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BASIS AND PURPOSE FOR RULE 14

The purpose of Rule 14 is to establish the rate of the gaming tax on adjusted gross proceeds of gaming in compliance with section 44-30-601, C.R.S., to provide for security for the payment of gaming taxes to the Department, and to provide for the payment of gaming taxes by electronic fund transfer and to change the method of filing monthly gaming tax returns to electronically transmitted. The statutory basis for purpose for Rule 14 is found in sections 44-30-201, C.R.S., 44-30-203, C.R.S., 44-30-302, C.R.S., 44-30-602, C.R.S., and 44-30-604, C.R.S., (1991).

RULE 14 GAMING TAX

30-1401 Gaming and device taxes.

Annually the Commission shall conduct rule making hearings concerning the gaming tax rate and device fee rate for the subsequent gaming year. Testimony regarding the consideration of the gaming tax shall include the following topics to be heard during the following time periods. Additional appropriate topics relating to these issues may also be considered as deemed necessary by the Commission. Furthermore, in addition to the topics outlined below, the Commission may receive testimony from any member of the public during any of the following time periods on the other topics relevant to the consideration of the gaming tax and device fee rates. The following general schedule is established to provide structure to the annual consideration by the Commission, however rigid compliance is not mandatory and this regulation shall in no way be construed to limit the time periods or subject matters which the Commission may consider in determining the various tax rates. During the month of April, the Commission shall receive testimony regarding the methodology to be utilized in the consideration of the gaming tax for the subsequent gaming year. In May, the Commission shall receive testimony regarding the following topics: the expenditure impacts and revenue benefits from limited gaming in the cities of Black Hawk, Central City, and Cripple Creek, and the counties of Gilpin and Teller; the expenditure impacts and revenue benefits from limited gaming for statutorily defined entities eligible for the Local Government Limited Gaming Impact Fund; and the expenditure impacts from limited gaming on agencies of the State of Colorado. During the month of June the Commission shall receive testimony regarding the financial conditions of licensees pertinent to the consideration of the gaming tax pursuant to the criteria expressed in part 6 of the limited gaming act of 1991. (30-1401(1) temp. 5/12/93. perm. 6/30/93)(30-1401 1/30/98 amended perm 07/30/00) *Eff 07/30/2008*

(1) Each retail licensee conducting or offering limited gaming to the public shall be liable for, and shall pay to the Department of Revenue, a limited gaming tax upon the adjusted gross proceeds from limited gaming. The tax imposed by Section 44-30-601, C.R.S.(1991), shall be determined in accordance with the following schedule: *Eff 07/30/2008*

If the Annual Adjusted Gross Proceeds are:	The Tax is:
Up to $2,000,000 (Including $2,000,000)	0.25%
Over $2,000,000 to $5,000,000	2%
Over $5,000,000 to $8,000,000	9%
Over $8,000,000 to $10,000,000	11%
Over $10,000,000 to $13,000,000	16%
Over $13,000,000	20%

(30-1401(1) temp. 9/29/94. perm. 11/30/94)(30-1401(1) temp. 10/01/96, perm. 10/30/96)(30-1401(1) temp 07/01/99. perm. 07/30/99) *Eff 07/01/2013*

(2) (a) Payment of the gaming tax by the retail licensee shall be made to the Department by an electronic funds transfer or by any other method permitted in articles 20, 21, and 26 of title 39, C.R.S. Electronic funds transfer is defined to be Automated Clearing House (ACH) debit. Any electronic funds transfer shall be made using ACH debit transaction in the Cash Concentration or Disbursement (CCD) entry format with addendum record as defined by the 1994 ACH rules published by the National Automated Clearing House Association. The data contained in the addendum record shall be in the format of the tax payment (TXP) banking convention published by the National Automated Clearing House Association in 1990. *(The references to the rules and conventions of the National Automated Clearing House Association in this regulation do not include later amendments or editions of this referenced material. Certified copies of these rules and conventions are on file at the Department of Revenue and may be obtained or examined by contacting the manager of Deposit Control, 1375 Sherman Street, Denver, Colorado 80261.)* The payment for gaming taxes shall be made separately and apart from any other taxes which are paid to the Department. In addition to the payment, the retail licensee shall electronically transmit to the Department a tax return in the format provided by the Department. The return shall be transmitted to be received by the Department no later than the 15th day of the month succeeding the calendar month in which the adjusted gross proceeds were received by the retail licensee or the due date if later in accordance with Section 39-21-119(3) C.R.S. (1994). All monthly gaming tax returns beginning with the return for October 1994 taxes shall be transmitted electronically. *Eff 12/30/2008*

(b) Payment is timely if the payment settles to the Departments bank account by the 16th day of the month succeeding the calendar month in which the adjusted gross proceeds were received by the retail licensee or the due date if later in accordance with Section 39-21-119(3) C.R.S. (1994). *Eff 04/30/2008, Amended 8/14/15*

(c) The electronic tax return shall provide a computation of the monthly tax due based on the annual tax rate schedule adopted by the Commission, and such computation shall also include the computation for charitable gaming adopted by the Commission. The annual period for the computation of taxes due on the adjusted gross proceeds shall commence on October 1 of each calendar year and end on June 30, 1998, and subsequently, shall commence on July 1 of each calendar year and end on June 30 of the next succeeding calendar year.

(3) Charitable gaming conducted pursuant to the provisions of Part 9 of Article 30, of Title 44, C.R.S., shall be subject to a flat limited gaming tax of three (3) percent of the adjusted gross proceeds collected by the retailer sponsoring such charitable gaming event. The remittance of such gaming tax shall be made in the same manner as set forth in paragraph (2) above.

(4) (a) (Deleted effective July 1, 1999)

(b) (Deleted effective June 30, 2002)

(5) The provisions of Articles 20, 21, and 26 of Title 39, C.R.S., shall govern the administration, collection and enforcement of this section, except to the extent that such articles and this section are inconsistent. Administration shall include, but not be limited to, assessing deficiencies, issuing refunds, providing administrative hearings for proposed assessments or refunds of taxes, and issuing jeopardy assessments.

30-1402 Gaming tax - bonds and sureties.

(1) Where the Commission has reason to believe that a licensee may not in the future timely file and pay its gaming taxes, the Commission may determine that the licensee shall furnish an assignment of security or surety bond as provided in subparagraphs (2) through (6) of this regulation.

(2) Each retail licensee, if ordered by the Commission, must have in full force and effect at all times a valid surety bond, with a penal sum in an amount to be set by the Commission, to ensure payment of gaming taxes to the Commission. The beneficiary, or payee, on any such bonds shall be the Colorado Limited Gaming Control Commission.

(3) The surety on all bonds for retail licensees shall be a corporate surety authorized to do business in the state of Colorado having a paid-in capitalization of not less than $500,000.00.

(4) Surety bonds shall be on forms either approved or furnished by the Division. A bond must be filed with the Division prior to any retail licensee conducting or permitting limited gaming.

(5) In addition to any other requirements, all bonds filed with the Division must comply with the following:

(a) The name, including the full given name, of each individual party to the bond must be written in the heading thereof, and each such party shall sign the bond with the party's usual signature, or the bond may be executed in the party's name by a duly empowered attorney-in-fact.

(b) In the case of a partnership, the trade name of the firm, followed by the names of all the members thereof, shall be given in the heading. In executing the bond the firm name shall be typed or written, followed by the word “By” and the usual signatures of all partners, or the signature of any partner duly authorized to sign the bond in behalf of the firm, or a duly empowered attorney-in-fact.

(c) If the principal is a corporation, the heading shall give the corporate name, the name of the state under the laws of which it is organized, and the location of the principal office, and the location of the principal agent in the state of Colorado if a foreign corporation; and the bond shall be executed in the corporate name, immediately followed by the usual signature and the title of the person duly authorized to act in its behalf; and the bond shall be attested under the corporate seal; or the bond may be executed in the corporate name by a duly empowered attorney-in-fact. If the corporation has no corporate seal that fact should be stated.

(d) The official character and authority of the person or persons executing the bond for the principal, if a corporation shall be certified by the secretary or assistant secretary and there must be attached to the bond copies of as much of the records of the corporation as will show the official character and authority of the officer, or attorney-in-fact, signing, duly certified by the secretary or assistant secretary, under the corporate seal, if any, to be true copies.

(e) Each signature must be made in the presence of two witnesses (except where corporate seals are attached), who must sign their names as such.

(f) The surety or sureties on the bond must have no interest whatever in the business of the principal.

(g) All erasures or interlineations must be made before the bond is signed, and a statement to that effect attached to the bond.

(h) Liability of the surety on said bonds may be terminated only in the manner specified in the bond forms, and where no provision appears in said form for the termination of liability, liability on said bond may not be terminated by the surety. Liability on said bonds, however, shall not extend to or include acts done or liability incurred by the principal subsequent to the expiration of the license for which said bond was issued.

(i) In the event that any licensee to whom a license has been issued fails, refuses or neglects to furnish or to keep in full force and effect a surety bond as by law required, such license and all rights of the licensee thereunder may be canceled and thereafter be null and void from and after the date on which liability on said bond terminates.

(j) Neither the Commission, Division, nor the Department of Revenue, or any employee of any of them, is charged with any duty to give, receive, accept, transmit or deliver any notice of any character whatsoever to any licensee or the surety therefor relative to the liability, termination of liability, release, cancellation or other matters relating to said bonds; and failure to receive any such notice or any statement by any of these offices or any officer, agent or employee thereof shall be no defense against any prosecution or other proceeding for violation of law or violation of these rules and regulations.

(k) Any notice which may be given by the surety as permitted by the foregoing bond forms or by law or these rules and regulations may not be given by an agent for the surety unless such agent shall accompany the notice with a duly executed power of attorney authorizing the agent to give such notice or with a verified statement that same is on file with the Division.

(l) The principal on any bond filed pursuant to these rules and regulations may at any time substitute a new bond therefor and the superseded bond will be canceled as to any liability subsequent to the effective date of the new bond. Such new bond shall in all respects be subject to law and these rules and regulations in the same manner as the superseded bond.

(m) In the event of the insolvency of any surety or for any reason whereby the Director, or the Commission, shall have reason to believe that said surety is unsafe, or insufficient, so that said bond is not sufficient, then the Director or the Commission shall give notice in writing to the principal requiring said principal to furnish a new bond as a substitute on or before a day named in said notice, said day to be not less than 30 days from the time of delivery of such notice by mail or otherwise to the principal at the licensed premises. Such notice may be served by registered United States mail addressed to the licensee (principal) at the address given in the licensee's application as the location of said licensed premises. If a new bond with a surety qualified by law or these rules and regulations is not furnished on or before the date specified in said notice, all rights of the principal under this said license shall be ipso facto suspended on the date specified in said notice, but the original surety shall not be relieved thereby of any liability on the principal's bond.

(6) Any retail licensee may, with approval of the Commission, as an alternative to the filing of a surety bond with the Division, assign to the Division of Gaming for the use of the people of the State of Colorado a savings account, deposit in, or certificate of deposit issued by a state or national bank doing business in this state or by a state or federal savings and loan association doing business in this state. Procedures concerning the assignment shall be set by the Commission. An assignment as provided herein, or the filing of a surety bond, shall not relieve any retail licensee from the timely filing and payment of gaming taxes or the timely completion and filing of gaming tax returns. Upon the loss of its gaming licenses for any reason, the licensee may request, and receive from the Division within 60 days of the request, a release of any assignment or surety bond.

30-1403 Taxation of free play - adjustments to gaming tax rates based on casino free play. Effective 7/1/18

(1) Notwithstanding any procedural limitations in rule 30-1401, which are expressly directory rather than mandatory, and as specified in this rule and beginning in fiscal year 2018-2019, the Commission will modify gaming tax rates to reflect free play offered by licensees to players, which

practice is consistent with the Commission's constitutional authority to require that each licensee pay up to forty percent (40%) of its adjusted gross proceeds to the state of Colorado.

(A) Definitions.

(I) "Base year used for calculating free play tax rate adjustment eligibility" means the fiscal year ending June 30, 2018.

(II) "Free play" for slot machines means electronic downloadable credits and for table games means non-negotiable chips or match play coupons, provided by a licensee to specific players, enabling the play of a form of limited gaming by such players without the payment of consideration. "Free play" amounts have no actual monetary value that would allow them to be negotiated for cash, independent of the conduct of limited gaming.

(B) Reporting.

(I) By December 31, 2018, retail licensees must prepare and retain a summary of free play (delineating separately free play amounts from slot machines and free play amounts from table games) provided to players between July 1, 2017 and June 30, 2018, by calendar quarter, that was taxed. Such summary must be timely provided to the Division.

(II) After the software used for gaming tax reporting and payment has been updated to permit gaming tax reporting of free play on a monthly basis, each retail licensee must disclose as part of its gaming tax filing that month's free play amount (detailing separately slot machine free play and table games free play). At least annually, the Division shall aggregate licensees' reports of monthly free play amounts.

(C) Eligibility for yearly tax rate adjustments. Annually, the Commission will adjust gaming tax rates to reflect gaming taxes paid on that amount of adjusted gross proceeds which is directly attributable to free play by any retail licensees who reported free play to the Division only if:

(I) The resulting gaming tax revenue paid by all retail licensees during a fiscal year is at least the amount of gaming tax revenue in the base year used for calculating free play tax rate adjustment eligibility, plus a growth factor of 3.5 percent applied to gaming tax revenue in the base year used for calculating free play tax rate adjustment eligibility and compounded annually as of July 1 of that year; and

(II) A retail licensee's reduction in applicable gaming tax rates is limited to its percentage of the gaming taxes paid on free play that exceeds the minimum required threshold, set forth in rule 30-1403(1)(c)(i).

(D) Extension of free play tax rate adjustment: conditions. The practice of annually adjusting gaming tax rates will be extended after the end of fiscal year 2020-2021 only if the following two conditions are satisfied:

(I) Total reported free play, at the end of the third year during which retail licensees are eligible for tax rate adjustments, has grown by at least 10.87 percent over the free play usage in the base year used for calculating free play tax rate adjustment eligibility; and

(II) Total gaming tax revenue has grown by at least 10.87 percent, over the gaming tax revenue collected in the base year used for calculating free play tax rate

adjustment eligibility.

(2) At its August meeting each year, consistent with Rule 24, the Commission will issue a final decision to approve tax rate adjustments authorized by this rule to adjust qualifying licensees' gaming tax rates from the preceding fiscal year and thereupon refund overpayments of gaming taxes to qualifying licensees.

(A) At least fifteen (15) days prior to the Commission's August hearing each year, the Division will transmit to all licensees its findings concerning the eligibility calculations set forth in subsections (1)(c)(i) and (ii) of this rule as well as a list of proposed tax rate adjustments for each of the qualifying licensees. Any licensee and any other interested person may address the Commission in public or executive session, depending on the nature of the information to be transmitted, concerning the proposed tax rate adjustments before the Commission issues its final decision as to such adjustments.

(B) Within five (5) business days of qualified licensees' receipt of proposed tax rate adjustments, any dispute shall be submitted in writing to the Division for review. The Division shall submit a response to such licensee(s) within three (3) business days from receipt of the dispute. If an agreement is reached between the Division and the licensee(s), the matter shall be considered settled, and the dispute will not be brought before the Commission. Notice of any such dispute and settlement, to the extent it alters the amount of the proposed tax rate adjustments before the Commission, shall be sent to all qualified licensees within two (2) business days of resolution. Licensees may request, and are encouraged to participate in, an in-person meeting with the division in order to reach such an agreement.

(C) Such determination of the amounts of qualifying licensees' tax rate adjustments must be concluded before the commission certifies that fiscal year's distributions from the limited gaming fund and the extended limited gaming fund.