

NATIONAL INDIAN GAMING COMMISSION  
PRELIMINARY DRAFT FOR DISCUSSION PURPOSES ONLY

1 §514.1 Annual fees.

2 (a) Each gaming operation under the jurisdiction of the Commission shall pay to the  
3 Commission annual fees as established by the Commission. The Commission, by a vote  
4 of not less than two of its members, shall adopt the rates of fees to be paid.

5 (1) ~~Each gaming operation subject to these regulations shall calculate the annual fee~~  
6 ~~based on the gaming operation's fiscal year.~~

7 (2) The Commission shall adopt preliminary rates for each calendar year no later than  
8 ~~March 1st of each year, and, if considered necessary, shall modify those rates no later~~  
9 ~~than June 1st of that year.~~

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10 (3) The Commission shall publish the rates of fees in a notice in the Federal Register.

11 (4) The rates of fees imposed shall be—

12 (i) No more than 2.5 percent of the first \$ 1,500,000 (1st tier), and

13 (ii) No more than 5 percent of amounts in excess of the first \$1,500,000 (2nd tier) of the  
14 assessable gross revenues from each gaming operation subject to the jurisdiction of the  
15 Commission.

16 (5) If a tribe has a certificate of self-regulation, the rate of fees imposed shall be no more  
17 than .25 percent of assessable gross revenues from self-regulated class II gaming  
18 operations.

19 (b) For purposes of computing fees, assessable gross revenues for each gaming operation  
20 are the annual total amount of money wagered on class II and III games, admission fees  
21 (including table or card fees), less any amounts paid out as prizes or paid for prizes  
22 awarded, and less an allowance for amortization of capital expenditures for structures as  
23 reflected in the gaming operation's audited financial statements.

24 (1) Unless otherwise provided by the regulations, generally accepted accounting  
25 principles shall be used.

26 (2) The allowance for amortization of capital expenditures for structures shall be either:

27 (i) An amount not to exceed 5% of the cost of structures in use throughout the year and  
28 2.5% (two and one-half percent) of the cost of structures in use during only a part of the  
29 year; or

30 (ii) An amount not to exceed 10% of the cost of the total amount of ~~depreciation expenses~~  
31 for the year.

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32 (3) Examples of computations follow:

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1 (i) For paragraph (2)(i) of this section:

Gross gaming revenues:		
Money wagered	\$1,000,000	
Admission fees	5,000	
		1,005,000
Less:		
Prizes paid in cash	\$500,000	
Cost of other prizes awarded	10,000	510,000
Gross gaming profit	495,000	
Less allowance for amortization of capital expenditures for structures:		
Capital expenditures for structures made in—		
Prior years	750,000	
Current year	50,000	
Maximum allowance:		
\$750,000 × .05 =	37,500	
50,000 × .025 =	1,250	38,750
Assessable gross revenues		456,250

2 (ii) For paragraph (2)(ii) of this section:

Gross gaming revenues:		
Money wagered		\$1,000,000
Admission fees	5,000	1,005,000
Less:		
Prizes paid in cash	\$500,000	
Cost of other prizes awarded	10,000	510,000
Gross gaming profit	495,000	

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Less allowance for amortization of capital expenditures for structures:		
Total amount of amortization/depreciation per books	400,000	
Maximum allowance:		
$\$400,000 \times .10 =$		40,000
Gross gaming revenues	455,000	
Assessable gross revenues	455,000	

1 (4) All class II and III revenues from gaming operations are to be included.

2 (c) Each gaming operation subject to the jurisdiction of the Commission and not exempt  
3 from paying fees pursuant to the self-regulation provisions shall file with the Commission  
4 quarterly statements showing its assessable gross revenues for the previous fiscal year.

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5 (1) These statements shall show the amounts derived from each type of game, the  
6 amounts deducted for prizes, and the amounts deducted for the amortization of structures;

7 (2) The quarterly statements shall be sent to the Commission within three (3) months, six  
8 (6) months, nine (9) months, and twelve (12) months of the end of the gaming operation's  
9 fiscal year.

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10 (3) The quarterly statements shall identify an individual or individuals to be contacted  
11 should the Commission need to communicate further with the gaming operation. The  
12 telephone numbers of the individual(s) shall be included.

13 (4) Each gaming operation shall determine the amount of fees to be paid and remit them  
14 with the quarterly statement required in paragraph (c) of this section. The fees payable  
15 shall be computed using:

16 (i) The most recent rates of fees adopted by the Commission pursuant to paragraph (a)(1)  
17 of this section,

18 (ii) The assessable gross revenues for the previous fiscal year as calculated using part (b)  
19 of this sub-section, and

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20 (iii) The amounts paid and credits received during the fiscal year.

21 (5) Each quarterly statement shall include the computation of the fees payable, showing  
22 all amounts used in the calculations. The required calculations are as follows:

23 (i) Multiply the 1st tier assessable gross revenues, as calculated using part (b) of this sub-  
24 section, by the rate for those revenues adopted by the Commission.

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1 (ii) Multiply the 2nd tier assessable gross revenues, as calculated using part (b) of this  
 2 sub-section, by the rate for those revenues adopted by the Commission.

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3 (iii) Add (total) the results (products) obtained in paragraphs (c)(5)(i) and (ii) of this  
 4 section.

5 (iv) Multiply the total obtained in paragraph (c)(5)(iii) of this section by 1/4.

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6 (v) The amount computed in paragraph (c)(5)(iv) of this section is the amount to be  
 7 remitted.

8 (6) Examples of fee computations follow:

9 (i) Where a filing is made for the first quarter of the fiscal year, the previous year's  
 10 assessable gross revenues as calculated using part (b) of this sub-section are \$2,000,000,  
 11 the fee rates adopted by the Commission are 0.0% on the first \$1,500,000 and .08% on  
 12 the remainder, the amounts to be used and the computations to be made are as follows:

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1st tier revenues—\$1,500,000 × 0.0% =	
2nd tier revenues—500,000 × .08% =	\$400
Annual fees	400
Multiply for fraction of year— <u>1/4</u> or	<u>.25</u>
Fees for first payment	<u>100</u>
Amount to be remitted	<u>100</u>

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13 (7) If a gaming operation changes its fiscal year, it shall notify the NIGC of the change  
 14 within thirty (30) days. The NIGC may request that the tribe prepare and submit to the  
 15 Commission the fees and statements required by this subsection for the stub period from  
 16 the end of the previous fiscal year to the beginning of the new fiscal year. The submission  
 17 must be sent to the Commission within ninety (90) days of the NIGC's request.

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¶ (e) Failure to pay fees, any applicable penalties, and interest related thereto may be grounds for:¶

(1) Closure, or¶  
 (2) Disapproving or revoking the approval of the Chairman of any license, ordinance, or resolution required under this Act for the operation of gaming.¶

(f)(7) Tribes whose fiscal year does not coincide with the calendar year shall prepare and submit to the Commission the fees and statements required by this subsection for the stub period from the end of the previous calendar year to the beginning of the new fiscal year.

18 (8) The statements, remittances and communications about fees shall be transmitted to  
 19 the Commission at the following address: Comptroller, National Indian Gaming  
 20 Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20005. Checks should be  
 21 made payable to the National Indian Gaming Commission (do not remit cash).

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22 (9) In the event that a gaming operation fails to submit a fee payment or quarterly  
 23 statement in a timely manner, the Chair of the Commission may issue a notice specifying:

24 (i) the date the statement and/or payment was due;

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1 (ii) the number of calendar days late the statement and/or payment was submitted;

2 (iii) a citation to the federal or tribal requirement that has been or is being violated;

3 (iv) the action being considered by the Chair; and

4 (v) notice of rights of appeal pursuant to part 577 of this chapter.

5 (10) Within fifteen (15) days of service of the notice, a respondent may submit written  
6 information about the notice to the Chair. The Chair shall consider any information  
7 submitted in determining the facts surrounding the notice and the amount of the late fee,  
8 if any.

9 (11) When practicable, within thirty (30) days of issuing the notice described in  
10 subsection (9) to a respondent, the Chair of the Commission may assess a proposed late  
11 fee against a respondent for each failure to file a timely quarterly statement and/or fee  
12 payment:

13 i) For statements and/or fee payments one (1) to thirty (30) calendar days late, the Chair  
14 may propose a late fee of up to (\$ ) (%);

15 ii) For statements and/or fee payments thirty-one (31) to sixty (60) calendar days late, the  
16 Chair may propose a late fee of up to (\$ ) (%);

17 iii) For statements and/or fee payments sixty-one (61) to ninety (90) calendar days late,  
18 the Chair may propose a late fee of up to (\$ ) (%);

19 iv) For statements and/or fee payments over ninety-one (91) calendar days late, the Chair  
20 may propose a late fee of up to (\$ ) (%);

21 v) The Chair may adjust a proposed late fee described in subsections 11(i)-(iv) by an  
22 amount that reflects the respondent's history of failing to file statements and/or fee  
23 payments as well as respondent's history of untimely submissions of statements and/or  
24 fee payments over the preceding five (5) years.

25 12) Statements and/or fee payments over ninety-two (92) calendar days late constitute a  
26 failure to pay the annual fee, as set forth in NIGC regulations, 25 C.F.R. § 573.6(a)(2). In  
27 accordance with § 573.6, if a tribe, management contractor, or individually owned  
28 gaming operation fails to pay the annual fee, the Chair may issue a notice of violation  
29 and, simultaneously with or subsequently to the notice of violation, a temporary closure  
30 order.

31 (13) Proposed late fees issued by the Chair may be appealed under part 577 of this  
32 chapter.

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1 (14) At any time prior to the filing of a notice of appeal under part 577 of this chapter, the  
2 Chair and the respondent may agree to settle the notice of late submission, including the  
3 amount of the proposed late fee. In the event a settlement is reached, a settlement  
4 agreement shall be prepared and executed by the Chair and the respondent. If a settlement  
5 agreement is executed, the respondent shall be deemed to have waived all rights to  
6 further review of the notice or late fee in question, except as otherwise provided  
7 expressly in the settlement agreement. In the absence of a settlement of the issues under  
8 this paragraph, the respondent may contest the proposed late fee before the Commission  
9 in accordance with part 577 of this chapter.

10 (15) If the respondent fails to request a hearing as provided in part 577 of this chapter, the  
11 notice and the proposed late fee shall become final orders of the Commission.

12 i) Late fees assessed under this part shall be paid by the person or entity assessed and  
13 shall not be treated as an operating expense of the operation.

14 ii) The Commission shall transfer the late fee paid under this subchapter to the U.S.  
15 Treasury.

16 (16) Interest shall be assessed at rates established from time to time by the Secretary of  
17 the Treasury on amounts remaining unpaid after their due date.

18 (d) The total amount of all fees imposed during any fiscal year shall not exceed the  
19 statutory maximum imposed by Congress. The Commission shall credit pro-rata any fees  
20 collected in excess of this amount against amounts otherwise due ~~according to sections~~  
21 (c)(2) and (c)(3) of this Part.

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22 (e) To the extent that revenue derived from fees imposed under the schedule established  
23 under this paragraph are not expended or committed at the close of any fiscal year, such  
24 funds shall remain available until expended to defray the costs of operations of the  
25 Commission.

26 §514.2 Fingerprint Fees

27  
28 (a) Tribes may submit fingerprint cards to the Commission for processing by the Federal  
29 Bureau of Investigation (FBI) and the Commission may charge a fee to process  
30 fingerprint cards on behalf of the tribes.

31  
32 (1) The Commission shall review annually the costs involved in processing fingerprint  
33 cards and, by a vote of not less than two of its members, shall adopt preliminary rates for  
34 each calendar year no later than March 1st of that year, and, if considered necessary, shall  
35 modify those rates no later than June 1st of that year.

36  
37 (2) The fingerprint fee charge shall be based on fees charged by the Federal Bureau of  
38 Investigation and costs incurred by the Commission. Commission costs include

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1 Commission personnel, supplies, equipment costs, and postage to convey the results to  
2 the requesting tribe.

3  
4 (3) Fees for processing fingerprint cards will be billed monthly to each Tribe for cards  
5 processed during the prior month. Tribes shall pay the amount billed within forty-five  
6 (45) days of the date of the bill.

7  
8 (4) The Chair may suspend fingerprinting card processing for a tribe that has a bill  
9 remaining unpaid for more than forty-five (45) days.

10 (5) Fees shall be sent to the following address: Comptroller, National Indian Gaming  
11 Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20005. Checks should be  
12 made payable to the National Indian Gaming Commission (do not remit cash).

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