



**BERMUDA**

**GAMING (GENERAL RESERVE AND CASINO TAXES)  
REGULATIONS 2017**

**BR 23 / 2017**

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The Minister responsible for gaming, in exercise of the power conferred by sections 144 and 196 of the Gaming Act 2014, makes the following Regulations:

**Citation**

1 These Regulations may be cited as the Gaming (General Reserve and Casino Taxes) Regulations 2017.

*[Regulation 1 amended by 2021 : 23 s. 51(2) effective 1 August 2021]*

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### **Interpretation**

2 In these Regulations, unless the context otherwise requires—

“Act” means the Gaming Act 2014;

“casino operator” means a person who is the holder of a casino licence granted by the Commission pursuant to the Act;

“casino tax” means the tax payable by a casino operator on the gross gaming revenue pursuant to the Act and in accordance with these Regulations;

“Commission” means the Bermuda Gaming Commission established under section 6 of the Act;

“Commission budget” means the budget prepared by the Commission and approved by the Minister;

“financial year” means the period of twelve months extending from the first day of April in any year to the thirty-first day of March in the following year;

“General Reserve” means the account established by the Commission in accordance with regulation 3 of these Regulations;

“gross gaming revenue” means the amount wagered minus the winnings returned to patrons unless regulation 5(3) of these Regulations applies;

“inspector” means an inspector appointed under section 12(4) of the Act;

“Net Casino Tax” means casino tax less any amounts deducted by the Commission pursuant to the Act or these Regulations or any other provision of law;

“tax period” means each and every period of three calendar months commencing with the month of April;

“wager” means a sum of money risked on the outcome of a game of chance or a game of mixed chance and skill and received by the casino operator in the course of business;

“winnings ”means the sum of money paid to the patron of a casino by a casino operator for the sole reason, and as a direct result of, his placing of a wager.

*[Regulation 2 definitions "Act" and "Commission" amended by 2021 : 23 s. 54 effective 1 August 2021]*

### **General Reserve**

3 The Commission shall establish and maintain a General Reserve into which all fees, casino tax, and other sums as may be prescribed shall be paid.

### **Accounts**

4 (1) A casino operator shall keep in Bermuda, at such place or places as may be approved by the Commission, such documents of account and other records as may be required by the Commission as being necessary or expedient so that the requirements under the Act or these Regulations may be complied with or enforced.

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(2) A casino operator shall within 10 days of the end of each calendar month provide the Commission with written confirmation of the gross gaming revenue for that month and any other such information or documentation as the Commission may require by notice in writing.

(3) Except with the written permission of the Commission or pursuant to any other Act or provision of law, it shall be an offence punishable in accordance with the Act for any person to destroy or otherwise make unavailable any document, record or information that may reasonably be requested pursuant to the Act or these Regulations.

### **Gross Gaming Revenue computations**

5 (1) For the purposes of these Regulations reference to a sum of money placed as a wager shall include any token, voucher or other mechanism by which a patron is able to place a wager for monetary value.

(2) For the purposes of these Regulations reference to a sum of money as winnings shall be limited to any actual cost to the casino operator and may include the actual cost to the operator of non-cash payouts.

(3) For each card game and any other game in which the casino operator is not a party to a wager and does not have a stake in the outcome of the game, gross gaming revenue equals all money received by the casino operator as compensation for conducting the game.

(4) If the casino operator provides periodic payments to satisfy a payout resulting from a wager, the initial instalment payment when paid and the actual cost of a payment plan approved pursuant to these Regulations and funded by the casino operator may be deducted from winnings.

(5) For any funding method which merely guarantees the casino operator's performance and under which the casino operator makes payments directly out of cash flow for example, irrevocable letters of credits, surety bonds, or other similar methods, the casino operator may only deduct such payments when paid to the patron.

(6) For payouts by an inter-casino linked jackpot, each casino operator may deduct from winnings its pro rata share of the inter-casino linked jackpot payout.

(7) Payout receipts and wagering vouchers issued for play at the casino premises shall be deducted from gross gaming revenue as jackpot payouts in the tax period the receipts or vouchers are issued by the casino.

(8) Payout receipts and wagering vouchers deducted from gross gaming revenue that are not redeemed within the expiry period as stated on the payout receipt or voucher shall be included in gross gaming revenue in the tax period during which the expiry date falls.

### **Rate of Casino Tax**

6 The rate at which casino tax shall be charged pursuant to the Act shall be ten percentum of gross gaming revenue.

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### **Time for payment of tax, etc.**

7 (1) Every casino operator shall within ten working days after the end of each tax period—

- (a) submit to the Commission a return specifying the gross gaming revenue earned and the amount and details of any deductions permitted by these Regulations; and
- (b) pay to the Commission by way of balance transfer to the General Reserve the casino tax payable as set out in the return.

(2) Where the Commission is of the opinion that it would be unduly onerous to require a casino operator to furnish returns within the time specified in paragraph (1), the Commission may, by notice in writing, vary the time within which the casino operator is required to furnish returns to the Commission.

(3) Where the Commission is of the opinion that it would be unduly onerous to require a casino operator to furnish returns relating to each tax period, the Commission may, by notice in writing authorise the casino operator to furnish returns relating to such tax periods as may be specified in the notice, and that person shall, while that notice remains unrevoked, furnish returns accordingly.

(4) Where a casino operator fails to file a return with the Commission as required under this Regulation, the Commission may by notice in writing require the casino operator to file returns for any such period, in any such manner, and at any such intervals as the Commission sees fit and the casino operator shall comply with the notice until such time as it is revoked.

(5) The Commission may where it thinks fit extend the time for payment of any tax or permit the payment of tax to be made by installments within such period and upon such conditions as the Commission may determine.

### **Form of and information required in tax return**

8 (1) The Commission may direct by notice in writing the form of or the information to be contained in the tax return filed by the casino operator.

(2) Where a casino operator has filed a return, he may with the written permission of the Commission file an updated return for the purpose of clarifying or correcting the previous return provided that any additional tax payable is paid at the time of submitting the updated return.

(3) Where an updated return is submitted to the Commission—

- (a) the Commission shall apply any applicable late fees unless the Commission is satisfied that the updated information could not reasonably have been included in the original return;
- (b) where the Commission has completed any investigation or is satisfied that no investigation is required, the Commission shall remit to the casino operator any overpayment of tax less any applicable fees and without interest.

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### **Permitted deductions**

9 (1) For the purposes of these Regulations “irrecoverable debt” means an amount that—

- (a) has been included as a wager in the calculation of gross gaming revenue in any tax period;
- (b) was provided to the patron by way of credit facilities and such facility has at all times been and remains lawful and enforceable; and
- (c) there is no longer any reasonable chance that the amount will be paid by the debtor or anyone on his behalf.

(2) A casino operator may deduct from the gross gaming revenue for each tax period the following—

- (a) The lesser of—
  - (i) irrecoverable debts; or
  - (ii) irrecoverable debts up to a sum equal to three percentum of the gross gaming revenue for the tax period in which the deduction is sought; and
- (b) such other items as may be agreed in writing between the Commission and the casino operator.

(3) Any sums deducted as an irrecoverable debt must be reviewed and approved by the Compliance Committee established under section 52A of the Act.

(4) Any sums deducted as an irrecoverable debt and subsequently recovered in part or in full must be included as a wager in the calculation of gross gaming revenue in the tax period in which the sum is recovered.

### **Investigation and review of tax return**

10 (1) Upon receipt of a tax return, the Commission shall review the return and may cause an investigation to be undertaken.

(2) The Commission may at any time require by notice in writing a casino operator, or any other person the Commission reasonably believes appropriate—

- (a) to attend and give evidence before the Commission and may further require such evidence to be given under oath;
- (b) to provide the Commission with any records, documents, or other information to assist it in its review of the tax return; and
- (c) to furnish evidence in writing and may further require such evidence to be by affidavit.

(3) Where any person is required pursuant to a notice under paragraph (2) to furnish the Commission with any records, documents, or information, that person shall

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do so not later than the time stated in the notice, which may be extended by the Commission, and failure to do so shall be an offence.

(4) A person who furnishes material information under this regulation which he knows or has reasonable grounds for believing is false commits an offence.

(5) Without prejudice to paragraphs (3) and (4), any failure by any person to comply with a notice under paragraph (2) shall be grounds for disciplinary action by the Commission against the individual and/or the casino operator.

(6) An inspector or other person authorized by and acting on behalf of the Commission shall have the power to enter the casino premises to inspect all books, records, and other documents which in the opinion of the inspector may be relevant for the purpose of ascertaining whether the provisions of the Act and these Regulations have been complied with and shall be permitted to make extracts from or copies of any such books, records or documents.

### **Determination of casino tax payable**

11 (1) The Commission may by notice in writing require the casino operator to pay such casino tax as the Commission reasonably considers properly payable for the tax period in question and such tax shall be paid not later than the time stated in the notice.

(2) Notice pursuant to paragraph (1) may only be given where any casino operator—

- (a) fails to file a return in accordance with these Regulations;
- (b) fails to keep or produce any documents, records or information as required by these Regulations;
- (c) in the opinion of the Commission has filed a materially incomplete or inaccurate return;
- (d) in the opinion of the Commission has failed to comply with the Act or these Regulations and has been provided reasonable opportunity to comply.

(3) Notice served pursuant to paragraph (1) must be served not later than six years after the end of the tax period to which the notice relates.

(4) Paragraph (3) shall not apply where any form of fraud or wilful default has been committed by or on behalf of or with the knowledge of the casino operator.

### **Penalty for late payment**

12 If any tax payable under the Act and in accordance with these Regulations is not paid at or before the time fixed by or under the Act or these Regulations, a penalty for late payment shall be payable in an amount equal to ten percentum of the unpaid tax for every month or part of a month during which the tax is unpaid.

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### **Objections**

13 (1) A casino operator who is dissatisfied with any decision, determination or assessment made by the Commission regarding his liability to pay tax may, within thirty days of the date of the decision, determination or assessment, lodge with the Commission an objection in writing stating the grounds of the objection and enclosing any relevant evidence not already in the possession of the Commission.

(2) The Commission shall consider the objection and may undertake any further investigation and shall provide the casino operator with its written decision either allowing the objection in full or in part, or disallowing the objection and giving reasons.

(3) If the objection is allowed in whole or in part and the amount of tax is reduced the Commission shall credit to the casino operator the excess amount of tax paid, such credit to be applied to future tax obligations of the casino operator.

(4) Where an objection has been raised, the Commission may, when calculating the Net Casino Tax, deduct an amount up to the maximum amount that would be paid to the casino operator if the objection is allowed in full.

(5) A casino operator wishing to appeal a decision of the Commission under this regulation may appeal to the Tax Appeal Tribunal as established under section 24 of the Taxes Management Act 1976.

(6) For the purposes of paragraph (5) sections 25 to 30 of the Taxes Management Act 1976 shall apply mutatis mutandis in respect of any further appeal by a casino operator dissatisfied by a decision under paragraphs (1) to (4).

### **Recovery of taxes**

14 (1) All taxes payable under these Regulations shall be a debt owing to the Commission and any proceedings for the recovery of tax may be brought as a civil debt recovery in a court of summary jurisdiction by and in the name of the Commission and any officer of the Commission may conduct such proceedings.

(2) A certificate signed by an officer of the Commission stating the amount of tax due and unpaid, shall in the absence of manifest error, be conclusive evidence that the sum stated in the certificate is unpaid and is due to the Commission and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

### **Payment of funds from General Reserve to the consolidated fund, etc.**

15 (1) At such time as may be determined by the Commission, the Commission may transfer from the General Reserve, with the approval of the Minister—

- (a) an amount necessary to provide the Commission with sufficient funds to meet the Commission budget;
- (b) such sums as may be necessary to ensure that the Commission has available, in addition to the Commission budget, a reserve of a sum equal to 20% of the Commission budget.

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(2) Within 30 days of the accounts of the Commission being audited and approved in accordance with section 23 of the Act, the Commission shall transfer to the Consolidated Fund a sum equal to the Net Casino Tax as stated in the audited accounts.

(3) In the event that any loans, grants or other facilities have been made available to the Commission by the Government, any sums transferred from the General Reserve to the Consolidated Fund shall be deemed as part of the repayment to the Government and the amount outstanding on any such loans, grants or other facilities shall be reduced accordingly.

(4) Where more than one such loan, grant or facility is outstanding the Commission may inform the Minister as to the appropriate allocation of such funds to the respective loan, grant or facility.

*[Regulation 15 amended by 2023 : 15 s. 5 effective 31 March 2023]*

### **Offences**

16 (1) A person who commits an offence under regulations 4(3), 10(3) and 10(4) is liable on summary conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(2) A person is not guilty of an offence under this regulation if he took all reasonable steps and exercised all due diligence to avoid committing the offence.

Made this 28th day of March 2017

Acting Minister of Tourism, Transport and Municipalities

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*[Amended by:*

2021 : 23

2023 : 15]