

ILLINOIS REGISTER
DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Coin-Operated Amusement Device and Redemption Machine Tax
- 2) Code Citation: 86 Ill. Adm. Code 460
- 3)

<u>Section Numbers:</u> 460.101 460.105	<u>Proposed Actions:</u> Amendment Amendment
---	--
- 4) Statutory Authority: 35 ILCS 510/4; 20 ILCS 2505/2505-105
- 5) A Complete Description of the Subjects and Issues Involved: Section 460.101 is amended to implement a statutory change to the definition of coin-operated amusement device contained in Section 1 of the Coin-Operated Amusement Device and Redemption Machine Tax Act. The statutory change expanded the definition of coin-operated amusement device to include any device operated or operable by insertion of coins, tokens, chips or similar objects. The Department is also updating the definition by rule to include a device that is operated or operable by the use of a debit or prepaid card or mobile device. Amendments are made to Section 460.101 to notify taxpayers that they may file claims pursuant to Section 2 of the Act for tax, penalty and interest paid in error. Section 460.105 also is amended to implement statutory changes to the definition of redemption machine contained in Section 28-2(a)(4) of the Illinois Criminal Code. The definition also is amended to reflect changes in technology, such as games that use computer-generated graphics and electrical displays to simulate the throwing, rolling, bowling, shooting, placing or propelling a ball or object. Other changes have been made to the definition to explain the limitation on awards that may be awarded by a redemption machine.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking:
None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect: No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Richard S. Wolters
Legal Services Office
Illinois Department of Revenue

101 West Jefferson
Springfield, Illinois 62794

(217) 782-2844

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses operating devices or machines falling within the definitions of coin-operated amusement device and redemption machine.
- B) Reporting, bookkeeping or other procedures required for compliance: Businesses operating devices or machines falling within the definitions of coin-operated amusement device and redemption machine must annually file an application for a privilege decal for each device and machine and pay the annual fee per device and machine of \$30.
- C) Types of professional skills necessary for compliance: Bookkeeping and computer skills.

14) Regulatory Agenda on which this rulemaking was summarized: July 2016

The full text of the Proposed Amendments begins on the next page:

Section 460.101 Nature and Scope of the Tax

- a) The Coin-Operated Amusement Device and Redemption Machine Tax Act (the Act) imposes an annual privilege tax on the privilege of operating, in this State:
 - 1) every coin-in-the-slot-operated amusement device, including a device operated or operable by insertion of coins, tokens, chips, or similar objects, or operated by the use of a debit or prepaid card or mobile device, in this State, which that returns to the player no money or property or right to receive money or property; and
 - 2) every redemption machine, as defined in Section 460.105 of this Part.
- b) ~~Through June 30, 2003, the amount of the tax is \$15 for each device or machine for which a license was issued for a period beginning on or after August 1 of any year and prior to February 1 of the succeeding year. A privilege tax of \$8 is imposed on the privilege of operating a device or machine for which a license was issued for a period beginning on or after February 1 of any year and ending July 31 of that year. Beginning July 1, 2003, privilege tax decals will be issued instead of licenses. The amount of the tax is \$30 for each device or machine for which a privilege tax decal is was issued for a period beginning on or after August 1 of any year through July 31 of the following year. All privilege tax decals issued by the Department shall expire on July 31 following issuance.~~ Privilege tax decals are issued in one-year increments only.
- c) ~~Through June 30, 2003, the tax payable with respect to any amusement device or redemption machine must be remitted to the Department of Revenue with the application for license for such device or machine. Beginning July 1, 2003, the The tax payable with respect to any amusement device or redemption machine must be remitted to the Department of Revenue with a form containing information regarding~~

such device or machine. The remittance should be made payable to the Department of Revenue.

- d) *If an amount of tax, penalty or interest has been paid in error to the Department, a taxpayer may file a claim for credit or refund with the Department in accordance with the provisions of Section 2 of the Act [35 ILCS 510/2(b)].*

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 460.105 Illustrations of Taxable and Nontaxable Coin-Operated Amusement Devices and Redemption Machines

a) Coin-operated Amusement Devices – Taxable Devices

- 1) To be taxable, the device must be coin-operated, or operated by the insertion of tokens, chips, or similar objects, or operated by the use of a debit or prepaid card or mobile device, and it must be an amusement device. However, if an otherwise taxable amusement device is equipped to be operated by means of the insertion of coins, tokens, chips, or similar objects, or operated by the use of a debit or prepaid card or mobile device, it is the Department's position that such device does not cease to be a taxable device because of the fact that the operator thereof has his customers pay for the use of such device at the bar or in some other way which avoids the use of a ~~the coin~~ receptacle that accepts coins, tokens, chips, or similar objects, or a debit or prepaid card or mobile device.
- 2) The device cannot return money or property or the right to receive money or property to the player. For example, a crane game that offers players the right to receive merchandise contained in the machine is not subject to the tax.
- 3) An amusement device is a device which is played primarily for amusement or entertainment rather than for the purchase of some specific commodity or service. Every kind of coin-operated amusement device, which does not return money or property or the right to receive money or property to the player, is subject to the tax. Therefore, the tax applies not only to coin-operated pinball machines, gun-ray devices and shuffleboards (as it did prior to August 1, 1963), but also (commencing August 1, 1963) to coin-operated hockey games, baseball games, horse racing games, gun games of all kinds, pool games, mechanical pony rides and other similar devices, juke boxes, fortune-telling machines and anything else which comes within the foregoing definition of a coin-operated amusement device.

b) Redemption Machines

- 1) Tax shall be imposed as required in Section 460.101 of this Part on the privilege of operating a redemption machine. For purposes of this Part, *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 that is either physical or computer generated on a display or with lights into, upon, or against a hole or other target that is either physical or computer generated on a display or with lights, or stopping, by physical, mechanical, or electronic means, a moving object that is either physical or computer generated on a display or with lights into, upon, or against a hole or*

other target that is either physical or computer generated on a display or with lights, provided that all 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 \$25 ~~the lesser of \$5 or 7 times the cost charged for a single play of the device;~~ and*
- E) *The redemption value of tickets, tokens, and other representations of value, which may be accumulated by players to redeem prizes of greater value, for a single play of the device does not exceed \$25 ~~does not exceed the amount charged for a single play of the device~~ [720 ILCS 5/28-2(a)(4)].*

c) Nontaxable Devices and Redemption Machines

- 1) The tax does not apply to a coin-operated device maintained by a public utility for furnishing public utility service (such as telephone service). The tax does not apply to any coin-operated device which is designed and used strictly as a means of vending merchandise or service. For example, this tax does not apply (among other things) to cigarette, soft drink and other merchandise vending machines, nor to coin-operated scales which merely provide information concerning a person's weight, nor to coin-operated machines which merely provide the customer with a photographing service, nor to coin-operated machines which merely provide a laundry or dry cleaning service.
- 2) The tax does not apply to gambling devices, as defined in Section 28-2 of the Criminal Code [720 ILCS 5/28-2].
- 3) The tax does not apply to a coin-operated amusement device or redemption machine that would otherwise be taxable where the person operating such device or machine is a private club or organization, and where such club or organization restricts the displaying of the amusement device or machine to its membership and such device or machine is not displayed in such a manner as to be accessible to the public. The exemption described in the preceding sentence arises from the fact that the Act is worded so that it applies only to the displaying of coin-operated amusement devices or redemption machines where such devices or machines are "to be played or operated by the public". However, a private club or organization cannot be established for the purpose of displaying such amusement devices or redemption machines and thus evade the privilege tax decal requirements of the Act.

(Source: Amended at 41 Ill. Reg. _____, effective _____)