

In general, machines that allow players to accumulate credits that may be redeemed for gift cards that the players can use to receive property do not meet the definition of a coin-operated amusement device subject to tax under the Coin-Operated Amusement Device and Redemption Machine Tax Act. See 35 ILCS 510/1 *et seq.* and the corresponding regulations at 86 Ill. Adm. Code 460.101 *et seq.* (This is a GIL.)

January 5, 2009

Dear Xxxxx:

This letter is in response to your letter dated April 17, 2008, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings (“PLRs”) are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department’s regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter (“GIL”) is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am writing to you with concern regarding the licensing of redemption machines in the State of Illinois. I want to open a small business in CITY, Illinois. The business is an Adult skill amusement arcade. I have been conducting research in opening the business and after consulting with the city and chief of police they agreed there were no legal issues and saw nothing wrong with the small business idea, as long as the machines were properly licensed with both the City and State. When contacting the Illinois Department of Revenue I was informed that the machines would not qualify as redemption machines and this is the reason for my letter.

My Business Concept:

The business is an adult skill amusement arcade. It would be in a location such as a strip-mall or other leased facility. The arcade would have video arcade games such as Dino, Cherry Master, Queen Bee, Super Bee, Halloween, Deal or No Deal and Wheel of Fortune to name a few. The machines would be played based on skill as most machines have a hold mechanism that allows players to hold two items in an attempt with skill to stop the machine and get the third like item. Player would sign up for a card (similar to the power card used at ABC) they would proceed to a kiosk where they can

put credits on their card by inserting their card and money into the machine. Once the credits are on the card they can proceed to the arcade games and play at their leisure. Note: No money is exchanged only credits onto a player's card. Players can then accumulate credits for redemption of gift cards in increments of \$5.00 from local merchant [sic] such as Lowe's, Home Depot, Target, Wal-Mart, and local grocery stores & gas stations.

On April 8, 2008 I was advised by INDIVIDUAL at the Illinois Department of Revenue that the machines I want to license did not qualify as a redemption machine due to number 4 E. Please find the State of Illinois definition of a redemption machine below.

(4) A redemption machine. For the purposes of this paragraph (4), a 'redemption machine' is a single-player or multi-player amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, or propelling a ball or other object into, upon, or against a hole or other target, provided that all of the following conditions are met:

- (A) The outcome of the game is predominantly determined by the skill of the player.**
- (B) The award of the prize is based solely upon the player's achieving the object of the game or otherwise upon the player's score.**
- (C) Only merchandise prizes are awarded.**
- (D) The average wholesale value of prizes awarded in lieu of tickets or tokens for single play of the device does not exceed the lesser of \$5 or 7 times the cost charged for a single play of the device.**
- (E) The redemption value of tickets, tokens, and other representations of value, which may be accumulated by players to redeem prizes of greater value, does not exceed the amount charged for a single play of the device.**

When I spoke with INDIVIDUAL he indicated all redemption machines must have a ball or other item such as a gun and they must be aiming at a target. He kept referring to ski-ball and the water gun game where you hit the bulls-eye when I would refer to other machines he said they shouldn't be licensed as a redemption machine as they did not meet qualifications and again would go back to the two games he referred to. I disagree with what INDIVIDUAL was advising me as I have seen numerous games licensed as redemptions [sic] machines including the Wheel of Fortune, Deal or No Deal and the Dance Machine. I have enclosed the Merriam-Webster definitions of the following words object, placing, target, upon, and against, as I feel that the machines in the arcade I wish to open clearly fall within the definition of redemption machines.

Main Entry:

¹ob.ject

Pronunciation:

\¹äb-jikt, -(,)jekt\¹

Function:

noun

Etymology:

Middle English, from Medieval Latin *objectum*, from Latin, neuter of *objectus*, past participle of *obicere* to throw in the way, present, hinder, from *ob-* in the way + *jacere* to throw – more at OB-, JET

Date:

14th century

1 a: something material that may be perceived by the senses <1 see an *object* in the distance> **b**: something that when viewed stirs a particular emotion (as pity) <look to the tragic loading of this bed...the *object* poisons sight; let it be hid – Shakespeare>2 a: something mental or physical toward which thought, feeling, or action is directed <an *object* for study> <the *object* of my affection> < delicately carved art *objects*> **b**: something physical that is perceived by an individual and becomes an agent for psychological identification <the mother is the primary *object* of the child> 3 a: the goal or end of an effort or activity : PURPOSE, OBJECTIVE <their *object* is to investigate the matter thoroughly> **b**: a cause for attention or concern <money is no *object*>4: a thing that forms an element of or constitutes the subject matter of an investigation or science5 a: a noun or noun equivalent (as a pronoun, gerund, or clause) denoting the goal or result of the action of a verb **b**: a noun or noun equivalent in a prepositional phrase6 a: a data structure in object-oriented programming that can contain functions as well as data, variables, and other data structures **b**: a discrete entity (as a window or icon) in computer graphics that can be manipulated independently of other such entities.

placing

One entry found.

place[2,verb]

Main Entry:

²place

Function:

verb

Inflected Form(s):

placed; plac-ing

Date:

15th century

transitive verb 1 **a**: to put in or as if in a particular place or position : **SET** **b**: to present for consideration <a question *placed* before the group> **c**: to put in a particular state <*place* a performer under contract> **d**: to direct to a desired spot **e**: to cause (the voice) to produce free and well resonated singing or speaking tones2 **a**: to assign to a position in a series or category : **RANK** **b**: **ESTIMATE** <*placed* the value of the estate too high> **c**: to identify by connecting an associated context <couldn't quite *place* her face> <police *placed* them at the crime scene>3: to distribute in an orderly manner : **ARRANGE**4: to appoint to a position5: to find a place (as a home or employment) for6 **a**: to give (an order) to a supplier **b**: to give an order for <*place* a bet> **c**: to try to establish a connection for <*place* a telephone *call*>*intransitive verb*: to earn a given spot in a competition; *specifically* : to come in second (as in a horse race)

-- **place-able** \ˈplā-sə-bəl\ *adjective*

Target

5 entries found.

target[1, noun]
target[2, transitive verb]
on-target
target date
target language

Main Entry:

¹**tar-get**

Pronunciation:

\ˈtär-gət\

Function:

noun

Usage:

often attributive

Etymology:

Middle English, from Middle French *targette*, *targuete*, diminutive of *targe* light shield, from Old French, of Germanic origin; akin to Old Norse *targa* shield

Date:

14th century

1: a small round shield2 **a**: a mark to shoot at **b**: a target marked by shots fired at it **c**: something or someone fired at or marked for attack **d**: a goal to be achieved3 **a**: an object of ridicule or criticism **b**: something or someone to be affected by an action or

development⁴ **a**: the metallic surface (as of platinum or tungsten) upon which the stream of electrons within an X-ray tube is focused and from which the X-rays are emitted **b**: a body, surface, or material bombarded with nuclear particles or electrons; *especially* : fluorescent material on which desired visual effects are produced in electronic devices (as in radar)

-- off target

: not valid : INACCURATE

-- on target

: precisely correct or valid especially in interpreting or addressing a problem or vital issue

against

10 entries found.

against[1, preposition]
against[2, conjunction]
clock[1, noun]
crime against humanity
crime against nature
hope[1, verb]
over against
play[2, verb]
run[1, verb]
up[2, adjective]

Main Entry:

¹**against**

Pronunciation:

\ə-'gen(t)st, -'gin(t)st, -'gān(t)st/

Function:

preposition

Etymology:

Middle English, alteration of *againes*, from *again*

Date:

13th century

1 a: in opposition or hostility to <spoke *against* his enemies> **b**: contrary to <*against* the law> **c**: in competition with <racing *against* each other> **d**: as a basis for disapproval of

<had nothing *against* him>2 a: directly opposite: FACING <she sat down just over *against* me – Daniel Defoe> *obsolete* : exposed to3: compared or contrasted with <profits are up *against* last year>4 a: in preparation or provision for <saving *against* an uncertain future> **b**: as a defense or protection from <a shelter *against* the cold>5 a: in the direction of and into contact with <knocked *against* the ropes> **b**: in contact with <leaning *against* the wall>6: in a direction opposite to the motion or course of: counter to <sail *against* the wind> 7 a: as a counterbalance to <weighing risk *against* profit> **b**: in exchange for <a lower rate *against* the dollar> **c**: as a charge on <charged *against* her account>8: before the background of <viewed *against* the sky>

I feel the State of Illinois definition of a redemption machine is not clear and concise and is open for interpretation in many ways. After reviewing my business concept and information in this letter I hope you find in favor that the machines clearly fall within the definition of a redemption machine. As a single female who is a native of the CITY area I have been wanting to own and operate my own business for sometime [sic]. With the concept I have developed it is a win/win for the adults in the local area along with the community due to the redemptions focusing on local merchants.

If you would like to discuss the plan of my business in further detail please contact me.

DEPARTMENT'S RESPONSE:

The Department's regulation "Public Information, Rulemaking and Organization" provides that "[w]hether to issue a private letter ruling in response to a letter ruling request is within the discretion of the Department. The Department will respond to all requests for private letter rulings either by issuance of a ruling or by a letter explaining that the request for ruling will not be honored." 2 Ill. Adm. Code 1200.110(a)(4). Your letter provides insufficient information regarding each of the video arcade games identified in your letter. Therefore, it is the Department's position that we must decline to issue a Private Letter Ruling. However, we hope the following will be helpful in addressing your questions.

The Coin-Operated Amusement Device and Redemption Machine Tax Act, 35 ILCS 510/1 *et seq.*, provides that "there is imposed, on the privilege of operating every coin in the slot operated amusement device, including a device operated or operable by insertion of coins, tokens, chips or similar objects, in this State which returns to the player thereof no money or property or right to receive money or property, and on the privilege of operating in this State a redemption machine as defined in Section 28-2 of the Criminal Code of 1961, an annual privilege tax of \$30 for each device for a period beginning on or after August 1 of any year and prior to August 1 of the succeeding year."

Under Section 28-2 of the Criminal Code of 1961, 720 ILCS 5/28-2(a)(4), a redemption machine is: ...a single-player or multi-player amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, or propelling a ball or other object into, upon, or against a hole or other target, provided that all of the following conditions are met:

- (A) The outcome of the game is predominantly determined by the skill of the player.
- (B) The award of the prize is based solely upon the player's achieving the object of the game or otherwise upon the player's score.
- (C) Only merchandise prizes are awarded.
- (D) The average wholesale value of prizes awarded in lieu of tickets or tokens for single play of the device does not exceed the lesser of \$5 or 7 times the cost charged for a single play of the device.

- (E) The redemption value of tickets, tokens, and other representations of value, which may be accumulated by players to redeem prizes of greater value, does not exceed the amount charged for a single play of the device.

Based on the language contained in the Act, the amusement device must involve a game, “the object of which is throwing, rolling, bowling, shooting, placing, or propelling a ball or other object into, upon, or against a hole or other target.” If the device does not involve a game with the required object, it is not a redemption machine and cannot be licensed as one. Video games cannot meet this requirement because there is no physical ball or object.

Assuming the object requirement is satisfied, all five of the enumerated conditions also must be satisfied. For example, only merchandise may be awarded by the licensee of the machines. Gift cards do not qualify as merchandise.

Under the Coin-Operated Amusement Device and Redemption Machine Tax Act, a coin-operated amusement device is every coin-in-the-slot-operated amusement device, including a device operated or operable by insertion of coins, tokens, chips or similar objects, in this State which returns to the player thereof no money or property or right to receive money or property. In general, machines that allow players to accumulate credits that may be redeemed for gift cards that the players can use to receive property do not meet the definition of a coin-operated amusement device subject to tax under the Coin-Operated Amusement Device and Redemption Machine Tax Act.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department’s Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Richard S. Wolters
Associate Counsel

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