

§ 44.4402-1

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placed, or because the wager was cancelled or rescinded by mutual agreement, the wager need not be reported on the taxpayer's return for such month. Where such cancellation or rescission takes place in a month subsequent to the month in which the wager was accepted, credit or refund of the tax paid with respect to such wager may be made subject to the provisions of § 44.6419-1.

§ 44.4402-1 Exemptions.

(a) *Parimutuel wagering enterprises.* Section 4402 provides that no tax shall be imposed by section 4401 on any wager placed with, or on any wager placed in a wagering pool conducted by, a parimutuel wagering enterprise licensed under State law.

(b) *Wagering machines—(1) In general.* Section 4402 provides that no tax shall be imposed by section 4401 on any wager placed in a coin-operated device (as defined in section 4462 as in effect for years beginning before July 1, 1980), or on any amount paid, in lieu of inserting a coin, token, or similar object, to operate a device described in section 4462(a)(2) (as so in effect). These devices include:

(i) So-called "slot" machines that operate by means of the insertion of a coin, token, or similar object and that, by application of the element of chance, may deliver, or entitle the person playing or operating the machine to receive cash, premiums, merchandise, or tokens; and

(ii) Machines that are similar to machines described in paragraph (b)(1)(i) of this section and are operated without the insertion of a coin, token, or similar object.

(2) *Examples.* The following devices and machines are examples of the devices referred to in paragraph (b)(1) of this section:

(i) A machine that is operated by means of the insertion of a coin, token, or similar object and that, even though it does not dispense cash or tokens, has the features and characteristics of a gaming device whether or not evidence exists as to actual payoffs.

(ii) A so-called crane machine, claw digger, or rotary merchandising type device that is operated by the insertion of a coin and adjustment of a control

lever for the purpose or removing from the machine, by gripping, pushing, or other manipulation articles such as figurines, lighters, etc., in the machine.

(iii) A pinball machine equipped with a pushbutton for releasing free plays and a meter for recording the plays so released, or equipped with provisions for multiple coin insertion for increasing the odds.

(iv) Pinball machines in connection with which free plays are redeemed in cash, tokens, or merchandise, or prizes are offered to any person for the attainment of designated scores.

(v) A coin-operated machine that displays a poker hand or delivers a ticket with a poker hand symbolized on it that entitles the player to a prize if the poker hand displayed by the machine or symbolized on the ticket constitutes a winning hand.

[T.D. 8328, 56 FR 188, Jan. 3, 1991; Redesignated and amended by T.D. 8442, 57 FR 48186, Oct. 22, 1992]

§ 44.4403-1 Daily record.

Every person liable for tax under section 4401 shall keep such records as will clearly show as to each day's operations:

(a) The gross amount of all wagers accepted;

(b) The gross amount of each class or type of wager accepted on each separate event, contest, or other wagering medium. For example, in the case of wagers accepted on a horse race, the daily record shall show separately the gross amount of each class or type of wagers (straight bets, parlays, "if" bets, etc.) accepted on each horse in the race. Similarly, in the case of the numbers game, the daily record shall show the gross amount of each class or type of wager accepted on each number.

For additional provisions relating to records, see section 6001 and § 44.6001-1.

§ 44.4404-1 Territorial extent.

(a) *In general.* The tax imposed by section 4401 applies to wagers (1) accepted in the United States, or (2) placed by a person who is in the United States (i) with a person who is a citizen or resident of the United States, or (ii) in a wagering pool or lottery conducted