



GAMING TAX BULLETIN 2015-01

ISSUED: March 27, 2015

REVISED: December 4, 2015

REVISED: November 4, 2016

Department of Revenue Policy Concerning the Deductibility of Promotional Items for Purposes of Calculating Gaming Taxes

Purpose

This bulletin is issued to clarify Department of Revenue (“Department”) policy concerning the deductibility of promotional items for purposes of calculating gross terminal revenue (“GTR”) as well as gross table game revenue (“GTGR”) as those terms are defined by the Race Horse Development and Gaming Act, and as a result of the Pennsylvania Supreme Court’s April 28, 2014 decision in *Greenwood Gaming and Entertainment Incorporated v. Commonwealth of Pennsylvania, Department of Revenue* (90 A.3d 699 (Pa. 2014)) for Gaming Tax purposes. This bulletin is being revised to address blended promotions and appropriate methodologies for determining attribution of deductions between slots and table play. Further, this bulletin is revised to clarify that pursuant to 4 Pa.C.S. § 1103 definitions of “gross table game revenue” and “gross terminal revenue”; deductibility of promotional items is limited to the actual cost of personal property excluding travel expenses, food, refreshments, lodging, and services. As a result of these limitations, promotional giveaways involving services such as venue services and event tickets are not deductible.

Deduction of Promotional Items from GTR and GTGR

1. Deduction of promotional items from the calculation of GTR and GTGR may include deductions for prizes awarded from the following four groups provided that said award was the result of a slot machine or table game wager as described below.
 - a. Prizes awarded to patrons that inserted a player reward card into a slot machine or presented a player reward card to venue staff during a designated period or at a designated time and play occurred during that designated time at the Pennsylvania casino;
 - b. Prizes awarded to patrons from among entries deposited in and selected from a drawing drum or computer using a random number; provided that past play at the Pennsylvania casino as a requirement for entry is documented;

- c. Prizes awarded to patrons as a result of a patron’s presentation of a mailer or postcard to venue staff; provided that past play at the Pennsylvania casino is a requirement and documented in order to receive the mailer or postcard;
 - d. Prizes awarded to specific patrons as part of a designated player development program; provided that a level of past play is a requirement and documented to receive such prizes.
2. A venue promotion that specifies that an award of a prize to a patron may be based on both slot or table game play shall be deemed a “blended promotion” when the selected patron is qualified to win the prize through either slots or table game play.
- a. For all blended promotions as described in this section, the venue shall provide to the Department, in the form and manner as prescribed by the Department, the venue’s methodology for attributing deductions to either slot or table play and the corresponding applicable tax rate. This methodology must be reasonably related to the apportionment of activity between slot and table play and must be utilized at the patron level. For instance, a venue may attribute a blended promotional deduction based upon the predominance of a specific winner’s play history. However, a venue may not attribute the entire blended promotion to one rate based upon the predominance of the group of those patrons receiving an award under the promotion. Instead, the venue must apportion the deduction based on the individual play predominance of each player within that group. This methodology shall be effective for all venue promotions conducted during the calendar year.
 - b. In lieu of utilizing the methodology described in this section, a venue may allocate deductions between the applicable slot and table rates based on that venue’s percentage of gross terminal and table revenues for the applicable quarter.
 - c. For purposes of this section, where a venue’s promotional rules identify an exclusive type of play to be utilized to determine a prize recipient, the promotion shall not be considered a blended promotion, and deductions attributed to that promotion shall be attributed to the specified play type.
3. Prior to the start date of a slot machine or table game promotion, a licensed venue shall provide to the Department electronic notice of the pending promotion in the form and manner as prescribed by the Department. The electronic notice of a pending promotion is due to the Department by the end of the month preceding the promotion’s start date. This notice shall be in addition to any existing notice procedures under the Pennsylvania Race

Horse Development and Gaming Act, 4 Pa.C.S. §§ 1101 et seq., and corresponding regulations.

4. Notice provided under Section 3 of this Bulletin shall include the name and dates of the promotion and a unique identifying number for each promotion as well as promotional rules that clearly identifies how the prizes are awarded as a result of slot machine or table game play in Pennsylvania.
5. The venue shall file a return on a quarterly basis by the 45th day following the venue's quarter end date. The return shall be submitted electronically in a format established by the Department. The return shall include the following information for each individual prize awarded:
 - a. The winning patron's name and tax identification number
 - b. The date of award
 - c. The cost of prize
 - d. The invoice date
 - e. The invoice number
 - f. The vendor
 - g. The fair market value
 - h. Proof of receipt
 - i. Winner selection method
 - j. Method of patron entry
 - k. Unique identifying number of the promotion
6. The Department requires that the venue maintain supporting documentation, available upon request, which includes the following:
 - a. Documentation establishing play is a requirement to be eligible for the promotion
 - b. Documentation establishing that the winning patron(s) receipt of the award is as a result of play associated with the promotion
 - c. Documentation establishing the winning patron's receipt of the award
 - d. Any statements or reports issued for tax purposes concerning the award
 - e. Copies of appropriate purchase invoices
 - f. Documentation supporting the winner selection method
 - g. Documentation supporting the method of patron entry
7. Nothing contained within this Bulletin shall be construed to limit the Department's authority to audit these deductions. Nothing contained within this Bulletin shall be

construed to limit a licensed venue's rights to file an administrative appeal under Chapter 7 of Title 61 of the *Pennsylvania Code* concerning denial of a deduction for promotional items. 61 Pa. Code § 7.14.

CONTACT INFORMATION

PA Department of Revenue
Bureau of Fiscal Management
Gaming Office
1147 Strawberry Square
Harrisburg PA 17128
www.revenue.pa.gov