

(e) In the event that the total amount of deposits made for the entire tax year is determined to be less than the annual tax liability for the entire year, the casino operator shall remit the requisite additional payment to the State Treasurer. In the event that the total amount of such deposits is determined to be greater than the annual tax liability, the casino operator may be allowed to reduce the amount of its weekly deposits in the succeeding tax year by the amount of the overpayment, provided, however, that the casino operator shall not claim any such credit against deposits unless the Commission first certifies the existence and amount of the overpayment. Nothing in this section shall limit any authority of the Commission under sections 149 and 150 of the Act and the "State Tax Uniform Procedure Law," Section 9 of Title 54 of the Revised Statutes, including the authority to determine the insufficiency of any deposit or deposits, to require payments of penalties and interest or to allow or disallow any claim for refund due to overpayment of taxes.

Amended by R.1993 d.146, effective April 5, 1993.
See: 25 N.J.R. 280(a), 25 N.J.R. 1524(a).

In (c) and (d), deleted paragraphs 1 and 2, revising text and adding new language to describe calculation process using the casino operator's total tax liability, based on changes to the Act.

In (e), deleted reference to annual tax return and changed "monthly" to "weekly" regarding deposits to reflect statutory changes.

Stylistic revisions throughout.

19:54-1.6 Computation of tax

(a) The gross revenue tax shall be eight percent of gross revenue. The gross revenue for the tax year, or portion thereof, shall be the amount obtained from the following calculation:

1. The total of all sums for the tax year, or portion thereof, that are actually received by a casino operator from its gaming operations, which sums include, but are not limited to, cash, slot tokens, prize tokens counted at face value pursuant to N.J.A.C. 19:45-1.41 and 19:45-1.43, checks received by a casino operator pursuant to N.J.S.A. 5:12-101 whether collected or not, and coupons counted pursuant to N.J.A.C. 19:45-1.33 regardless of validity, less only the total of all sums paid out as winnings to patrons;

2. Minus only the lesser of the following:

i. Four percent of the sum total derived in (a)1 above; or

ii. The amount shown in the casino department account entitled "Provision for Uncollectible Patron Checks," which account shall be maintained in accordance with generally accepted accounting principles as part of the uniform chart of accounts required for casino departments pursuant to N.J.S.A. 5:12-70m and N.J.A.C. 19:45-1.2(b).

(b) The methodology used to determine the amount of the "Provision for Uncollectible Checks" shall be delineated in the casino operator's accounting and internal control

submission required by section 99 of the Act and N.J.A.C. 19:45-1.3.

1. The methodology shall include the consideration of historical data related to uncollectible checks. The data shall be derived from:

i. The casino operator's statistics;

ii. New Jersey casino industry statistics maintained by the casino operator; or

iii. New Jersey casino industry statistics provided to the casino operator by the Commission.

2. The methodology shall, at the discretion of the casino operator, focus on uncollectible patron checks as:

i. A percentage of credit issued;

ii. A percentage of casino receivables; or

iii. Multiple percentages applied to an aging of accounts receivable.

3. The methodology may consider other factors considered relevant by the casino operator provided that any resultant departures from the historical data are contemporaneously documented. The correlation between the other factors and the adjusted amount shall be included in the documentation. Such other factors may, without limitation, include:

i. Information related to specific obligors or groups of obligors;

ii. An appraisal of current economic conditions;

iii. A change in the character of the casino receivables;

iv. The experience of the collection manager, chief financial officer, or other expert; and

v. A change in collections policy.

4. Each casino operator shall submit and obtain approval of the internal controls required by this section by March 20, 1994.

(c) Nothing in this section shall be construed to limit the authority of the Commission to redetermine the amount of tax liability or to require adjustments or corrections to the accounts of the casino operator.

(d) Each casino operator shall treat each check which it receives in that year but which is invalid and unenforceable pursuant to N.J.S.A. 5:12-101f as cash received from gaming operations, and no deduction for the amount thereof shall be allowed in computing gross revenue.

(e) For each tax year, the amount recorded on each document evidencing a valid charge to a credit or debit account in exchange for gaming chips or slot tokens and counted pursuant to N.J.A.C. 19:45-1.33 shall be included in the totals "actually received by a casino operator from its

gaming operations" referred to in (a)1 above, and no adjustment thereof shall be allowed in the event the taxpayer does not receive full and final payment of the amount charged to a credit card account.

Amended by R.1993 d.146, effective April 5, 1993.

See: 25 N.J.R. 280(a), 25 N.J.R. 1524(a).

In (a) and (a)1: revised text to read "eight percent of gross revenues" rather than "12 percent . . .". Deleted outdated text and added text regarding casino department accounts for "any other authorized games . . .".

Amended by R.1993 d.656, effective December 20, 1993.

See: 25 N.J.R. 4475(a), 25 N.J.R. 5944(b).

Amended by R.1994 d.504, effective October 3, 1994.

See: 26 N.J.R. 2872(a), 26 N.J.R. 3253(a), 26 N.J.R. 4089(a).

Amended by R.1996 d.160, effective March 18, 1996.

See: 28 N.J.R. 75(a), 28 N.J.R. 1559(a).

Amended by R.1996 d.439, effective September 16, 1996.

See: 28 N.J.R. 2809(a), 28 N.J.R. 4236(a).

19:54-1.7 Return and reports

(a) The casino operator shall file with the Commission an annual tax return for purposes of the gross revenues tax. The return shall be filed no later than March 15 following the tax year. Filing of the annual tax return shall satisfy the reporting of gross revenues requirement imposed by subsection 148a of the Act. The annual tax return shall be made on a form promulgated and distributed by the Commission pursuant to section 151 of the Act. The casino operator shall provide all information required on the form and shall attest to the accuracy of such information. The annual tax return shall be signed by the chief executive officer, chief financial officer, treasurer, or controller if the casino operator is a corporation; by a general partner if the operator is a partnership; by the chief executive officer if the operator is any other form of business association; or by the proprietor if the operator is a sole proprietorship.

(b) On or before the 10th calendar day of each month, the casino operator shall file with the Commission a monthly gross revenue tax report which shall reflect the amount of gross revenues derived during the preceding month, the amount of tax deposits required for that month, the amount of gross revenues 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. The monthly gross revenue tax report shall be on a form promulgated and distributed by the Commission, pursuant to section 151 of the Act. The casino operator shall provide all information requested on the form which shall be sworn to and signed by the same individual designated in (a) above to sign the annual return.

Amended by R.1993 d.146, effective April 5, 1993.

See: 25 N.J.R. 280(a), 25 N.J.R. 1524(a).

Revised rule to reflect statutory changes to the Act. In (a): deleted "State Treasurer" and added "Commission" and added "annual tax return" to clarify filing requirements. In (b): clarified filing requirements for gross revenue tax.

19:54-1.8 Examination of accounts and records

(a) The Commission may perform audits of the books and records of a casino licensee, at such times and intervals as it deems appropriate, for the purpose of determining the sufficiency of gross revenue tax deposits and payments. The Commission shall also conduct an annual gross revenue examination for the purpose of determining whether the total amount of gross revenue tax paid by the casino operator for the relevant tax year was correct.

(b) The casino operator shall permit duly authorized representatives of the Commission to examine the operator's accounts and records for the purpose of certifying gross revenues. In the event that any records or documents deemed pertinent by a Commission examiner are in the possession of another licensee or entity, the casino operator shall be responsible for making those records or documents available to the examiner. Further, the casino operator shall be individually and severally liable for any relevant accounts, records or documents maintained or required to be maintained by any other licensee or entity with regard to the casino.

(c) The Commission's annual gross revenue tax examination shall be conducted in accordance with standards and practices established by the Director of the Commission's Division of Financial Evaluation. A copy of such standards and practices shall be made available upon request to all casino operators.

(d) An examination pursuant to this section may incorporate audit work performed by a casino operator's internal audit department provided that:

1. 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;

2. The casino operator submits to the Commission by January 31 of each year an annual audit plan specifying the scheduled audit dates for that upcoming calendar year; and

3. The casino operator submits to the Commission, no later than March 15 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.

(e) The Commission shall:

1. Notify the casino operator in accordance with N.J.A.C. 19:54-1.9 of any tax deficiencies disclosed during a gross revenue tax examination;

2. Record all deviations from regulatory or internal control requirements concerning revenue-related transactions which are discovered during a gross revenue tax examination, which record shall be provided to the casino operator on an annual basis; and

3. Refer any such deviations to the Division of Gaming Enforcement for investigation and any other action which the Division deems appropriate.

Amended by R.1993 d.146, effective April 5, 1993.

See: 25 N.J.R. 280(a), 25 N.J.R. 1524(a).

Revised text by deleting references to audits and charging to "Examination of accounts." Deleted outdated text. Adding phrase, "..... for the purpose of certifying gross revenues"

Amended by R.1995 d.626, effective December 4, 1995.

See: 27 N.J.R. 3309(b), 27 N.J.R. 4913(a).