

Rental duty and coin-in-the-slot machine rental arrangements

Revenue Ruling SD.051

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Preamble

Subdivision 13A of the *Stamps Act 1958* (the Act) charges stamp duty on amounts received in relation to the leasing of 'goods'.

The term 'goods' is defined in Section 131AA(1) of the Act to include '...all chattels personal and fixtures severable from the realty but does not include money, livestock or things in action'.

Amusement equipment such as coin operated machines (for example, juke boxes, pinball machines, electronic games, billiard tables and vending machines) are 'goods for the purposes of the Act.

The purpose of this Ruling is to provide guidelines as to the most common arrangements in which coin-in-the-slot machines are made available, and outline the duty implications of such arrangements under Subdivision 13A of the Act.

Ruling

There are generally two types of arrangement under which coin-in-the-slot machines are used by the owner of such machines to derive income.

These arrangements may be described as rental arrangements on the one hand, and licence arrangements on the other.

Rental/hire arrangements

The characteristics of these arrangements are ordinarily that:

- **the machines are directly hired to the proprietor of a business (for example, a shop);**
- **the proprietor is entitled to use and exploit the machines as he or she sees fit, subject to the conditions contained in the hire agreement;**

- **the proprietor of the business is ordinarily entitled to all of the takings generated by the machines; and**
- **the proprietor ordinarily makes a rental payment to the owner of the machines. This may take the form of a fixed sum or a percentage of the machine takings.**

In these cases a rental agreement exists between the two parties. The amount paid by the proprietor of the business to the owner of the machines is considered to be dutiable as a receipt arising out of a rental business. Therefore, these amounts should be taken into account in determining if there is a liability to register and pay duty.

Licence-type arrangements

Under these arrangements machines are not 'hired out', but are merely placed on premises.

The characteristics of such arrangements are that:

- **the owner of the machines pays the owner of the premises an amount of money for the use of the premises and for the right to place and operate the machines on those premises; and**
- **control and exploitation of the machines ordinarily remains in the hands of its owner, who is prima facie entitled to all the takings generated by the machines.**

In such a case there is generally no rental agreement between the owner of the machines and the proprietor of the premises. Receipts by the machine owner under arrangements which are described by these criteria are not considered to be receipts arising out of a rental agreement.

Consequently, no liability to stamp duty arises. Such amounts should not be taken into consideration when determining whether a liability to register and pay duty arises.

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Alternative circumstances

In cases where arrangements are in place which do not fall within either of the above categories, and doubt exists as to whether the receipts of the machine owner constitute receipts arising out of a rental business, a private ruling should be sought from the State Revenue Office.

Please note that rulings do not have the force of law. Each decision made by the State Revenue Office is made on the merits of each individual case having regard to any relevant ruling. All rulings must be read subject to Revenue Ruling GEN.01.

Denzil Griffiths

Commissioner of State Revenue

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