

SECTION F

Bingo, Lottery, Raffle, and Lottery by Pickle Card Tax

BASIC PROVISIONS AND TAX BASE

Bingo

A nonprofit organization wishing to conduct bingo where: (1) a charge is made to participate; or (2) any prize to be awarded exceeds \$25 in value, must apply for and obtain a license from the Nebraska Department of Revenue (Department).

All licensed organizations are subject to a tax of three percent of the bingo gross receipts. Bingo gross receipts include the sale or rental of all bingo cards, any rental fees charged for the use of bingo card monitoring devices, and admission charges. The bingo tax return is filed on a quarterly basis. A licensed organization cannot hold more than ten bingo occasions per month. The sale or rental of bingo cards to the public is not subject to sales tax.

A qualifying nonprofit organization not holding a bingo license can apply for a Special Event Bingo permit. A Special Event Bingo permit allows the conduct of small-stakes bingo games by an organization at a special event where bingo is not the primary function of the event. An organization may apply for two Special Event Bingo permits per calendar year, for an aggregate total of not more than fourteen days. Special Event bingo cards cannot be sold for more than 25 cents per card, and individual prizes are limited to no more than \$25 in value. Special Event Bingo is exempt from the licensing, tax, and reporting requirements imposed on licensed organizations.

All licensed organizations must purchase bingo equipment only from a licensed distributor. A licensed distributor must purchase bingo equipment only from a licensed manufacturer. Both distributors and manufacturers must obtain their licenses from the Department.

Lottery by Pickle Card

A nonprofit organization wishing to sell pickle cards must apply for and obtain a license from the Department. There are two types of licenses that authorize the sale of pickle cards. The first type of license allows pickle card sales at the nonprofit organization's location, including where it conducts bingo games. The second type of license also permits the sale of pickle cards at certain retail locations, known as pickle card operators. Any person or business holding a retail liquor license with the Nebraska Liquor Control Commission may apply to the Department to obtain a pickle card operator's license. If a licensed organization sells pickle cards at the location of a pickle card operator, it must also license at least one of its members as a sales agent. A sales agent is responsible for all marketing activity with a pickle card operator relative to selling the licensed organization's pickle cards. A licensed organization must apply for and obtain a pickle card operator authorization from the Department for each pickle card operator location selling the licensed organization's pickle cards.

All licensed organizations must purchase pickle card units only from a licensed distributor. A licensed distributor must purchase pickle card units only from a licensed manufacturer. Both distributors and manufacturers must obtain licenses from the Department.

A licensed distributor selling pickle card units to a licensed organization is subject to a tax of 10% of the definite profit of each pickle card unit sold. The definite profit of a pickle card unit is the gross proceeds of the unit less all possible prizes. The gross proceeds of a unit is determined by multiplying the number of pickle cards in the unit by the selling price per individual pickle card. The pickle card tax return is filed on a monthly basis. The tax paid by the licensed distributor is passed along to the licensed organization as a part of the selling price of a pickle card unit. The appropriate sales tax is also due on the sale of each pickle card unit, unless the licensed organization purchasing the unit is exempt from the payment of sales tax. The sale of individual pickle cards to the public either by a licensed organization or a licensed pickle card operator is not subject to sales tax.

If a licensed organization or pickle card operator uses a coin or currency-activated pickle card dispensing device, this device must be registered with the Department. An annual registration fee is required and each device must be affixed with a registration decal issued by the Department.

Lottery/Raffle

A nonprofit organization wishing to conduct a lottery (primarily cash prizes) with gross proceeds in excess of \$1,000 or a raffle (at least 80% of prizes are merchandise) with gross proceeds in excess of \$5,000 must first apply for and obtain a license from the Department. The permissible forms of winner determination for a lottery or raffle are limited to: (1) a random ticket drawing; or (2) a race using inanimate, buoyant objects floated along a river, canal, or other waterway (duck races). Lotteries exceeding \$1,000 in gross proceeds and raffles exceeding \$5,000 in gross proceeds are subject to a tax of two percent of the gross proceeds. The gross proceeds are based upon the selling price of the lottery or raffle ticket and include the value of any free tickets given away and any other consideration which is required to be paid by a participant in order to be eligible for the drawing. The sale of lottery or raffle tickets to the public is not subject to sales tax. The lottery/raffle tax return is filed on a quarterly basis, even if the gross proceeds for the tax period do not exceed the \$1,000/\$5,000 threshold. Upon the conclusion of the lottery or raffle, if the licensed organization's actual gross proceeds did not exceed the \$1,000/\$5,000 threshold, the licensed organization may request a refund of any tax previously paid.

County/City Lottery

Any county, city, or village that has approved a lottery in a special or regularly-scheduled election must apply for and obtain a license from the Department prior to commencing the lottery activity.

There are two forms of authorized lottery activity for a county, city, or village: (1) a traditional ticket drawing where winners are determined by a random drawing; and (2) keno. A community which has approved a lottery may conduct the lottery on its own or contract with another person or business to conduct the lottery on its behalf. The person or business that contracts with the community is called a lottery operator. A lottery operator must apply for and obtain a license from the Department. In addition to the licensing requirements for the community and the lottery operator, all persons who perform any work directly related to the conduct of the lottery must apply for and obtain a lottery worker license from the Department. Any location where tickets are to be sold, other than the lottery operator's location, must also be licensed as a sales outlet location.

A tax of two percent of the gross proceeds must be remitted to the Department on a quarterly basis by the county, city, or village. The net proceeds of the lottery must be used by the county, city, or village for community betterment purposes. Lottery equipment must be purchased only from a licensed manufacturer-distributor. A manufacturer-distributor of lottery equipment must obtain a license from the Department.

Tax Allocation

Forty percent of all taxes collected and referred to in this section are credited to the Charitable Gaming Operations Fund for administration and enforcement of the charitable gaming laws by the Department's Charitable Gaming Division. The remaining 60% is transferred to the General Fund. On or before November 1 of each year, \$50,000 is transferred from the Charitable Gaming Operations Fund to the Compulsive Gamblers Assistance Fund if these funds are available. Any funds remaining in the Charitable Gaming Operations Fund after the transfer to the Compulsive Gamblers Assistance Fund, which was not used by the Charitable Gaming Division for its administrative and enforcement duties, may be transferred to the General Fund at the direction of the Legislature.

Statutory Reference and Description	Estimated Tax Expenditure Cost (NA = Not Available)
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EXEMPTIONS

Section 9-230

The bingo tax does not apply to any bingo game for which no charge is made to participate, or no prize awarded exceeds \$25 in value. The bingo tax does not apply to Special Event Bingo.

Minimal

Regulation 35-215.01A

The bingo tax applies to the bingo gross receipts of the licensed organization. This tax does not apply to the sale of bingo equipment and supplies by a licensed distributor to a licensed organization, or to the sale of bingo supplies by some other retail business to the general public.

Minimal

Section 9-429

The lottery/raffle tax does not apply to any lottery conducted by a nonprofit organization when the gross proceeds do not exceed \$1,000, or to any raffle when the gross proceeds do not exceed \$5,000.

NA

4 U.S.C. 109 and 25 U.S.C. 2701, et al.

The bingo tax imposed on the gross receipts of a licensed organization is not applicable to bingo activity conducted by a federally recognized Indian tribe on Indian land within Nebraska. In addition, the pickle card tax imposed on a licensed distributor is not applicable to pickle card units sold by a licensed distributor to a federally recognized Indian tribe located either within Nebraska or located in another state if the sale of these pickle cards occurs only at the tribe's bingo operation on Indian land. Federal law prohibits state taxation relative to these activities.

NA
(State taxation
prohibited)

RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.