

SC INFORMATION LETTER #95-10 (TAX)

**SUBJECT:** Regulations  
(Video Game Machines)

**DATE:** May 31, 1995

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

**REFERENCES:** S. C. Code Ann. Section 12-21-2806 (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.

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.

These regulations are not official and will not become official until the legislation concerning these regulations is signed by the Governor and is published in the State Register. The earliest possible date that such regulations will be published in the State Register is June 23, 1995. A copy of these proposed regulations are attached for your review.

All persons operating locations with video game machines should review the proposed regulation on what constitutes a "single place or premises" carefully and, if this regulation is approved by the Governor, each location must be in compliance with the regulation as soon as it is published in the State Register. The other three regulations are a re-statement of official advisory opinions and guidelines previously issued by the Department of Revenue.

The Department will continue to follow all previous guidelines and advisory opinions issued with respect to these four issues until such time as these proposed regulations are approved by the Governor and published in the State Register.

## PROPOSED GAME MACHINE REGULATIONS

### **117?? 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.

### **117?? 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.**

#### **117?? 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.

#### **117?? 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.