



Department of the Treasury  
Internal Revenue Service

www.irs.gov

Notice **1335**  
(October 2004)

# Gaming Activities

## *Tax Exempt and Government Entities Division*

---

Gaming is one of the most common and successful types of fundraising engaged in by tax-exempt organizations. Organizations that conduct or sponsor gaming, whether for one night or throughout the year, whether in their primary place of operation or at a remote location, are subject to federal tax law requirements and must be aware of the requirements for income, employment, and excise taxes. The following questions and answers will help an organization determine whether it has taxable income from gaming and what forms it may need to file.

- **What is gaming?**

The term gaming includes bingo, beano, raffles, lotteries, pull-tabs, scratch-offs, pari-mutuel betting, Calcutta wagering, pickle jars, punchboards, tip boards, tip jars, certain video games, and other games of chance. Most forms of gaming, if regularly carried on, result in unrelated business income (UBI) and the income may be taxable.

- **What is unrelated business income (UBI)?**

UBI is income from a **regularly carried on** trade or business that is not substantially related to the organization's exempt purpose. This income is subject to unrelated business income tax (UBIT), unless an exception applies.

- **If an organization uses the income from gaming to pay expenses associated with furthering its exempt purpose, why is the income taxable?**

The income may be taxable because gaming is generally a business activity, not a charitable activity that furthers an organization's exempt purpose. The fact that an organization uses the proceeds from its gaming to pay for its charitable programs does not make gaming a charitable activity.

- **What is the definition of "regularly carried on" trade or business?**

The facts and circumstances of each situation will determine whether a gaming activity is "regularly carried on." Some factors an organization should consider are:

- The frequency of the activity,
- The length of time it has continually conducted the activity,
- How it promotes the activity, and
- How nonexempt businesses conduct similar activities.

- **What are the exceptions to UBIT that apply to gaming activities?**

The following are the most common exceptions that may be available to exclude gaming income from UBIT.

- Substantially all of the work in carrying on the activity is performed for the organization without compensation. For this purpose, **compensation** has a broad interpretation and includes:
  - Providing free drinks or food to workers if the free items are more than a mere gratuity and intended to be compensation for the workers' services,
  - Tips workers receive from patrons at the gaming sessions, and
  - Waiving or reducing fees for workers on items or services normally charged to non-workers.
- The income is from a traditional bingo game that is:
  - Legal under state and local law, and
  - Not ordinarily carried out on a commercial basis in the jurisdiction where the charity conducts the game.

To qualify as a **traditional bingo game**, wagers must be placed, winners must be determined, and prizes must be distributed in the presence of all persons placing wagers in that game. Instant bingo, mini bingo, and similar scratch-off cards are pull-tab games, not bingo and therefore they generate UBI unless another exception applies.

- **How does an organization report its income from gaming?**

An organization must file Form 990-T, *Exempt Organization Business Income Tax Return*, if it has gross income from an unrelated trade or business of \$1,000 or more in a year. In addition, if the organization has gross receipts (from both gaming and other exempt and taxable activities) in excess of \$25,000, it must file Form 990, *Return of Organization Exempt From Income Tax*, even if it is not required to file Form 990-T.

The returns are due by the 15<sup>th</sup> day of the 5<sup>th</sup> month following the end of the organization's tax year. However, an organization can get an automatic six-month extension of time to file by filing Form 8868, *Application for Extension of Time To File Exempt Organization Return*.

- **Must an organization report an individual's winnings or withhold income tax on those winnings?**

An organization may have to complete Form W-2G, *Statement for Recipients of Certain Gambling Winnings*, to report an individual's winnings and, if applicable, any federal income tax withheld on the winnings. Generally, the requirement for reporting and withholding depends on:

- The type of gaming,
- The amount of the gaming winnings, and
- The ratio of the winnings to the wager.

- **Is an organization subject to any other taxes on its gaming activities?**

In addition to UBIT, certain gaming activities may be subject to wagering excise and occupational taxes. The wagering excise tax applies to the amount of the wager; the occupational tax applies to persons receiving wagers. These taxes do not apply to drawings conducted by an exempt organization so long as no part of the net earnings inures to the benefit of any private shareholder or individual. An organization pays the wagering excise tax by filing Form 730, *Monthly Tax on Wagering*. To pay the occupational tax, an organization files Form 11C, *Occupational Tax and Registration Return for Wagering*.

- **Where can an organization get more information?**

For additional information, see the instructions for each form noted above, or call TE/GE Customer Account Services at (877) 829-5500. In addition, the following publications may be helpful.

- Publication 3079, *Gaming Publication for Tax-Exempt Organizations*
- Publication 598, *Tax on Unrelated Business Income of Exempt Organizations*

Forms and publications are available on our website at [www.irs.gov](http://www.irs.gov) or by calling (800) 829-3676.