

May 2010

Introduced by

1 A BILL for an Act to amend and reenact subsection 1 of section 53-06.1-01 and sections
2 53-06.1-11, 53-06.1-12, and 53-06.1-12.3 of the North Dakota Century Code, relating to
3 consolidation of gaming taxes and allowable expenses.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 53-06.1-01 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of
8 merchandise prizes, ~~bingo cards excise tax, pull tab excise tax,~~ and federal excise
9 tax imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401].

10 **SECTION 2. AMENDMENT.** Section 53-06.1-11 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **53-06.1-11. Gross proceeds - Allowable expenses - Rent limits.**

13 1. All money received from games must be accounted for according to the gaming
14 rules. Gaming activity for a quarter must be reported on a tax return form
15 prescribed by the attorney general. Unless otherwise authorized by the attorney
16 general, the purchase price of a merchandise prize must be paid from a gaming
17 bank account by check. No check drawn from a gaming or trust bank account may
18 be payable to "cash" or a fictitious payee. A cash prize that exceeds an amount
19 set by rule must be accounted for by a receipt prescribed by the gaming rules.
20 2. Allowable expenses may be deducted from adjusted gross proceeds. The
21 allowable expense limit is ~~fifty-one~~ fifty-eight percent of the ~~first two hundred~~
22 ~~thousand dollars of~~ adjusted gross proceeds per quarter ~~and forty five percent of~~
23 ~~the adjusted gross proceeds in excess of two hundred thousand dollars per~~
24 ~~quarter. In addition, an organization may deduct as an allowable expense:~~

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- 1 a. ~~Two and one-half percent of the gross proceeds of pull tabs.~~
- 2 b. ~~Capital expenditures for security or video surveillance equipment used for~~
- 3 ~~controlling games if the equipment is required by section 53-06.1-10 or~~
- 4 ~~authorized by rule, and it is approved by the attorney general.~~
- 5 e. ~~If an organization's total actual expenses exceed the allowable expenses~~
- 6 ~~provided by this subsection, the organization may also deduct the expenses~~
- 7 ~~up to two additional percent of the first two hundred thousand dollars of~~
- 8 ~~adjusted gross proceeds per quarter.~~
- 9 3. Cash shorts incurred in games and interest and penalty are classified as expenses.
- 10 4. For a site where bingo is conducted:
- 11 a. Except under subdivision c, if bingo is the primary game, the monthly rent
- 12 must be reasonable.
- 13 b. If bingo is not the primary game, but is conducted with twenty-one,
- 14 paddlewheels, or pull tabs, no additional rent is allowed.
- 15 e. ~~If bingo is conducted through a dispensing device and no other game is~~
- 16 ~~conducted, the monthly rent may not exceed two hundred seventy-five dollars.~~
- 17 5. For a site where bingo is not the primary game:
- 18 a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed
- 19 two hundred dollars multiplied by the necessary number of tables based on
- 20 criteria prescribed by gaming rule. For each twenty-one table with a wager
- 21 greater than five dollars, an additional amount up to one hundred dollars may
- 22 be added to the monthly rent. If pull tabs is also conducted involving a jar bar
- 23 or dispensing device, but not both, the monthly rent for pull tabs may not
- 24 exceed an additional one hundred seventy-five dollars. If pull tabs is
- 25 conducted involving both a jar bar and dispensing device, the monthly rent for
- 26 pull tabs may not exceed an additional two hundred dollars.
- 27 b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted
- 28 involving a jar bar or dispensing device, but not both, the monthly rent may
- 29 not exceed two hundred seventy-five dollars. If pull tabs is conducted
- 30 involving both a jar bar and dispensing device, the monthly rent for pull tabs
- 31 may not exceed three hundred dollars.

1 **SECTION 3. AMENDMENT.** Section 53-06.1-12 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **53-06.1-12. Gaming and ~~excise taxes~~—Exception tax - Deposits and allocations.**

- 4 1. A gaming tax is imposed on the total ~~adjusted~~ gross proceeds ~~earned~~ received by
5 a licensed organization in a quarter and it must be computed and paid to the
6 attorney general on a quarterly basis on the tax return. This tax must be paid from
7 adjusted gross proceeds and is not part of the allowable expenses. The tax ~~rates~~
8 ~~are:~~
- 9 a. ~~On adjusted gross proceeds not exceeding two hundred thousand dollars, a~~
10 ~~tax of five percent.~~
 - 11 b. ~~On adjusted gross proceeds exceeding two hundred thousand dollars but not~~
12 ~~exceeding four hundred thousand dollars, a tax of ten percent.~~
 - 13 e. ~~On adjusted gross proceeds exceeding four hundred thousand dollars but not~~
14 ~~exceeding six hundred thousand dollars, a tax of fifteen percent.~~
 - 15 d. ~~On adjusted gross proceeds exceeding six hundred thousand dollars, a tax of~~
16 ~~twenty percent.~~
- 17 2. ~~Except as provided in subsection 3, in addition to any other tax provided by law~~
18 ~~and in place of sales or use taxes, there is imposed on a licensed organization an~~
19 ~~excise tax of three percent on the gross proceeds from the sale at retail of pull tabs~~
20 ~~and three percent on the gross proceeds from the sale at retail of bingo cards to~~
21 ~~final users. This includes pull tabs or bingo cards provided to a player in exchange~~
22 ~~for redeemed winning pull tabs or bingo cards rate is three and sixteen one~~
23 ~~hundredths percent of gross proceeds.~~ The tax must be paid to the attorney
24 general at the time tax returns are filed.
- 25 3. ~~For organizations whose gross proceeds of pull tabs do not exceed four thousand~~
26 ~~dollars per calendar quarter, no excise tax may be imposed on the gross proceeds~~
27 ~~from the sale at retail of pull tabs to final users.~~
- 28 4. 2. Except as provided in subsection ~~5~~ 3, the attorney general shall deposit the
29 ~~gaming and excise taxes~~ tax, monetary fines, and interest and penalties collected
30 in the general fund in the state treasury.

- 1 attorney general, the attorney general may bring court action to collect it and may
2 suspend the organization's license. The attorney general may for good cause
3 waive all or part of any interest or penalty and may waive any minimal tax.
- 4 4. If a licensed organization has failed to file a tax return, has been notified by the
5 attorney general of the delinquency, and refuses or neglects within thirty days after
6 the notice to file a proper return, the attorney general shall determine the adjusted
7 gross proceeds and gaming ~~and excise taxes~~ tax due according to the best
8 information available and assess the ~~taxes~~ tax at not more than double the
9 amount. Interest and penalty also must be assessed.
- 10 5. The attorney general may authorize a licensed organization to pay any delinquent
11 tax, interest, or penalty on an installment plan and may set any qualifying
12 conditions.