

STATE OF TENNESSEE

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Opinion No. 05-180

Implementation of the Coin-operated Amusement Machine Tax Act, Tenn. Code Ann. §§ 67-4-2201
et seq.

QUESTIONS

1. Does the Coin-operated Amusement Machine Tax Act prohibit a municipal government from levying an additional tax, fee or assessment of any kind on coin-operated amusement machines in its jurisdiction?
2. Does the Coin-operated Amusement Machine Tax Act exempt coin-operated amusement machine owners from paying any tax, fee or assessment to local municipalities?
3. If a municipality does levy an additional tax, fee or assessment of any kind on coin-operated amusement machines in its jurisdiction, do the owners of such machines have the right to not pay the tax, fee or assessment without fear of retribution from the municipality?

OPINIONS

1. Yes. The Coin-operated Amusement Machine Tax Act, Tenn. Code Ann. §§ 67-4-2201 *et seq.*, prohibits municipal governments from levying additional taxes, fees or assessments of any kind on bona fide coin-operated amusement machines.
2. While the Coin-operated Amusement Machine Tax Act does prohibit municipal taxes on coin-operated amusement machines, it does not set forth any special procedures for challenging any tax that may be assessed in contravention of the Act.
3. No. If a municipality does levy an additional tax or assessment on coin-operated amusement machines, the person against whom the taxes are assessed or levied should not simply ignore the assessment or levy, but should take such measures as are provided by law to challenge the levy or assessment.

ANALYSIS

The Coin-operated Amusement Machine Tax Act, Tenn. Code Ann. §§ 67-4-2201 *et seq.*, became effective on September 1, 2002, and provides in pertinent part:

(a) The state tax imposed by this part shall be the exclusive tax levied on bona fide coin-operated amusement machines. No local government may impose any additional tax, fee, or assessment of any kind on such machines. Nothing contained in this part shall affect any person's liability for state or local sales or use tax which is imposed pursuant to chapter 6 of this title for the privilege of selling or using such devices. The receipts from bona fide coin-operated amusement machines shall not be the basis of tax under chapter 6 of this title.

Tenn. Code Ann. § 67-4-2202.

The statute is unambiguous in its statement that the taxes imposed under the Coin-operated Amusement Machine Tax Act are the exclusive taxes that can be levied on bona fide coin-operated amusement machines and that no local government may impose any additional tax, fee or assessment of any kind. Accordingly, Tenn. Code Ann. § 67-4-2202 prohibits municipal governments from levying additional taxes, fees or assessments of any kind on bona fide coin-operated amusement machines.

The Coin-operated Amusement Machine Tax Act does not contain any provisions whereby an owner of coin-operated amusement devices is exempted from paying any tax assessed in contravention of the Act. If a municipality does levy an additional tax or assessment on coin-operated amusement machines in contravention of the Act, the person against whom the tax is assessed or levied should take such measures as are provided by law to challenge the assessment or levy.

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