



## Financial Crimes Enforcement Network Department of the Treasury

### **FinCEN Ruling 2002-1 – Guidance on Using “Gross Revenue” to Determine CTR Exemption Eligibility**

January 15, 2002

Dear [ ]:

This responds to your letter of September 26, 2001, on behalf of [ ] (the “Bank”), to the Internal Revenue Service-Detroit Computing Center (IRS), regarding the requirement to file Currency Transaction Reports (CTRs) in accordance with the Bank Secrecy Act (BSA), 31 U.S.C. 5311 et seq., and its implementing regulations, 31 C.F.R. Part 103.

As you know, the matter was referred to the Financial Crimes Enforcement Network (FinCEN) for disposition. The BSA regulations allow depository institutions to exempt large cash transactions for certain customers from the requirements to file CTRs. The categories of exempt persons and other requirements relevant to the proper administration of the exemption rules are set forth at 31 C.F.R. § 103.22 (d). Determining if a business is eligible for exemption from CTR reporting as a non-listed business depends, in part, on whether the customer is primarily engaged in one or more of the ineligible business activities listed in 31 C.F.R. § 103.22(d)(6)(viii). Non-listed type businesses primarily engaged in certain ineligible business activities, such as gaming of any kind, are not eligible for an exemption. However, if a business engages in multiple business activities, such as sales of cigarettes and lottery tickets, it may be treated as an exempt, non-listed business so long as no more than 50% of its gross revenues is derived from one or more of the ineligible business activities listed in § 103.22 (d)(6)(viii).

You have asked whether, in determining if a business derives more than 50% of its gross revenue from gaming, the bank should consider the amount of money that the business takes in on behalf of the state lottery system, or the amount of money that the store actually earns from such sales. The term “gross revenue” in the CTR exemption regulations is intended to encompass the amount of money that a business actually earns from a particular activity, rather than the sales volume of such activity conducted by the business.

Therefore, based on information provided in your letter, it appears that [ ] qualify for exemption from CTR reporting and were properly exempted from March 31, 2000, through September 13, 2001. Accordingly, FinCEN will not require backfiled CTRs for the companies named above during this time period.

In arriving at our decision to resolve this matter without backfiled CTRs, FinCEN relied on the accuracy and completeness of the information provided by the Bank. Nothing precludes FinCEN from seeking further action should any of this information prove inaccurate or incomplete.

FinCEN considers BSA compliance by banks to be a critical part of the government's effort against money laundering and other financial crimes. BSA forms, including CTRs and suspicious activity reports, must be filed in an accurate, timely manner. Furthermore, while FinCEN encourages banks to adopt the exemption rules, as set forth in 31 C.F.R. 103.22(d), care should be taken to ensure such exemptions are implemented and maintained in accordance with the BSA. This letter reminds the Bank that such compliance can only be accomplished by way of a sound BSA compliance program with appropriate internal controls, training and testing.

Should you have any questions, please contact [ ] [FinCEN's Regulatory Helpline at (800) 949-2732.]

Sincerely,

//signed//

Christine E. Carnavos  
Executive Associate Director  
Office of Compliance and Regulatory Enforcement

cc: [ ], Chief, Special Activities Section, FDIC  
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