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

SC INFORMATION LETTER #99-14

SUBJECT: Maximum Payout - Inducements
(Video Game Machines)

DATE: Effective No Sooner than July 28, 1999¹

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

REFERENCE: S. C. Code Ann. Section 12-21-2804 (Supp. 1998)
S. C. Revenue Ruling #99-7
S. C. Revenue Procedure #99-1
Gentry v. Yonce, Op. No. 24971 (S.C. Sup. Ct. Filed 7/13/99)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 1998)
S. C. Revenue Procedure #97-8

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 are official advisory opinions of the Department.

On March 11, 1999, the Department of Revenue (“Department”) issued S.C. Revenue Ruling 99-7, concluding that “[t]he offering of a video game machine jackpot that exceeds the maximum payout provisions of Code Section 12-21-2791 does not constitute a special inducement under the provisions of Code Section 12-21-2804(B) and SC Regulation 117-190.1.”

¹Under South Carolina Appellate Court Rules, SCACR Rule 221(b), remittitur to the circuit court does not occur until 15 days have elapsed after filing the order that finally disposes of the case. The final date of decision may be affected if a Petition for Rehearing is filed.

On July 13, 1999, the South Carolina Supreme Court filed its opinion in Gentry v. Yonce, Op. No. 24971 (S.C. Sup. Ct. Filed 7/13/99). In that case, the Court was asked to consider whether that lawsuit should have been dismissed under South Carolina Rules of Civil Procedure, Rule 12(b)(6). Under that rule, the Court must consider the allegations of the complaint “in the light most favorable to the plaintiff, and with every doubt resolved in his behalf.” The Court disagreed with the circuit court’s conclusion that Code Section 12-21-2804(B) “does not apply to the logos and other identifying information which physically comprise the video game machine.” The Court concluded:

Advertising that jackpots greater than \$125 may be won is more than a logo. At this state of these proceedings, we think that advertising or offering of jackpots could be construed as special inducements and thus could support a RICO claim. (footnotes omitted.)

Therefore, should this order become final,² then S.C. Revenue Ruling 99-7 and any other documents issued by the Department are superceded or modified prospectively to the extent that they may be inconsistent with the Supreme Court of South Carolina’s ruling. Licensees are hereby notified that advertising, or offering of jackpots in excess of the legal limit, could be construed as special inducements that violate S.C. Code Section 12-21-2804(B). *See* S.C. Revenue Procedure 99-1 at pgs. 4-6 (Penalty Guidelines for Violations).

July 15, 1999
Columbia, S.C.

² Under South Carolina Appellate Court Rules, SCACR Rule 221(b), remittitur to the circuit court does not occur until 15 days have elapsed after filing the order that finally disposes of the case. AThe final disposition of a case occurs when the remittitur is returned by the clerk of the appellate court and filed in the lower court. . . Until that time, the case is pending on appeal. @ J. Toal, et al. APPELLATE PRACTICE IN SOUTH CAROLINA 310 (S.C. Bar 1999). If a petition for rehearing is filed, the remittitur is not sent pending its disposition. *Id.* at 311.