on the facts presented herein, the purpose and intended use of the table top ordering device used by restaurants at each dining table is to streamline customer ordering and customer payment. Although the device has features that allow the patron to use or play educational applications, puzzles, cartoons, videos, and/or games, the purpose of the device is streamlining ordering and bill payment and not the playing of amusements or video games. The table top ordering device is therefore not subject to a license tax on coin-operated amusement machines or devices under Code Section 12-21-2720(A).

NOTE: This advisory opinion reflects the Department's official position regarding electronic table top ordering devices used by restaurants at this time under the facts as stated herein. Since the use of these devices in the restaurant industry could change and new technologies continue to emerge, the Department's position as to the use of these devices by the restaurant industry is subject to change due to a future statute, regulation, court decision, advisory opinion, or changes in the restaurant industry's usage and application of these devices. Any change in South Carolina's position will be prospective. The Department's position regarding the use of a table top device in other industries is dependent on the purpose and intended use of the device as determined by a review of all the facts surrounding the particular device.

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s/Rick Reames III  
Rick Reames III, Director

May 5, 2016  
Columbia, South Carolina