



GAMING TAX BULLETIN 2019-01
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**Department of Revenue Policy Concerning Implementation of New Gaming Initiatives
Under Act 42 of 2017**

Purpose

This Bulletin is issued to provide the Department of Revenue's ("Department") policy concerning the implementation of gaming initiatives as provided for in Act 42 of 2017 (Act of October 30, 2017, HB 271 P.N. 2652). Under this legislation which amended the Race Horse Development and Gaming Act ("Act"), the General Assembly authorized an expansion of gaming within the Commonwealth through a number of gaming options. These include: (i) gaming at licensed Category 4 locations; (ii) gaming at licensed truck stops through authorized Video Gaming Terminals ("VGT's"); (iii) sports wagering; (iv) interactive gaming conducted through licensed certificate holders; (v) gaming conducted at licensed airports; and (vi) fantasy sports.

Previously, the Department issued Gaming Tax Bulletin 2015-01 (issued March 27, 2015, subsequently revised December 4, 2015 and November 4, 2016, herein after referred to as "Bulletin 2015-01"). Bulletin 2015-01 addressed the deductibility of promotional items from "Gross terminal revenue" and "Gross table game revenue" as defined by the Act. *Except as clarified below*, all provisions of Bulletin 2015-01 remain in effect and establish the rules for promotional play deductions and should be interpreted as applicable to all licensed entities. Further, certain wagering is defined by Act 42 to include "cash or cash equivalents." For purposes of determining promotional play deductions, Department policy remains that "cash equivalents" generally do not include amounts provided to players as part of reward programs unless the amounts meet the definition of "cash equivalent" in 4 Pa.C.S. § 1103 and 58 Pa. Code § 801.2.

1. Category 4 Gaming

All rules and regulations regarding cash flow management and promotional play deductions as applied to Category 1 through 3 licensed entities shall be applicable to Category 4 entities except to the extent modified by additional information from the Department's Gaming Office.



2. Sports Wagering/Interactive Gaming/Airport Gaming

As per 4 Pa.C.S. § 13C01(1)(iii), tangible promotional items related to sports wagering may be deductible under the criteria set forth within Bulletin 2015-01. Similarly, “gross interactive gaming revenue” and “gross interactive airport gaming revenue” are defined to allow for the deduction of tangible promotional items. 4 Pa.C.S. § 1103.

Specifically, Paragraphs 3 through 7 of Bulletin 2015-01 shall be applicable regarding monthly promotional notices, quarterly promotional returns, and ancillary information necessary to support a deduction claim. However, licensed entities offering wagering under this paragraph and claiming deductions shall be prohibited from claiming any “blended promotion” as that term is described within Paragraph 2 of Bulletin 2015-01. Consequently, all deductions must be attributed specifically to one category of play.

3. Truck-Stop Gaming

Tax on VGT wagering is based on “Gross terminal revenue” as defined in relevant part by the Act as:

The total of cash or cash equivalents received by a video gaming terminal minus the total of cash or cash equivalents paid out to players a result of playing a video gaming terminal.

4 Pa. C.S. § 3102.

Contrast this definition with that of “Gross terminal revenue” for Category 1-4 slot machines, which provides for a deduction for personal property distributed to a patron. 4 Pa. C.S. § 1103. Accordingly, licensed truck stop operators shall be prohibited from claiming any promotional play deductions for truck-stop gaming unless the operator’s promotion provides for the distribution of “cash or cash equivalents.”

4. Fantasy Sports

Tax on fantasy sports contests is based on “Fantasy contest adjusted revenues” which are defined by the Act as:

For each fantasy contest, the amount equal to the total amount of all entry fees collected from all participants entering the fantasy contest minus prizes or awards paid to participants in the fantasy contest, multiplied by the in-State percentage.

4 Pa.C.S. § 302.



“Prize or award” is further defined by the Act as “Anything of value worth \$100 or more or any amount of cash or cash equivalents.” Id.

Accordingly, the Department has concluded that licensed entities may not claim deductions for fantasy sports wagering. However, “fantasy contest adjusted revenues” shall be reduced by any cash or cash equivalents paid to participants as well as tangible property distributed as a “prize” or an “award” provided it exceeds the \$100 threshold.

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