

Income Tax Information Bulletin #84

November 1992

Disclaimer: Informational bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

Subject: Not-For-Profit Sponsored Gambling Activities

Authority: Indiana Code 4-32

Qualifying Organizations

This bulletin explains what a qualifying organization is, the kinds of gambling activities permitted, the licensing requirements, the withholding and reporting requirements, and the taxation of funds raised by these activities.

The organization must be exempt from taxation under any of the following:

- (A) Section 501 of the Internal Revenue Code;
- (B) Indiana Code 6-2.1-3 (gross income tax); or
- (C) Indiana Code 6-1.1-10 (property tax).

The organization must also have been in existence for at least five (5) years in Indiana, or be affiliated with an Indiana parent organization which has been in existence at least five (5) years in Indiana.

Finally, the organization must be primarily religious, charitable, fraternal, educational, civic, political, or patriotic in nature.

Gambling Activities

A qualified organization may conduct bingo events, charity game nights, festivals, door prize drawings and raffle events to raise funds for the lawful purposes of the organization. The sale of pull tabs, punch boards and tip boards is also permitted.

Allowable events include the following:

- 1) Bingo
- 2) A card game

- 3) A dice game
- 4) A roulette wheel
- 5) A spindle
- 6) A door prize drawing
- 7) A raffle event

An organization is limited to four (4) charity game nights per calendar year. A festival can only be held once a calendar year and cannot exceed four (4) consecutive days. If the organization has a festival, the organization is precluded from conducting any further charity game nights during the year, unless the festival license is issued for less than four (4) days. Also, a festival license will be issued for less than four (4) days if an organization has previously been granted one (1) or more charity game night licenses.

Example: If an organization has held one charitable gaming night, and later in the year desires to hold a festival, the festival license will be limited to three (3) days.

Charitable gaming does not include a slot machine, a one ball machine, a pinball machine that awards anything other than a free play, a policy or numbers game, or a banking or percentage game played with cards or counters.

For more information concerning an allowable event contact the Department of Revenue, Charity Gaming Section, at (317) 232-4646.

Licensing

Any qualified organization conducting an allowable event must be licensed by the Department of Revenue. To receive information, contact the Department at the number listed above at least four to six weeks before the allowable event.

Withholding and Reporting Requirements

The Internal Revenue Service has established guidelines for withholding taxes and reporting prizes awarded. Indiana law follows these federal provisions. If the organization is required to withhold and remit federal income tax, it should also withhold and remit Indiana income tax. Generally, winnings from bingo games are not subject to federal withholding. The minimum amount required for reporting bingo winnings is subject to change. The current amount is twelve hundred dollars (\$1,200), at which time a Form W-2G must be filed. Generally, withholding is required on winnings of more than \$1,000 on other forms of gaming. Contact the Internal Revenue Service for any changes in withholding procedures. If, for federal purposes, the organization is required to report prizes awarded, it should also report them to Indiana. This is done by sending a copy of the Federal Form W-2G to the Indiana Department of Revenue, Compliance Division, 100 North Senate Avenue, Indianapolis, Indiana 46204.

The adjusted gross income tax is paid on Form WH-1, Indiana Employer's Withholding Tax Return. An Indiana withholding tax account can be established by contacting the Department at (317) 233-4016; the Department will establish an account and send WH-1 forms.

Questions concerning federal withholding and reporting requirements should be directed to the Internal Revenue Service.

Taxation of a qualified organization

Unless otherwise taxable by federal or state law, the income from an allowable event that is used for the lawful purpose of the qualified organization will be considered related income and therefore exempt from the adjusted gross income tax and supplemental net income tax.

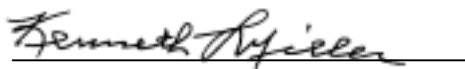
If an organization conducts any kind of illegal activity such as a poker machine, slot machine, or numbers game, the income will be considered unrelated income and subject to the gross income tax, adjusted gross income tax, and supplemental net income tax, unless otherwise not taxable under federal or state law.

Unless otherwise provided by IC 6-2.1, the taxation of receipts from charity gaming activities for gross income tax purposes will depend upon the exempt status of the qualified organization. Generally, a wholly exempt organization would not be taxable on such receipts and a partially exempt organization would be taxable on such receipts for gross income tax purposes. Taxable income for gross income tax purposes would be the gross receipts from charity gaming less any money paid out as prizes and less the purchase price of any personal property given out as prizes. A deduction is not allowed for donated prizes.

The fees charged for participating in an allowable event are consideration paid for a chance to win and not a sale of tangible personal property. Therefore, such fees will not be subject to the Indiana sales and use tax.

If additional information on the taxation of this income is needed, contact the Not-For-Profit Section at (317) 232-2188 or by writing:

Indiana Department Revenue
Not For Profit Section
100 North Senate Avenue
Indianapolis, Indiana 46204.



Kenneth L. Miller
Commissioner