

## INDIANA GAMING COMMISSION CHARITY GAMING DIVISION

*(Last updated May 1 2024)*

### **Allowable Expenses**

Indiana Code 4-32.3-5-3(a) states that all net proceeds from an allowable event may be used only for the *lawful purposes* of the qualified organization, including repair, maintenance, or improvement of owned real property used for the lawful purpose of the qualified organization. For most organizations, guidance regarding its lawful purpose can be identified by reviewing its bylaws, as well as Section 501(c) of the Internal Revenue Code under which the qualified organization is tax exempt. *See Ind. Code § 4-32.3-5-3 and 68 IAC 21-8-13.*

Additionally, Indiana Code 4-32.3-5-4(a) provides that a qualified organization that receives at least ninety percent (90%) of the organization's total gross receipts from any activity under this article must donate sixty percent (60%) of its gross charitable gaming receipts less prize payout to a qualified recipient that is not an affiliate, a parent, or a subsidiary organization of the qualified organization.

Indiana charitable gaming regulations require that organizations maintain accurate records of their charitable gaming income and expenditures. To that end, organizations must retain receipts or invoices that correspond to each expenditure made from its gaming proceeds.

Under Section 501(c) of the Internal Revenue Code, no part of the net earnings of a 501(c) non-profit may inure to the benefit of any private shareholder or individual of the organization. Therefore, Qualified Organizations may not utilize proceeds from charity gaming to pay for services provided by any member of the Qualified Organization, including maintenance and janitorial services, unless the compensation for the service is commercially reasonable and the Qualified Organization sought bids for the service from three or more vendors not connected to or associated with the Qualified Organization.

Qualified Organizations may utilize net proceeds from charity gaming events to pay rent, as well as mortgages for the Qualified Organization's owned property that is entered into at the time that the property is purchased. **Only initial mortgages for property may be paid with funds from a Qualified Organization's separate and segregated charity gaming account.**

Finally, it is advisable to seek input from the Internal Revenue Service (IRS) and the Indiana Department of Revenue (IDOR) to ensure there are no unintended consequences when it comes to compliance with tax laws and/or jeopardizing nonprofit status.

Failure to follow the requirements above may result in the expense being recognized as an unallowable expense, which may result in disciplinary fines as well as the organization being required to reimburse its separate and segregated charity gaming account for the amount of the expense.

### **Reasonable and Necessary Charitable Gaming Expenses**

In addition to the gaming-related expenses permitted under IC 4-32.3-5-3(b), qualified organizations may use gaming proceeds for reasonable and necessary expenses related to the conduct of allowable gaming activities. Below is a list of items that may be paid for directly out of the separate and segregated charity gaming account. Receipts or invoices must be maintained for each expenditure.

**Note:** Charity Gaming regulations prohibit qualified organizations from entering into formal or informal agreements related to an allowable activity with persons affiliated with the organization. Such affiliations include, but are not limited to, members, officers, directors, or members of their family.

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- Attorneys retained for the organization's creation or for charity gaming related issues
- Charity Gaming Prizes - including liquor, beer, or wine to be awarded at a charity gaming event. Organizations must comply with the requirements of IC 7.1-3-6.1 pertaining to any alcoholic beverage awarded as prize in a charitable gaming activity.
- CPA/Accounting or tax services – specific to charity gaming related issues
- Charity gaming equipment, supplies and devices, to include licensed supply (i.e., bingo supplies and equipment, pull tab games, raffle boards, sports-themed tip boards, prize wheels, etc.) and non-licensed supply (i.e., raffle tickets, cards, chips, etc.)
- Charity gaming license fees
- Charity gaming specific printing, such as newspaper postings, advertisements or flyers
- Monthly Tax Return for Wagers, Federal Form 730
- Occupational Tax and Registration Return for Wagering, Federal Form 11-C
- Security systems and monitoring. An organization may employ not more than three (3) nonmember Indiana law enforcement officers or private detectives properly licensed in Indiana to perform security services during an allowable event. An organization may not use more than three (3) security personnel unless the organization has prior written approval of the executive director or the executive director's designee.