

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 140.00: GROSS GAMING REVENUE TAX REMITTANCE AND REPORTING

Section

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140.01: Description of Tax and Assessment

Pursuant to M.G.L. c. 23K, § 55, the following taxes and assessment shall be calculated and remitted to the commission on a daily basis:

(1) A category 1 licensee shall pay a daily tax of 25% on gross gaming revenue computed in accordance with 205 CMR 140.02.

(2) A category 2 licensee shall pay:

(a) A daily tax of 40% on gross gaming revenue computed in accordance with 205 CMR 140.02; and

(b) A daily assessment of 9% of its gross gaming revenue computed in accordance with 205 CMR 140.02 which shall be credited by the commission to the Race Horse Development Fund.

140.02: Computation of Gross Gaming Revenue

(1) In accordance with M.G.L. c. 23K, § 2, gross gaming revenue shall be the total of all sums actually received by a gaming licensee from gaming operations less the total of all sums paid out as winnings to patrons. Gross gaming revenue shall be calculated as follows:

(a) Gross gaming revenue shall include the gross gaming revenue from table games, calculated in accordance with 205 CMR 140.02(2), plus the gross gaming revenue from slot machines and other electronic gaming devices, calculated in accordance with 205 CMR 140.02(3).

(b) Gross gaming revenue shall be calculated by gaming day as the term is set forth in the gaming licensee's approved system of internal controls in accordance with 205 CMR.

(c) Any amounts that a gaming licensee is unable to collect pursuant to any credit issued to a patron to take part in gaming activity in accordance with 205 CMR shall be deemed as amounts actually received by a gaming licensee from gaming operations for purposes of calculating gross gaming revenue.

(d) Gross gaming revenue shall not include any amount received by a gaming licensee from simulcast wagering or from credit extended or collected by the gaming licensee for purposes other than gaming.

(e) Treatment of Promotional Gaming Credit. For purposes of calculating gross gaming revenue, the total of all sums actually received shall not include amounts that the gaming licensee can demonstrate were:

1. issued by the gaming licensee as promotional gaming credit as defined by M.G.L. c. 23K, § 2 to enable the patron to wager at the gaming licensee's gaming establishment; and

2. received from a patron as a wager at a slot machine or table game in the gaming licensee's gaming establishment.

(2) Table Games. Gross gaming revenue from table games shall be the sum of that for each banked table game, poker and other non-banked table game, and contest or tournament calculated as follows:

(a) Banked Table Games. Gross gaming revenue for banked table games equals the closing table inventory including chips, plaques, and coin, plus chip credits, plus complimentary Vigorish forms plus drop, minus the opening table inventory, minus fill chip slips, minus promotional play/coupons, and minus table game payout slips. For purposes of 205 CMR 140.02(2), drop means the total value of currency, coin, promotional play/coupons and counter checks in the table drop box.

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(b) Poker and Other Non-banked Table Games. Gross gaming revenue for each table game in which the gaming licensee is not a party to a wager equals all money received by the gaming licensee as compensation for conducting the game including the total value of *rake* charged to patrons at a poker table pursuant to 205 CMR.

(c) Contests and Tournaments. Gross gaming revenue for a contest or tournament equals the sum of all entry fees, buy-ins, re-buy-ins and administrative fees imposed by the gaming licensee on the contest or tournament participants, minus the money paid by the gaming licensee to a contest or tournament winner(s) as prizes. A gaming licensee shall not include the cash equivalent value of any merchandise or thing of value as part of the sum paid to a contest or tournament winner(s) as prizes. If the gross gaming revenue from a contest or tournament results in a loss to the gaming licensee, that loss may only be recognized to the extent it offsets the sum of all entry fees, buy-ins, re-buy-ins and administrative fees imposed by the gaming licensee on the contest or tournament participants for the particular contest or tournament and in no way shall result in a negative number being reported for purposes of the calculation of gross gaming revenue.

(3) Slot Machines and Other Electronic Gaming Devices. For purposes of complying with 205 CMR 140.01 relative to the gross gaming revenue payment for slot machine and other electronic gaming device gross gaming revenue, a gaming licensee shall pay the amount calculated by the commission. Disputed amounts shall be reconciled on a monthly basis as described in 205 CMR 140.04(1). Gross gaming revenue equals *drop*, minus jackpot payouts, including vouchers issued by the gaming device, and any hopper fills to the machine, subject to the following:

(a) For purposes of 205 CMR 140.02(3), *drop* means the total value of coins, slot tokens, and foreign slot tokens in a slot drop bucket or a slot drop box, plus the value of currency, and gaming vouchers in a slot cash storage box, unsecured funds located inside a slot machine but outside the slot drop box that registered on the coin-in meter, and electronic credits withdrawn from a patron's account.

(b) The initial hopper load, if any, shall not be considered a fill.

(c) A gaming licensee shall not include the cash equivalent value of any merchandise or thing of value as part of the sum paid out as winnings or a jackpot.

140.03: Remittance

(1) A gaming licensee shall make daily deposits of the tax and assessment in accordance with 205 CMR 140.01 by 5:00 P.M. the day following each day of wagering, under such conditions, and in such depositories as shall be prescribed by the commission. If the day following a day of wagering is a legal holiday, the deposit shall be made on the next business day.

(2) Pursuant to M.G.L. c. 23K, §§ 55, 59, and 60 collected tax revenues and assessments will be deposited or made payable to the Commonwealth of MA, Gaming Revenue Fund and Racehorse Development Fund, as applicable. Collected taxes will be transferred to the Gaming Revenue Fund. Collected assessments will be transferred to the Racehorse Development Fund. Once funds are available in the Gaming Revenue Fund, the Office of the Comptroller will perform operating transfers to the funds as required under M.G.L. c. 23K, § 59. A daily remittance report in a format prescribed by the commission setting forth the amount of gross gaming revenue upon which the daily tax payment and assessment is based shall be filed with the commission concurrently with the remittance to the Gaming Revenue Fund and Racehorse Development Fund.

(3) Gaming licensees shall estimate slot machine drop provided that such estimates are calculated through a system of reading and recording slot machine meters, which methodology has been submitted by the gaming licensee and approved by the commission. Gaming licensees shall submit to the commission a daily slot machine drop estimate, calculated in accordance with such approved methodology, with each daily required tax deposit.

(4) In the absence of use of a central monitoring system by the commission, a gaming licensee may use the estimated slot machine drop outlined in 205 CMR 140.03(3) provided that the approved methodology is utilized for purposes of all daily remittances.

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(5) If a gaming licensee estimates slot drop in accordance with 205 CMR 140.03(3), a gaming licensee shall perform a monthly reconciliation with respect to slot machine gross gaming revenues actually received during the preceding month.

140.04: Reports and Reconciliation Regarding Gross Gaming Revenue Tax

(1) On or before the 15th calendar day of each month, the gaming licensee shall file a monthly gross gaming revenue report with the commission, in a format acceptable to the commission, which shall reflect the amount of gross gaming revenue actually derived on a daily basis during the preceding month, the amount of daily tax deposits required for that month, the amount of gross gaming revenue derived during the year to the end of the preceding month, and the tax liability for the year calculated to the end of the preceding month. In the event that the commission determines the total amount of gross gaming revenue tax deposits made for the month to be less than the daily gaming revenue tax liability for that month, the commission will invoice the gaming licensee the amount due based on the true up from the daily deposits from the succeeding month. In the event that the commission determines the total amount of the deposit made by the gaming licensee for the month to be greater than the gross gaming revenue tax liability due, the commission will refund the gaming licensee the amount due based on the true up from the daily deposits from the succeeding month. Nothing in 205 CMR 140.04(1) shall limit any authority of the commission to determine the insufficiency of any gross revenue tax deposit or deposits, to require payments of penalties and interest, or to allow or disallow any claim for refund due to overpayment as may be determined by the commission pursuant to any audits performed for the verification of gross gaming revenues.

(2) Each gaming licensee shall file with the commission an annual report relative to its gross gaming revenues and the taxation and assessments due and remitted in accordance with 205 CMR 140.00. The report shall be filed no later than March 15th following the tax year. The annual gaming revenue tax report shall be in a format acceptable to the commission.

140.05: Examination of Accounts and Records for Verification of Gross Gaming Revenues

(1) The commission or its designee may perform audits of the books and records of a gaming licensee, at such times and intervals as it deems appropriate, in order to verify gross gaming revenues.

(2) The gaming licensee shall permit duly authorized representatives of the commission to examine the gaming licensee's accounts and records for the purpose of verifying gross gaming revenues. In the event that any records or documents deemed pertinent by a commission examiner are in the possession of another person or entity, the gaming licensee shall be responsible for making those records or documents available to the commission examiner within the time period provided by the commission.

(3) The gross gaming revenue verification process may incorporate audit work performed by a gaming licensee's internal audit department or its independent accountant or auditor provided that:

(a) Such audit work is conducted in accordance with minimum standard internal audit procedures which have been submitted to and approved by the commission including, at a minimum, a detailed description of the audit tests to be performed;

(b) The gaming licensee submits to the commission by January 31st of each year a gross gaming revenue audit plan specifying the scheduled audit dates for that upcoming calendar year; and

(c) The gaming licensee submits to the commission no later than March 15th of each year, copies of all internal audit reports and any other reports directly relating to the reporting of gross revenue for the preceding tax year.

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(4) The commission shall notify the gaming licensee of any gross gaming revenue tax deficiencies disclosed during the gross revenue verification process. Any additional amounts due by the gaming licensee shall be remitted within 15 days of completion of the audit, except that in the event the gaming licensee disagrees with the commission's audit results, the time for payment shall be extended for an additional 30 days during which time the gaming licensee shall be provided an opportunity to respond to the commission's audit results.

REGULATORY AUTHORITY

205 CMR 140.00: M.G.L. c. 23K, §§ 2, 4(28) and (37), 5, 55, 59, 60.