



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**PRICE DANIEL**  
ATTORNEY GENERAL

July 20, 1951

Hon. Robert S. Calvert  
Comptroller of Public Accounts  
Austin, Texas

Opinion No. V-1209

Re: Legality of transferring a thirty dollar annual tax receipt on a five cent coin-operated marble table to a different kind of five cent coin-operated machine when the marble table is sold or destroyed.

Dear Mr. Calvert:

Your request for an opinion reads, in part, as follows:

"Section 4 (e) of Article III of House Bill 8, Chapter 495, Acts of the 44th Legislature, Third Called Session of 1936 [Art. 7047a-2, V.C.S.], reads as follows:

"The term "skill or pleasure coin-operated machines" as used herein shall mean and include every coin-operated machine of any kind or character whatsoever, when such machine or machines dispense or are used or are capable of being used or operated for amusement or pleasure or when such machines are operated for the purpose of dispensing or affording skill or pleasure, or for any other purpose other than the dispensing or vending of "merchandise or music" or "service exclusively, as those terms are defined herein. The following are expressly included within said term: marble machines, marble table machines, marble shooting machines, miniature race track machines, miniature football machines, miniature golf machines, miniature bowling machines, and all other coin-operated machines which dispense or afford skill or pleasure."

"The tax rate is \$30 per calendar year on five cent coin-operated 'skill or pleasure machines' and \$60 per calendar year when the coin or token used in operation is one of the value in excess of five cents.

"If a coin-operated machine operator has paid \$30 state tax on a five-cent coin-operated marble table and the marble table is sold or destroyed, could

the \$30 tax receipt issued for the marble table be transferred to a five-cent coin-operated miniature bowling machine? Or transferred to any other five-cent coin-operated skill or pleasure machine?

"If your answer to the above question is in the affirmative, could the \$30 coin-operated marble machine tax receipt be applied as credit on part payment of the tax on another type of 'skill or pleasure machine' that requires a ten-cent coin to operate and that carries an annual tax of \$60?"

Article 7047a-3, V.C.S., provides, in part, as follows:

"Every 'Owner' as that term is hereinabove defined, who owns, controls, possesses, exhibits, displays, or who permits to be exhibited or displayed in this State any 'coin-operated machines' as that term is defined herein, shall pay and there is hereby levied on every coin-operated machine as defined in this Act, except such as are exempted herein, an annual occupation tax determined by the following schedule: . . ." (Emphasis added.)

Article 7047a-2, V.C.S., defines the term "owner" as follows:

"The term 'owner' as used herein shall mean and include any person, individual, firm, company, association or corporation owning or having the care, control, management or possession of any 'coin-operated machine' in this State."

We have carefully examined all the provisions of the law which levy taxes upon coin-operated machines and find that the Legislature has not in any manner provided for either a refund of the tax levied or the transfer of the license or permit issued to evidence the payment of the tax to a different machine by reason of the fact that the machine is either sold, lost, destroyed, or is no longer in use.

We think it is clear that Article 7047a-3 levies an annual tax upon every coin-operated machine as defined in the statutes levying the tax. If the license or permit could be transferred to a different machine, the result would be that the annual tax levied against each machine would not be collected, but only an annual tax in the stated amount would be collected by reason of the operation of two or more machines during the taxable year.

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We therefore answer your questions in the negative.

SUMMARY

The license or permit issued to the owner of a coin-operated machine evidencing the payment of the annual occupation tax cannot lawfully be transferred to a different coin-operated machine.

Yours very truly,

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