

**Publication 3079**

# **Tax-Exempt Organizations and Gaming**

Volume 2 of 2



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**Publication 15, (Circular E), Employer's Tax Guide**, and the **instructions for Form 944-X** provide more information.

**Filing Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return** – If you are liable for FUTA tax in any calendar year, you must file Form 940 by January 31 of the following year. If you deposited all FUTA taxes for the year when due, you can take an additional 10 days to file the return.

**Depositing FICA, FUTA and Withheld Income Taxes** – If you report less than a \$2,500 tax liability for the quarter on Form 941 (or for the year on Form 944), you may remit those taxes with the return. Otherwise, you must deposit on a monthly or semiweekly schedule using the EFTPS. For more information about the deposit schedule you will be required to follow, see "Depositing Taxes" in **Publication 15**.

Note: Employers who file Form 941 do not have to make deposits during a quarter if their accumulated tax liability for either the current quarter or the prior quarter is less

than \$2,500 and they fully pay the amount due with a timely filed return for the current quarter.

Deposit income taxes withheld from wages and FICA taxes separately from non-payroll withheld income taxes (such as income tax withheld from gambling winnings).

FUTA taxes must be deposited by the last day of the month following the end of any calendar quarter in which your undeposited tax liability is more than \$500. If your FUTA tax liability in any quarter (except the fourth) is \$500 or less, carry it over to the next quarter. If your liability for the fourth quarter is \$500 or less, you can either deposit the amount by EFTPS or pay it with your Form 940 by January 31.

**Filing Forms W-2, Wage and Tax Statement and W-3, Transmittal of Income and Tax Statement** – Tax-exempt organizations must furnish each employee with a copy of **Form W-2, Wage and Tax Statement**, by January 31 of the year after the year of payment. If employment ends before December 31 and an employee asks

for Form W-2, give the employee Form W-2 within 30 days of the request or within 30 days of the final wage payment, whichever is later. The organization must file Form W-2 with the Social Security Administration (SSA) by January 31. Paper Forms W-2 are transmitted to the SSA using **Form W-3, Transmittal of Income and Tax Statements**.

If your employees give their consent, you may be able to furnish Forms W-2 to your employees electronically. See **Publication 15-A, Employer's Supplemental Tax Guide**, for additional information.

If you are required to file 250 or more Forms W-2, you must file them electronically, unless the IRS granted you a waiver. You are encouraged to file electronically even if you are filing fewer than 250 Forms W-2. The 250 threshold applies separately to each type of form. Thus, for example, if a person is required to file 200 returns on Form 1099-MISC and 350 returns on Form W-2 for a calendar year, the person is not required to

file Forms 1099-MISC electronically but is required to file Forms W-2 electronically.

## **Employee's Responsibility for Tip Income**

Employees who receive tips should keep a daily tip record so they can accurately report tips to the employer and on their tax returns. The daily tip record can take the form of a tip diary such as that found in Form 4070A, Employees Daily Record of Tips.

Every employee who, while working for your organization, receives cash tips in any calendar month of at least \$20 must report those tips in a written statement by the 10th day of the following month. To report, the employee may use **Form 4070, Employee's Report of Tips to Employer**, or some other written statement containing the:

- Employee's name, address and Social Security number;
- Employer's name, business name (if different) and address;

- The month for which the report is made; and
- The total tips received in that month.

You may establish an electronic tip reporting system in lieu of receiving tip statements in paper form.

An employee who fails to report tips that are required to be reported must pay the employee's portion of the FICA tax on those tips by filing **Form 4137, Social Security and Medicare Tax on Unreported Tip Income**, with the employee's Form 1040, U.S. Individual Income Tax Return. The employee is also subject to a penalty equal to 50 percent of the employee's portion of the FICA tax on the unreported tips unless the failure was due to reasonable cause and not due to willful neglect.

For more information on an employee's responsibilities with respect to reporting tip income, see **Publication 531, Reporting Tip Income**.

If the taxes on an employee's tips are greater than the regular pay from the employer, the

employee can either pay the taxes when the employee files Form 1040 or the employee can give the employer money to be applied to the underwithheld taxes. The employer will report any uncollected FICA taxes on Form W-2. If the employee waits to pay the taxes with the employee's Form 1040, the employee may be subject to a penalty for underpayment of estimated taxes. See **Publication 505, Tax Withholding and Estimated Tax**, for more information.

### **Your Organization's Reporting Responsibilities for Independent Contractors Soliciting a TIN -**

Your organization should solicit an independent contractor's TIN before the independent contractor provides services, and before you pay the person. You can use Form W-9, Request for Taxpayer Identification Number and Certification. Formulario W-9(SP), Solicitud y Certificación del Número de Identificación del Contribuyente, may be used in place of Form W-9, for Spanish-speaking nonemployees. Form W-9 certifies the correct TIN and name of person receiving payments, and will help the organization verify whether



it needs to complete Form 1099-MISC with respect to a payment. Form W-9 is not filed with the IRS, but kept in your organization's records.

If your organization pays independent contractors – in other words a compensated worker who is not your organization's employee – it does not have to withhold or pay FICA taxes. However, you may be required to withhold 24 percent of any reportable payments for federal income tax. This is referred to as backup withholding, and applies when a payee refuses or neglects to provide a Taxpayer Identification Number (TIN) or the IRS notifies the organization that the reported TIN is incorrect. See Publication 1281, Backup Withholding for Missing and Incorrect Name/TIN(s). Whether your organization has made reportable payments may depend on the amount paid during the year and whether an exception applies.

**Filing and Furnishing Form 1099-MISC, Miscellaneous Income** – Use Form 1099-MISC to report payments of \$600 or more to independent contractors. Include fees,

salaries, commissions, prizes and awards for services performed as a non-employee. Generally, payments to a corporation are not required to be reported on Form 1099-MISC. However, you must use Form 1099-MISC to report payments of \$600 or more for medical or health care services provided by corporations, including professional corporations and legal services provided by corporations. Forms 1099-MISC must be furnished to payees by January 31. File Form 1099-MISC on paper or electronically by January 31, if you are reporting nonemployee compensation (NEC) in box 7. File all other Forms 1099-MISC (not reporting NEC in box 7) with the IRS by February 28. Paper Forms 1099-MISC are transmitted to the IRS using **Form 1096, Annual Summary and Transmittal of U.S. Information Returns**. You may furnish the copies to the payees electronically. See the **General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G** for more information. If you are required to file 250 or more Forms 1099-MISC, you must file them electronically, unless the IRS granted you a waiver. You are

encouraged to file electronically even if you are filing fewer than 250 Forms 1099-MISC.

**Example:** Organization Y pays Ted Oaks \$100 per week for 9 weeks to clean up the hall where it holds bingo sessions. Mr. Oaks operates a janitorial service as a sole proprietorship, has the right to hire and fire workers and provides needed tools and supplies. Y does not have the right to direct and control Mr. Oaks. Therefore, Mr. Oaks is not a Y employee. Y must file Form 1099-MISC with the IRS and furnish a copy of Form 1099-MISC to Mr. Oaks.

For more details on the types of payments that must be reported on Form 1099-MISC, see the **instructions** for Form 1099-MISC.

## **Chapter 6**

### **Reporting Winnings and Withholding Income Tax**

It's Saturday night again, and your organization is hosting a bingo game meeting the statutory bingo exclusion. Mr. S pays \$5

for a bingo card and sits down to play. “B-I-N-G-O!!!” It’s Mr. S’s lucky night. He wins the game and the jackpot of \$1,200. In tax terminology, the “wager” is \$5 and the “winnings” are \$1,200. Did you know that your organization must report Mr. S’s winnings to the IRS?

## **Reportable Winnings**

If you pay the winner or winners of a game more than a certain amount, you must report the amount and information about the winners to the IRS. The threshold amount at which winnings become reportable depends on the type of game involved.

Unless the winnings are from poker, keno, bingo or slot machines, you must report a payment of winnings, including raffle prizes, when the amount paid is:

- \$600 or more, and
- At least 300 times the amount of the wager.

In determining whether the \$600 threshold is met, you may reduce the winnings by the amount of the wager.

**Example:** Mr. G buys a \$2 raffle ticket from your organization. At the raffle, Mr. G's number is drawn and he wins \$1,000. Because the winnings (\$998) are greater than \$600 and more than 300 times the amount of the wager, you must report Mr. G's winnings to the IRS.

**Example:** Mr. S buys a \$2 pull-tab and wins \$600. You may reduce the winnings by the amount of the wager, in which case the winnings are \$598. You do not have to report Mr. S's winnings because the \$600 threshold is not met.

*Keno Games:* Keno is a gambling game, a variety of the game of lotto, played with numbered balls or knobs, and cards also numbered.

You must report winnings from a keno game that are \$1,500 or more after deducting the amount of the wager. That is, you must

reduce the amount of the winnings by the amount of the wager in determining whether the \$1,500 threshold is met.

**Example:** One of your gaming activities is keno. Ms. E wagers \$5 on keno and wins \$1,500. The winnings are less than \$1,500 after deducting the amount of the wager (\$1,495), so you do not have to report Ms. E's winnings.

*Bingo Games and Slot Machines:* You must report winnings from a bingo game or slot machine that are \$1,200 or more before deducting the amount of the wager.

**Example:** You have a slot machine in the barroom of your lodge. Ms. C feeds a quarter into the slot machine and wins \$1,200. You must report Ms. C's winnings because the winnings are \$1,200 or more before deducting the amount of the wager.

*Poker Tournaments:* If you sponsor a poker tournament, you must report any winnings of more than \$5,000 after deducting the wager (in other words the entry or "buy-in" fee).

You need not report poker tournament winnings paid before March 4, 2008, or winnings that are \$5,000 or less.

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## Summary of Reportable Winnings

Type of Game	Winnings Amount at Least:	Reduced by Amount of Wager?
Bingo	\$1,200	No
Slot machines	\$1,200	No
Keno	\$1,500	Yes
Other wagering transactions (instant bingo, pull-tabs, raffles and so on)	\$600 and at least 300 times the wager	At option of payer
Poker tournaments	\$5,000.01	Yes

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## Reporting Winnings

Each time you pay reportable winnings, you must complete a **Form W-2G, Certain Gambling Winnings**, to report those winnings to the IRS and to the person receiving the winnings (the payee). The payee should provide you with his or her name, address and Social Security number, and you should verify the information from the person's driver's license, Social Security card, voter registration card or other proper identification.

If you use a paper form, you must file copy A of Form W-2G with the IRS by February 28 following the calendar year in which you paid the winnings. Use Form 1096 to transmit paper Forms W-2G to the IRS. If you file electronically, you must file Form W-2G by March 31 following the calendar year in which you paid the winnings. If you complete 250 or more Forms W-2G in a year, you cannot file the paper form; you must file electronically instead.

In addition to filing Form W-2G with the IRS, you must give the winner copies B and C of Form W-2G by January 31 following the calendar year in which you paid the winnings.

*Multiple Winners:* When the payee is one of a group of two or more winners, or is not the actual winner, he or she must complete and sign a **Form 5754, Statement by Person(s) Receiving Gambling Winnings**, and give it to you. The payee enters his or her name, address and taxpayer identification number in Part I. In Part II, the payee enters the name, address and taxpayer identification number of each person entitled to the winnings, together with the amount won and the amount of any additional winnings from identical wagers. You then prepare a separate Form W-2G for each winner listed in Part II of Form 5754.

## **Regular Income Tax Withholding**

Ms. V pays \$10 for a ticket in your church raffle. As luck would have it, hers is the winning ticket. You pay Ms. V winnings of \$6,000. You now know that you have to

report the winnings to the IRS. But did you also know that you have to withhold income tax from Ms. V's winnings?

## **Exceptions:**

1. Do not withhold income tax on winnings from bingo, keno or slot machines no matter what the amount of winnings. (However, see below.)
2. You need not withhold income tax on winnings from a poker tournament as long as you report the winnings on Form W-2G.

You must withhold income tax from a payment of winnings when the proceeds from the wager are more than \$5,000 and the wager was placed in:

- A sweepstakes, wagering pool, lottery, raffle or poker tournament; or
- Any other wagering transaction, if the proceeds are at least 300 times the amount wagered.

The "proceeds from a wager" are the difference between the amount of the

winnings and the amount of the wager. When the winnings are in the form of a non-cash payment, such as a car won at a raffle, the proceeds from the wager are the difference between the fair market value of the item won and the amount of the wager.

You must deduct and withhold tax from the cash winnings in an amount equal to the product of the third lowest rate of tax applicable under IRC Section 1(c) (in other words, the rates that apply to unmarried individuals) and the amount subject to withholding. The applicable rate is 24 percent. The amount subject to withholding is the proceeds from the wager, as defined above. Withhold on the entire amount, not just on that portion greater than \$5,000.

**Example:** In 2018, your organization conducts a raffle, and Mr. L purchases a \$1 ticket. At the drawing, Mr. L wins \$6,000. Because the proceeds from the wager are more than \$5,000 (\$6,000 prize minus \$1 ticket), you must withhold \$1,440 ( $\$5,999 \times .24$ ) from the winnings.

A non-cash prize, such as a car, with a fair market value exceeding \$5,000 after deducting the amount of the wager is also subject to withholding. The tax is computed and paid under either of the following two methods:

- The winner pays the withholding tax to the organization conducting the gaming activity. In this case, the withholding amount is 24 percent of the fair market value of the non-cash item less the amount of the wager.
- The organization pays the withholding tax for the winner. In this case, the withholding amount is 31.58 percent of the fair market value of the non-cash item less the amount of the wager. (The withholding percentage in this case is higher, because the winner gets not only the value of the prize but also the value of having the taxes paid by the organization.)

*Signature of the Payee on Form W-2G:* Any person who receives a payment of winnings from which you are required to withhold tax

must sign the Form W-2G on which those winnings are reported. By signing, the payee declares that no other person is entitled to any portion of the payment and that the winnings are subject to regular gambling withholding.

## **Backup Withholding**

You may be required to withhold 24 percent of gambling winnings (including winnings from bingo, keno, slot machines and poker tournaments) for federal income tax. This is referred to as backup withholding, and applies when:

- The winner of reportable winnings does not furnish a correct TIN;
- Regular gambling withholding was not withheld (currently 24%); and
- The winnings are at least \$600 and at least 300 times the wager (or the winnings are at least \$1,200 from bingo or slot machines or \$1,500 from keno or more than \$5,000 from a poker tournament).



**Example:** Your organization has slot machines in its barroom. Mr. B wins \$1,200 at the slot machine. Mr. B refuses to give you his taxpayer identification number. Because winnings of \$1,200 or more from a slot machine are reportable winnings, you must report the winnings on Form W-2G. Slot machine winnings are not subject to regular withholding at the 24 percent rate, but because Mr. B refuses to give you his taxpayer identification number so that you can properly complete the Form W-2G, you must backup withhold \$288 ( $\$1,200 \times .24$ ).

You will pay Mr. B \$912 ( $\$1,200 - \$288$ ) instead of the entire amount of winnings. If you mistakenly pay Mr. B the entire \$1,200, your organization will be responsible for paying the backup withholding amount of \$288.

Backup withholding applies to the total amount of the winnings reduced by the amount wagered, if the payer chooses to make that reduction.

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## Summary of Withholding Requirements

<b>Type of Gaming</b>	<b>Regular Withholding at 24% if Winnings Are:</b>	<b>Backup Withholding at 24% if Winner Does Not Provide TIN and Winnings Are:</b>
Bingo	N/A	$\geq \$1,200$
Slot machines	N/A	$\geq \$1,200$
Keno	N/A	$\geq \$1,500$
Sweepstakes, wagering pools, lotteries and raffles	$> \$5000$	\$600 to \$5,000
Wagering transactions when winnings are at least 300 times the amount wagered	$> \$5,000$	\$600 to \$5,000
Poker tournaments	N/A if winnings are reported on Form W-2G	$> \$5,000$

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## Reporting Withheld Taxes

Report the amount of any taxes withheld from winnings (whether at the regular or backup withholding rate) in box 2 of the Form W-2G on which you report the winnings.

## Withholding Tax on Nonresident Aliens

Generally, gambling winnings paid to a nonresident alien are subject to withholding at 30 percent on the gross proceeds unless the income is exempted by treaty. But winnings of a nonresident alien from blackjack, baccarat, craps, roulette or big-6 wheel are not subject to withholding and reporting.

The winnings and tax withheld are reported on **Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons**, and **Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding**. For more information, see **Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities**.

## **Annual Return of Non-Payroll Withheld Taxes**

Taxes withheld from gaming winnings are called non-payroll withheld taxes. You must report the total amount of federal income tax you withhold from these payments during the year on **Form 945, Annual Return of Withheld Federal Income Tax**. Non-payroll payments include gaming winnings subject to either regular or backup withholding. Therefore, the amounts you report on your annual Form 945 must include the total amount of tax withheld from gaming winnings that you reported on all the Forms W-2G filed for the year. You must file Form 945 by January 31 following the close of the reporting year. If you discover an underpayment or overpayment error due to an administrative error on a previously filed Form 945, use **Form 945-X, Adjusted Annual Return of Withheld Federal Income Tax or Claim for Refund**, to make the correction. See **Publication 15, (Circular E) Employer's Tax Guide** and

**the instructions** for Form 945-X for more information.

## **Depositing Non-Payroll Withheld Taxes**

If you report less than a \$2,500 non-payroll tax liability for the year, you may pay the tax with your annual timely-filed Form 945. If your non-payroll tax liability is \$2,500 or greater, you must deposit those taxes on a monthly or semiweekly schedule using the EFTPS. Be sure to deposit non-payroll withheld taxes separately from any payroll taxes for which your organization may be liable.

For more information about the deposit schedule you will be required to follow, see “Depositing Taxes” in **Publication 15(Circular E), Employer’s Tax Guide**.

## **Chapter 7**

### **Gaming Excise Taxes**

Most gaming requires the participant to stake, or bet, some money for the chance of winning

a prize, award or jackpot. The money a bettor places in a game is called the wager. If you are engaged in the business of accepting wagers, you may be required to pay two separate excise taxes. These are in addition to any unrelated business income tax that gaming may generate. The excise taxes are:

- A tax on wagers (wagering tax) under IRC Section 4401(a); and
- An occupational tax on persons in the business of accepting wagers and on persons who receive wagers on behalf of someone in the business of accepting wagers (occupational tax) under IRC Section 4411(a).

You are engaged in the business of accepting wagers for an event or contest if, depending on the outcome, you are assuming the risk of profit and loss. This is true regardless of how few bets you accept or how infrequently you take them.



# Wagering Tax

You are required to pay the wagering tax when you accept a wager from a bettor:

- On a sports event;
- On a contest;
- Participating in a wagering pool with respect to a sports event or contest, if the wagering pool is conducted for profit; or
- Participating in a lottery conducted for profit.

(Some wagers are exempt – see the section “Wagers Exempt from Wagering Tax,” below.)

*Conducted for Profit:* A wagering pool or lottery is conducted for profit if it earns a direct profit, if it is expected to generate an indirect profit such as increased sales or attendance, or if the operator takes a percentage of the contributions or charges a fee to join the pool.

# Wagers Subject to Wagering Tax

Note: Any person or entity in the business of accepting wagers will be liable for the wagering excise tax even if the business is illegal in the state where it is conducted. The categories of wagers to which the tax applies are detailed below.

*Sports Events:* If you accept a wager placed on a sports event, you must pay the wagering tax on the wager. It does not matter whether the sports event is an amateur, scholastic or professional event. Typical sports events on which wagers are placed include horse, auto or dog racing; boxing or wrestling matches; baseball, football or basketball games; tennis or golf matches; or track meets.

*Contests:* You are responsible for paying the wagering tax if you accept a wager placed on a contest. A contest includes any kind of contest involving speed, skill, endurance, popularity, politics, strength, appearances and so on. Typical contests on which wagers are placed include dance marathons, log-

rolling contests, wood-chopping contests, spelling bees and beauty contests.

*Wagering Pools:* If you conduct a wagering pool for profit and accept a wager placed in the wagering pool, you must pay the wagering tax on the wager. A wagering pool is any scheme or method where prizes are distributed to one or more winning bettors based on the outcome of a sports event or contest or a combination of both.

*Lotteries:* If you conduct a lottery for profit and accept a wager placed in the lottery, you must pay the wagering tax on the wager. A lottery is a type of wagering in which:

- A prize is offered;
- Participants pay for the opportunity to win the prize; and
- The prize is awarded by chance.

A lottery also includes “numbers game” types of wagering in which the player pays a fixed amount and selects a number or combination of numbers. If the selected number or numbers appear or are published in the

mutually understood manner, the lottery operator pays the player a prize. Tip jars, raffles, pull-tabs and similar games meet the definition of wagers placed in a lottery.

## **Wagers Exempt from Wagering Tax**

There is no wagering tax on wagers placed in:

- Games when all participants are present;
- Drawings conducted by exempt organizations; or
- Games played on a coin-operated device.

*Games When All are Present:* A wager placed in a game in which the wagers are placed, the winners are determined and the prizes are distributed in the presence of all persons placing wagers in the game is not subject to the wagering tax.

Games of this type involve group play, and include bingo meeting the statutory bingo exclusion (as described in Chapter 2), keno, card games, dice games and games involving wheels of chance, such as roulette wheels.

*Drawings Conducted by Exempt*

*Organizations:* A wager placed in a drawing conducted by a tax-exempt organization is not considered a “wager placed in a lottery conducted for profit” (and, thus, is not subject to the tax on wagers) so long as no part of the net proceeds from the drawing “inures” to the benefit of any private shareholder or individual.

*Drawing:* A drawing is any physical drawing of a ticket or use of a wheel or similar device by which the winner is conclusively determined by a number, letter, legend or symbol without reference to an outside event that is beyond the operator's control.

*Inures to the Benefit of Private Shareholders or Individuals:* This phrase comes directly from the IRC and describes a circumstance where a drawing benefits an individual personally in some way. This could happen if, for example, the drawing operator’s salary is unreasonable, or if the operator receives a percentage of the total wagers as compensation.

When the drawing is conducted by a membership organization, such as a social club, fraternal society or veterans' organization, the drawing could benefit the members if wagers are accepted from nonmembers and used for operating expenses or to pay for member benefits or services. If, however, the wagering revenue is separately accounted for and earmarked solely for charitable purposes, there is no inurement and no liability for wagering tax arises. And, if the wagers are accepted from members only, proceeds of a drawing may be used for the organization's operations without triggering the wagering tax.

**Example:** S, a social club exempt under Section 501(c)(7), sells lottery tickets. Only club members may purchase tickets. The winners receive a portion of the proceeds from the sale of the tickets. The remaining proceeds go to the general funds of the club and are used to defray its operating expenses or to offset losses incurred in the club's activities, which are devoted exclusively to the pleasure and recreation of its members. Because the drawing is limited to members

and the net proceeds are used solely to meet the club's operating expenses, none of the proceeds inure to the benefit of any private shareholder or individual. Therefore, the club is not engaged in the business of accepting wagers placed in a lottery conducted for profit and is not liable for wagering tax.

**Example:** B, a veterans' organization exempt under Section 501(c)(19), occasionally sells pull-tabs at bingo games which are open to the public. A portion of the proceeds from pull-tab sales are used to pay B's operating and administrative expenses, without which B would have to increase its dues or other member contributions. Because a portion of the net proceeds from the pull-tabs indirectly inures to the members, B is considered to be engaged in the business of accepting wagers placed in a lottery conducted for profit and is liable for wagering taxes.

**Example:** Y, a Section 501(c)(3) organization, sells pull-tabs. The organization uses net proceeds from pull-tab sales to carry out its exempt purpose. There is no inurement or private benefit to individuals, so

the wagering tax does not apply to the sales of the pull-tabs.

*Coin-Operated Device:* There is no wagering tax on amounts spent to operate coin-operated devices, which include slot machines, pinball machines and video machines such as those that display poker hands.

*Parimutuel Wagering:* There is no wagering tax on wagers placed with or in a wagering pool conducted by a parimutuel enterprise licensed under state law.

*State-Conducted Lotteries:* There is no wagering tax on wagers placed in lotteries, sweepstakes or wagering pools conducted by a state, under state law where the wager is placed with the state or its authorized employees or agents.

## **Rate of Wagering Tax**

The tax rate depends on whether the wager is authorized under the law of the state in which it is accepted, in other words, on whether the wager is legal. The tax on legal wagers is



0.25 percent of the amount of the wager. The tax on unauthorized, or illegal, wagers is 2 percent of the amount of the wager.

**Example:** Lodge Y, a fraternal beneficiary society exempt under Section 501(c)(8), sells pull-tabs at its bar to both members and nonmembers. The proceeds go to Y's general account to pay administrative and operating expenses. Y is liable for wagering tax because the proceeds from pull-tab sales to nonmembers inure to the private benefit of Y's members. The rate of tax is 0.25 percent because Y is licensed by the state to sell pull-tabs and the wager is legal under state law.

The amount of the wager is the sum risked by the bettor, including any charges incurred in placing the bet. If you charge the bettor for the wagering tax as a separate charge, the charge is not included in the amount of the wager.

If you engage in illegal wagering, paying the wagering tax does not shield you from any penalties or punishment under federal or state law.

## **Monthly Return of Wagering Tax**

You must file a return on Form 730, Monthly Tax Return for Wagers, for every month in which you accept a wager on which you owe wagering tax. Use Form 730 to report the gross amount of wagers accepted and to figure the tax on those wagers.

File the Form 730 by the last day of the month following the month for which you are reporting. For example, if you accepted wagers in April, you would report them on your Form 730 due by May 31. Once you file a Form 730, you must continue to file it every month, regardless of whether you owe wagering tax, until you stop accepting wagers. If you stop accepting wagers, check the "final return" box on the last Form 730 you file.

## **Paying the Wagering Tax**

You can pay the wagering tax either electronically by using the EFTPS or by mailing a check or money order with your Form 730. Include the payment voucher Form 730-V whenever you mail any payment.

# Occupational Tax

An annual occupational tax must be paid by:

- Any person or organization that is responsible for paying wagering tax; and
- Any person who receives wagers on behalf of a person or organization that is responsible for paying wagering tax.

In other words, if you are in the business of accepting wagers and are required to pay wagering tax, then you and each of your employees or agents who receive wagers on your behalf must separately pay an occupational tax. If your games meet any of the exemptions to the wagering tax shown above, you will not be liable for the occupational tax.

If you engage in illegal wagering, paying the occupational tax does not shield you from any penalties or punishment under federal or state law.

## Amount of the Tax

The amount of the occupational tax depends on whether the wager is authorized, in other words, legal, under the laws of the state in which the wager is accepted.

- If the person or organization required to pay the occupational tax accepts only authorized wagers, the amount of the tax is \$50 per year.
- If the person or organization required to pay the occupational tax accepts any wager that is not authorized, the amount of the tax is \$500 per year.

## Registering and Paying the Occupational Tax

Each person required to pay the occupational tax must register with the IRS by filing a return on **Form 11-C, Occupational Tax and Registration Return for Wagering**.

The occupational tax must be paid when filing the return.

*Initial Return:* You must file the first return on Form 11-C and pay the occupational tax

before you start accepting wagers. The tax for the year in which you start accepting wagers is determined proportionately, from the first day of the month in which you begin accepting wagers to the following June 30. For example, if you accept wagers for the first time on April 14, you must pay a prorated tax for the period from April 1 to June 30. You would pay a tax that is  $91/365$ ths of the annual tax.

*Subsequent Returns:* After your initial return, you must file subsequent returns on Form 11-C by July 1 of each year to cover a one-year period beginning July 1 and ending June 30 of the following year. You must pay the tax for the entire year, even if you accept wagers for only a part of the year.

## **Recordkeeping by the Organization for Wagering and Occupational Taxes**

*Daily Record:* You must keep a daily record showing the gross amount of all wagers on which wagering tax is due. The record for each day's operations must show:

- The gross amount of wagers accepted;
- The gross amount of each class or type of wager accepted on each separate event, contest or other wagering medium;
- The gross amount, separately, of wagers:
- You accepted directly or at your registered place of business; and
- You or your agents accepted at any place other than your registered place of business; and
- The gross amount of tax collected from or charged to bettors as a separate item.

*Records of Agents and Employees:* You must maintain a separate record of each agent or employee receiving wagers on your behalf. The record must include the employee's or agent's name, address, periods of employment and employer identification number.

*Form 730 and Form 11-C:* You must keep a copy of each Form 730 and Form 11-C that you file.

You must keep each record at your principal place of business for at least three years from the due date of the return to which the record pertains. The record must be available to the IRS at all times.

## **Recordkeeping by Agents and Employees**

Every agent or employee of your organization who receives wagers on your behalf at any place other than your registered place of business must keep a daily record of:

- The gross amount of wagers received;
- The amount, if any, retained as a commission or as compensation for receiving the wagers; and
- The amount turned over to you.

The records must be kept for at least three years from the date the wager was received, and must be available to the IRS at all times.

## **Exhibit B**

# **General Tax Calendar for Organizations That Conduct Gaming (Calendar Year Filers)**

**Fiscal Year Filers:** If you use a fiscal year as your accounting period rather than a calendar year, change the dates in this calendar as follows:

- File Form 990 or 990-EZ (or file Form 8868 to apply for an extension to file Form 990 or 990-EZ) by the 15th day of the 5th month after your accounting period ends.
- File Form 990-T (or file Form 8868 to apply for an extension to file Form 990-T) by the 15th day of the 5th month after your accounting period ends.
- Pay estimated unrelated business income tax by the 15th day of the 4th, 6th, 9th and 12th months of your fiscal year.



**Note:** This calendar does not account for Saturdays, Sundays or legal holidays. If a due date for performing any act for tax purposes falls on a Saturday, Sunday or legal holiday, it is delayed until the next day that is not a Saturday, Sunday or legal holiday. See Publication 509, Tax Calendars, for due dates adjusted to take account of the weekends and holidays of the particular calendar year.

**The first quarter of a calendar year comprises January, February and March.**

### **By January 10**

*Employees who work for tips:* If you received \$20 or more in tips during December, report them to your employer. You can use Form 4070, Employee's Report of Tips to Employer.

### **By January 15**

*Social Security, Medicare and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in December.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in December.

## **By January 31**

*Employers:* Give your employees their copies of Form W-2 for the previous year.

If you use paper or file electronically, you must file Copy A of all Forms W-2 issued for the previous calendar year by the last day of January, with the Social Security Administration. Use Form W-3, Transmittal of Wage and Tax Statements, to transmit Forms W-2 to the SSA. For information on reporting Form W-2 information to the SSA electronically, visit the Social Security Administration's **webpage**.

*Payers of independent contractors:* If an employer is reporting nonemployee compensation payments either paper or electronically in box 7 on Form 1099-MISC, they must be filed with the IRS on or before January 31. Use Form 1096, **Annual Summary and Transmittal of U.S.**

**Information Returns**, to transmit paper Forms 1099-MISC to IRS.

*Payers of gambling winnings:* If you either paid reportable gambling winnings or withheld income tax from gambling winnings the previous calendar year, give the winners their copies of Form W-2G.

*Nonpayroll taxes:* File Form 945 to report income tax withheld the previous calendar year on all nonpayroll items, including backup withholding and withholding on gambling winnings. Deposit or pay any undeposited tax. If your tax liability is less than \$2,500, you can pay it in full with a timely filed return. If you deposited the tax for the year in full and on time, you have until February 10 to file the return.

*Social Security, Medicare and withheld income tax:* File Form 941 for the fourth quarter of the previous calendar year. Deposit or pay any undeposited tax. If your tax liability is less than \$2,500, you can pay it in full with a timely filed return. If you deposited the tax for the quarter in full and on time, you have until February 10 to file the return.

*Certain small employers:* File Form 944 to report Social Security, Medicare and withheld income taxes for the previous calendar year. Deposit or pay any undeposited tax. If your tax liability is \$2,500 or more the entire previous year but less than \$2,500 for the fourth quarter of the previous year, deposit any undeposited tax or pay it in full with a timely filed return.

*Federal unemployment tax:* File Form 940 for the previous calendar year. If your undeposited tax is \$500 or less, you can either pay it with your return or deposit it. If it is more than \$500, you must deposit it. If you deposited the tax for the year in full and on time, you have until February 10 to file the return.

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during December.

## **By February 10**

*Employees who work for tips:* If you received \$20 or more in tips during January, report them to your employer. You can use Form 4070, Employee's Report of Tips to Employer.

## **By February 15**

*Social Security, Medicare and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in January.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in January.

## **By the Last Day of February (February 28 or February 29 in leap years)**

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during January.

File paper Forms W-2G and paper Forms 1099-MISC without box 7 checked with the IRS by February 28.

## **By March 10**

*Employees who work for tips:* If you received \$20 or more in tips during February, report them to your employer. You can use Form 4070, Employee's Report of Tips to Employer.

## **By March 15**

*Social Security, Medicare and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in February.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in February.

## **By March 31**

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during February.

**The second quarter of a calendar year comprises April, May and June.**

## **By April 2**

For electronically filed Forms W-2G, and electronically filed Forms 1099-MISC without box 7 checked, file with IRS by April 2. For information on filing information returns electronically with the IRS, see **Publication 1220, Specifications for Electronic Filing of Forms 1097, 1098, 1099, 3921, 3922, 5498, and W-2G.**

## **By April 10**

*Employees who work for tips:* If you received \$20 or more in tips during March, report them to your employer. You can use Form 4070, Employee's Report of Tips to Employer.

## **By April 15**

*Social Security, Medicare and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in March.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in March.

*Unrelated business income tax:* If total expected tax for the tax year is \$500 or more, deposit the first installment of estimated tax. Use Form 990-W to figure your estimated tax liability.

## **By April 30**

*Social Security, Medicare and withheld income tax:* File Form 941 for the first quarter of the calendar year. Deposit or pay any undeposited tax. If your tax liability is less

than \$2,500, you can pay it in full with a timely filed return. If you deposited the tax for the quarter in full and on time, you have until May 10 to file the return.

*Federal unemployment tax:* Deposit the tax owed through March if more than \$500.

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during March.

## **By May 10**

*Employees who work for tips:* If you received \$20 or more in tips during April, report them to your employer. You can use Form 4070, Employee's Report of Tips to Employer.

## **By May 15**

*Social Security, Medicare and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in April.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in April.

*Exempt organization annual information return or notice:* File annual information



return (Form 990 or 990-EZ) or e-Postcard (Form 990-N). If you want an automatic 6-month extension to file Form 990 or 990-EZ, file Form 8868. Then, file Form 990 or 990-EZ by November 15. There is no extension for Form 990-N.

*Unrelated business income tax return:* File Form 990-T to report your unrelated business income and unrelated business income tax liability for the previous calendar year, and deposit any tax due in full. Corporations and trusts may request an automatic 6-month extension to file Form 990-T by filing Form 8868. Then, file Form 990-T by November 15.

Reminder: Fiscal year (non-calendar year) filers do not use this date for Form 990-series returns and notices. Use the 15th day of the 5th month after your fiscal year ends.

## **By May 31**

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during April.

## **By June 10**

*Employees who work for tips:* If you received \$20 or more in tips during May, report them to your employer. You can use Form 4070, Employee's Report of Tips to Employer.

## **By June 15**

*Social Security, Medicare and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in May.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in May.

*Unrelated business income tax:* If total expected tax for the year is \$500 or more, deposit second installment of estimated tax. Use Form 990-W to figure your estimated tax liability.

## **By June 30**

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during May.

**The third quarter of a calendar year comprises July, August and September.**

## **By July 1**

*Occupational excise taxes:* File Form 11-C to register and pay the annual tax if you are in the business of taking wagers.

## **By July 10**

*Employees who work for tips:* If you received \$20 or more in tips during June, report them to your employer. You can use Form 4070, Employee's Report of Tips to Employer.

## **By July 15**

*Social Security, Medicare and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in June.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in June.

## **By July 31**

*Social Security, Medicare and withheld income tax:* File Form 941 for the second quarter of the calendar year. Deposit or pay any undeposited tax. If your tax liability is less than \$2,500, you can pay it in full with a

timely filed return. If you deposited the tax for the quarter in full and on time, you have until August 10 to file the return.

*Certain small employers:* Deposit any undeposited tax if your tax liability is \$2,500 or more for the calendar year but less than \$2,500 for the second quarter.

*Federal unemployment tax:* Deposit the tax owed through June if more than \$500.

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during June.

## **By August 10**

*Employees who work for tips:* If you received \$20 or more in tips during July, report them to your employer. You can use Form 4070, Employee's Report of Tips to Employer.

## **By August 15**

*Social Security, Medicare and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in July.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in July.

## **By August 31**

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during July.

## **By September 10**

*Employees who work for tips:* If you received \$20 or more in tips during August, report them to your employer. You can use Form 4070, Employee's Report of Tips to Employer.

## **By September 15**

*Social Security, Medicare and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in August.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in August.

*Unrelated business income tax:* If total expected tax for the year is \$500 or more, deposit third installment of estimated tax. Use

Form 990-W to figure your estimated tax liability.

## **By September 30**

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during August.

**The fourth quarter of a calendar year comprises October, November and December.**

## **By October 10**

*Employees who work for tips:* If you received \$20 or more in tips during September, report them to your employer. You can use Form 4070, Employee's Report of Tips to Employer.

## **By October 15**

*Social Security, Medicare and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in September.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in September.

## **By October 31**

*Social Security, Medicare and withheld income tax:* File Form 941 for the third quarter of the calendar year. Deposit or pay any undeposited tax. If your tax liability is less than \$2,500, you can pay it in full with a timely filed return. If you deposited the tax for the quarter in full and on time, you have until November 10 to file the return.

*Certain small employers:* Deposit any undeposited tax if your tax liability is \$2,500 or more for the calendar year but less than \$2,500 for the third quarter.

*Federal unemployment tax:* Deposit the tax owed through September if more than \$500.

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during September.

## **By November 10**

*Employees who work for tips:* If you received \$20 or more in tips during October, report them to your employer. You can use Form 4070, Employee's Report of Tips to Employer.

## **By November 15**

*Social Security, Medicare and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in October.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in October.

*Exempt organization annual information return:* If you requested an automatic 6-month extension to file your annual information return, file Form 990 or 990-EZ.

*Unrelated business income tax:* If you requested an automatic 6-month extension to file your exempt organization business income tax return (corporations and trusts), file Form 990-T.

Reminder: Fiscal year (non-calendar year) filer Form 990-series extensions end on the 15th day of the 5th month after your tax year ends (not November 15).

## **By November 30**

*Income tax withholding:* Ask employees whose withholding allowances will be different



next calendar year to fill out a new Form W-4, Employee's Withholding Allowance Certificate.

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during October.

## **By December 10**

*Employees who work for tips:* If you received \$20 or more in tips during November, report them to your employer. You can use Form 4070, Employee's Report of Tips to Employer.

## **By December 15**

*Social Security, Medicare and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in November.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in November.

*Unrelated business income tax:* If total expected tax for the year is \$500 or more, deposit fourth installment of estimated tax. Use Form 990-W to figure your estimated tax liability.

## **December 31**

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during November.

## **Exhibit C**

# **Summary of Forms, Publications and Other Resources for Organizations Conducting Gaming**

## **Forms**

Form 990, Return of Organization Exempt From Income Tax

Form 990-EZ, Short Form Return of Organization Exempt From Income Tax

Form 990-N, e-Postcard (electronic only)

Form 8868, Application for Automatic Extension of Time To File an Exempt Organization Return

Schedule G, Form 990 or Form 990-EZ,  
Supplemental Information Regarding  
Fundraising or Gaming Activities

Form 990-T, Exempt Organization Business  
Income Tax Return

Form W-2G, Certain Gambling Winnings

Form 1096, Annual Summary and Transmittal  
of U.S. Information Returns

Form 5754, Statement by Person(s) Receiving  
Gambling Winnings

Form 1042, Annual Withholding Tax Return  
for U.S. Source Income of Foreign Persons

Form 1042-S, Foreign Person's U.S. Source  
Income Subject to Withholding

Form 945, Annual Return of Withheld Federal  
Income Tax

Form 730, Monthly Tax Return for Wagers

Form 11-C, Occupational Tax and Registration  
Return for Wagering

Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding

Form W-4, Employee's Withholding Allowance Certificate

Form 941, Employer's Quarterly Federal Tax Return

Form 944, Employer's Annual Federal Tax Return

Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return

Form W-2, Wage and Tax Statement

Form W-3, Transmittal of Wage and Tax Statements

Form 4070A, Employee's Daily Record of Tips

Form 4070, Employee's Report of Tips to Employer

Form 4137, Social Security and Medicare Tax on Unreported Tip Income

Form W-9, Request for Taxpayer Identification Number and Certification

Form 1099-MISC, Miscellaneous Income

## **Publications**

Publication 557, Tax-Exempt Status for Your Organization

Publication 598, Tax on Unrelated Business Income of Exempt Organizations

Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities

Publication 15, (Circular E), Employer's Tax Guide

Publication 15-A, Employer's Supplemental Tax Guide

Publication 531, Reporting Tip Income

Publication 583, Starting a Business and Keeping Records

Publication 1779, Independent Contractor or Employee

Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities

Publication 4221-PF, Compliance Guide for 501(c)(3) Private Foundations

Publication 4221-NC, Compliance Guide for Tax-Exempt Organizations (Other than 501(c)(3) Public Charities and Private Foundations)

## **Other Resources**

**IRS Tax Exempt and Government Entities Customer Account Services:** 877-829-5500 (toll-free). This department can answer your technical and procedural questions concerning charities and other non-profit organizations.

**Business and Specialty Tax Line:** 800-829-4933 (toll-free). This department can answer your specific questions about employment and wagering taxes.

**IRS Forms and Publications:** 800-829-3676 (toll-free) You can order tax forms and publications for delivery by U. S. mail. Be aware that quantities are limited.

## **IRS.gov**

Tax Information for Charities & Other Non-Profits

Social Security Administration

IRS Forms, Instructions & Publications

Filing Information For Charities & Non-Profits

**EO Update:** The IRS electronic newsletter with information for tax-exempt organizations and the practitioners who represent them

Life Cycle of an Exempt Organization

**Stay Exempt** – Tax Basics for 501(c)(3) Organizations: A specialized educational website from the IRS Exempt Organizations office

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