

---

State of South Carolina  
**Department of Revenue**  
301 Gervais Street, P. O. Box 125, Columbia, South Carolina 29214

---

SC REVENUE RULING #95-2 (TAX)

- SUBJECT:** Transfer of Licenses  
(Coin-Operated Devices)
- EFFECTIVE DATE:** Applies to all periods open under the statute.
- SUPERSEDES:** All previous documents and any oral directives in conflict herewith.
- REFERENCES:** S. C. Code Ann. Section 12-21-2720 (Supp. 1993)  
S. C. Code Ann. Section 12-21-2730 (Supp. 1993)  
S. C. Code Ann. Section 12-21-2728 (Supp. 1993)
- AUTHORITY:** S. C. Code Ann. Section 12-4-320 (Supp. 1993)  
SC Revenue Procedure #94-1
- SCOPE:** A Revenue Ruling is the Department of Revenue's official advisory opinion of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and is provided as guidance for all persons or a particular group. It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

Questions:

1. May a person who has purchased a coin-operated device license from the Department of Revenue under either Code Section 12-21-2720 or Code Section 12-21-2730 transfer that license to another person or entity?
2. May a person who has purchased an owner/operator license from the Department of Revenue under Code Section 12-21-2728 transfer that license to another person or entity?

Conclusions:

1. A person who has purchased a coin-operated device license from the Department of Revenue under either Code Section 12-21-2720 or Code Section 12-21-2730 may not transfer that license to another person or entity.

Note: If a coin-operated device license purchased under either Code Section 12-21-2720 or Code Section 12-21-2730 is attached to a coin-operated device that is being sold or transferred to another person or entity, the license should be removed from the device and destroyed. The new owner of the machine should apply for and procure from the Department of Revenue a new coin-operated device license before the machine is placed at a location for operation.

2. A person who has purchased an owner/operator license from the Department of Revenue under Code Section 12-21-2728 may not transfer that license to another person or entity.

Facts:

Many businesses operate, on location, various amusement machines, such as skeeball, juke boxes, kiddy rides, video games, pinball, and video poker.

While in some cases a business may own its own machines, in many instances a business will enter into a lease or machine profit sharing agreement with a coin-operator who must be licensed with the Department of Revenue as an owner/operator under Code Section 12-21-2728. As part of these arrangements, the business is usually entitled to a percentage of the gross or net income from the machines.

Under South Carolina law, these machines must have a license attached to them. These licenses are valid for a two year period and cost \$50, \$200, or \$3,000 for each machine, depending on the type of machine. In addition, machines which require the \$3,000 license are subject to various regulatory provisions found under the Video Game Machines Act of 1993.

Questions have arisen as to whether the owner/operator license or the machine licenses are transferable.

Discussion:

**Machine Licenses**

Code Section 12-21-2720 sets forth the licensing requirements with respect to juke boxes, kiddy rides, video games, pinball, video poker and other similar coin operated machines, and reads in part:

(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 and Taxation a license 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 three thousand dollars for each machine in item (3):... (Emphasis added.)

Code Section 12-21-2730 sets forth the licensing requirements with respect to skeeball tables, billiard tables, bowling lane tables and football tables, and reads in part:

Every person owning or operating a billiard or pocket billiard table, football table, bowling lane table, or skeeball table for profit shall apply for and procure from the commission a license for the privilege of operating the table and pay for the license a biennial tax of fifty dollars for each table owned or operated. (Emphasis added.)

Code Section 12-21-2804(D) prohibits the Department of Revenue from issuing a Class III license to any person who has not been a resident of the State for two years.

The statute clearly states that all machine licenses must be purchased from the Department of Revenue and that the Department is responsible for ensuring no person receives a Class III license unless such person has been a resident of South Carolina for two years.

Where a statute is clear and unambiguous, there is no room for construction and the terms of the statute must be given their literal meaning. Duke Power Co. v. South Carolina Tax Commission, 292 S.C. 64, 354 S.E.2d 902, 903 (1987).

As such, licenses purchased from the Department may not be sold or transferred by the purchaser to any other person or entity. To do otherwise would violate the language of Code Sections 12-21-2720 and 12-21-2730 and would circumvent the residency requirements of Code Section 12-21-2804(D).

### **Owner/Operator Licenses**

Code Section 12-21-2728 reads:

(A) In addition to all other licenses required by this chapter, a person who owns or operates devices described in Sections 12-21-2720 and 12-21-2730 shall obtain an operator's license biennially as follows:

- (1) fifty dollars for devices in Sections 12-21-2720(A)(1) and 12-21-2730;
- (2) two hundred dollars for devices in Section 12-21-2720(A)(2);
- (3) two thousand dollars for devices in Section 12-21-2720(A)(3).

(B) Only one license is required regardless of the number or type of devices owned or operated, and the cost of that license is the highest fee enumerated in this section for a device owned or operated.

(C) The licenses provided by this section are subject to Section 12-21-2734 and are a condition precedent to engaging in or continuing operation of machines described in this chapter. Failure to remit taxes to the State is justification for the cancellation of the license provided in this section.

Therefore, the owner of a machine must obtain a license as required by Code Section 12-21-2728. Only one license is required of each person regardless of the number or type of machines owned or operated, or the number of locations operated.

Again, in considering this licensing provision and the licensing provisions of Code Sections 12-21-2720 and 12-21-2730 together, an owner/operator license purchased from the Department may not be sold or transferred by the purchaser to any other person.

Finally, two other points need to be considered regarding the issue of the transferability of machine licenses and owner/operator licenses:

(1) a review of both Articles 19 and 20 of Chapter 21 finds that the General Assembly did not enact any provisions permitting the transfer of licenses to another person or entity, and

(2) "[I]n seeking the intention of the legislature, we must presume that it intended by its action to accomplish something and not to do a futile thing. McLeod v. Montgomery, 244 S.C. 308, 136 S.E.2d 778 (1964). Allowing taxpayers to transfer licenses among themselves would negate the purpose of having persons register themselves and their coin-operated devices with the Department of Revenue.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank III  
Burnet R. Maybank, III, Director

Columbia, South Carolina  
April 11, 1995

For questions concerning coin-operated device licenses, contact your local Department of Revenue Taxpayer Service Center or John P. McCormack at (803) 737-4438.