

September 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~~ sixty percent of the ~~first two hundred thousand~~
22 ~~dollars of~~ adjusted gross proceeds per quarter ~~and forty five percent of the~~
23 ~~adjusted gross proceeds in excess of two hundred thousand dollars per quarter.~~ In
24 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~~ 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 one percent of gross~~
23 ~~proceeds. The tax must be paid to the attorney general at the time tax returns are~~
24 ~~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 ~~5.~~ 3. The attorney general shall deposit three percent of the total taxes, less refunds,
2 collected under this section into a gaming ~~and-exercise~~ tax allocation fund. Pursuant
3 to legislative appropriation, moneys in the fund must be distributed quarterly to
4 cities and counties in proportion to the taxes collected under this section from
5 licensed organizations conducting games within each city, for sites within city
6 limits, or within each county, for sites outside city limits. If a city or county
7 allocation under this subsection is less than two hundred dollars, that city or county
8 is not entitled to receive a payment for the quarter and the undistributed amount
9 must be included in the total amount to be distributed to other cities and counties
10 for the quarter.

11 **SECTION 4. AMENDMENT.** Section 53-06.1-12.3 of the North Dakota Century Code
12 is amended and reenacted as follows:

13 **53-06.1-12.3. Interest, penalty, and estimated tax.**

- 14 1. Assessment of interest. If a licensed organization does not pay tax due by the
15 original date of a tax return, or if additional tax is due based on an audit or math
16 verification of the return and it is not paid by the original due date of the return, the
17 organization shall pay interest on the tax at the rate of twelve percent per annum
18 computed from the original due date of the return through the date the tax is paid.
- 19 2. Assessment of penalty. If a licensed organization does not pay tax due on a tax
20 return by the original or extended due date of the return, or if additional tax is due
21 based on an audit or math verification of the return and it is not paid by the original
22 or extended due date of the return, the organization shall pay a penalty of five
23 percent of the tax, or twenty-five dollars, whichever is greater. If an organization
24 does not file a tax return by the original or extended due date of the return, the
25 organization shall pay a penalty of five percent of the tax, or twenty-five dollars,
26 whichever is greater, for each month or fraction of a month during which the return
27 is not filed, not exceeding a total of twenty-five percent.
- 28 3. The attorney general may require a licensed organization to make monthly
29 estimated gaming ~~and-exercise~~ tax payments if the attorney general determines that
30 the organization is in poor financial condition. If an organization fails to pay any tax
31 or estimated tax, interest, or penalty by the original due date or date set by the

- 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.