

9/28/10

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

SECTION I: PROFILE

(1) Agency:
Revenue

(2) Agency Number:

Identification Number: 15- 450

IRRC Number:

2882

2010 NOV - 3 P 3: 06

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(3) Short Title:

Amendments to Pennsylvania Gaming Cash Flow Management

(4) PA Code Cite:

61 Pa. Code §§ 1001.1 – 1001.10

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact:

Mary R. Sprunk, Regulatory Coordinator

Pennsylvania Department of Revenue, Office of Chief Counsel

P.O. Box 281061

Harrisburg, PA 17128-1061

(717) 783-7524

(717) 772-1459 (Fax)

Secondary Contact: Douglas A. Berguson (717) 346-4633

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The Department is amending Chapter 1001. Pennsylvania Gaming Cash Flow Management in order to promulgate regulations necessary to implement the cash flow management of table game revenue in this Commonwealth as enacted under Act 1 of 2010 (P.L. 1, No. 1) This regulation provides for accurate accounting and collection of revenues due the Commonwealth from table gaming operations. See the preamble for detailed explanations of the amendments.

(9) Include a schedule for review of the regulation including:

- | | |
|---|-------------------------------------|
| A. The date by which the agency must receive public comments: | <u>N/A See #22</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>1st Quarter, 2011</u> |
| D. The expected effective date of the final-form regulation: | <u>Upon final publication</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>Upon final publication</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

(10) Provide the schedule for continual review of the regulation.

This regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

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SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

Statutory authority for the regulation is set forth in the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S. §§ 1101 -1904). On January 7, 2010, the act was further amended by the act of January 7, 2010 (P.L. 1, No.1) (Act 1) to authorize table games in this Commonwealth.

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

The regulation is not mandated by any Federal law or court order. See answer to (11) above for the citation to the Pennsylvania law.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The regulation is necessary to clarify the Department of Revenue's responsibilities relating to the cash flow management for accurate accounting and collections of the different earmarked revenues due the Commonwealth from table gaming operations.

Licensed entities and certificate holders, as well as the general public, will benefit from having the Department's regulations consistent with the governing statute

Regulatory Analysis Form

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

No scientific data, studies or references are used to justify the Department's regulation.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

No parties should be adversely affected by the regulation.

(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

The Department, the Treasury Department, the Pennsylvania Gaming Control Board and entities licensed under the Pennsylvania Race Horse Development and Gaming Act will be required to comply with the regulation.

Regulatory Analysis Form

SECTION III: COST AND IMPACT ANALYSIS

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

This regulation does not increase costs or savings to the regulated community. No legal, accounting or consulting procedures are required by this regulation.

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

This regulation does not increase costs or savings to local governments. No legal, accounting or consulting procedures are required by this regulation.

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

This regulation does not increase costs or savings to state government. No legal, accounting or consulting procedures are required by this regulation.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. (See Responses to (17), (18) & (19).)

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
NA	NA	NA	NA	NA

Regulatory Analysis Form

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The Department is promulgating regulations necessary to implement the cash flow management of table game revenue in this Commonwealth as enacted under Act 1 of 2010 (P.L. 1, No.1). This regulation is necessary to clarify the Department of Revenue's responsibilities relating to the cash flow management for accurate accounting and collections of the different earmarked revenues due the Commonwealth from table gaming operations. Licensed entities and certificate holders, as well as the general public, will benefit from having the Department's regulations consistent with the governing statute. The implementation is expected to have a minimal fiscal impact.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

A copy of the regulation was forwarded to the Pennsylvania Bar Association, the Philadelphia Bar Association, the Pennsylvania Institute of Certified Public Accountants, the Pennsylvania Society of Public Accountants, and the Pennsylvania Chamber of Business and Industry. In addition, a copy of the regulation was forwarded to the Pennsylvania Licensed Casinos. The regulation is listed on the 4th Quarter, 2010 Regulatory Report on the Department's website and will be forwarded to interested parties upon request.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

There are no alternative regulatory provisions associated with the regulation.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no federal standards associated with this regulation.

Regulatory Analysis Form

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The regulations will not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation does not affect any other existing or proposed regulation of any other state agency.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

This regulation does not change existing reporting, recordkeeping or other paperwork requirements.

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(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special provisions were determined to be necessary.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

9/28/10

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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>By: _____ (Deputy Attorney General)</p>	<p>Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:</p> <p>PA Department of Revenue (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. 15- <u>450</u></p> <p>DATE OF ADOPTION _____</p> <p>BY <u>C. Daniel Hassell</u> C. Daniel Hassell TITLE <u>Secretary of Revenue</u> (Executive Officer, Chairman or Secretary)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies</p> <p>BY _____ <u>Andrew C. Clark</u> OCT 27 2010</p> <p>DATE OF APPROVAL _____ (Deputy General Counsel) (Chief Counsel-Independent Agency) (Strike-inapplicable-title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General Approval or objection within 30 days after submission.</p>
<p>DATE OF APPROVAL _____</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>		

NOTICE OF FINAL-OMITTED RULEMAKING

DEPARTMENT OF REVENUE

61 Pa. Code §§ 1001.1 - 1001.10

Amendments to Pennsylvania Gaming Cash Flow Management

PREAMBLE

The Secretary of Revenue (Secretary) under the authority contained under section 1501 of the Pennsylvania Race Horse Development and Gaming Act (act) (4 Pa.C.S. §§ 1101 - 1904) (relating to responsibility and authority of department)) by this notice of proposed rulemaking omitted, amends Chapter 1001, Pennsylvania Gaming Cash Flow Management. The act of January 7, 2010 (P.L. 1, No. 1) (Act 1) further amends the act to authorize table games in this Commonwealth. The Department of Revenue (Department) is proposing this rulemaking to facilitate its responsibilities of cash flow management of table game revenue under this act.

Because of time constraints associated with implementation of this statutory change, the Department of Revenue (Department), under section 204 of the act of July 31, 1968 (P.L. 769, No. 240) (CDL) (45 P.S. § 1204) and the regulation thereunder, 1 Pa. Code § 7.4, finds that notice of proposed rulemaking is under the circumstances impracticable and, therefore, may be omitted.

The Department's justification for utilizing the proposed rulemaking omitted process is that it is in the public interest to implement the regulations for the cash flow management of table game revenue to facilitate prompt implementation of its responsibilities as defined by the act.

Purpose of Regulation

The timely adoption of this regulation will provide procedures for the administration and distribution of gross table game revenue.

The act legalizes the operation of table games at a number of venues across this Commonwealth. The Pennsylvania Gaming Control Board (Board) has the primary responsibility for regulatory oversight of gaming activity in this Commonwealth and is separately promulgating regulations in 58 Pa. Code (relating to recreation).

Explanation of Regulatory Requirements

The Department is amending Chapter 1001. Pennsylvania Gaming Cash Flow Management in order to promulgate regulations necessary to implement the cash flow management of table game revenue in this Commonwealth for accurate accounting and collection of revenues due the Commonwealth from table gaming operations.

A broad change has been made throughout the regulation to add "and certificate holder" to the term "licensed gaming entity." For purposes of this regulation, the two terms are used in tandem. Other amendments to the regulations include:

Sections 1001.1. and 1001.2. (relating to scope; and purpose) are amended to insert the term "gross table game revenue."

Section 1001.3. (relating to definitions) amends the definitions for:

"Annual minimum distribution" - revised to reflect changes to section 1403(c)(3) of the act.

"CCS" - revised to accurately reflect the parameters of the system.

"Fund" - added language "and gross table game revenue."

In addition, three definitions are added to facilitate the responsibilities of cash flow management of table game revenue under this act: "Certificate holder," "General Fund" and "Gross table game revenue."

Section 1001.4. (relating to calculations of credit against tax and Race Horse Improvement Daily Assessment) is amended in subsection (b) to reflect changes to sections 1406(a)(2) and 1406(a)(2.1) of the act.

Section 1001.5. is renamed to "Administration and distribution of moneys held by licensed gaming entities, certificate holders and the Commonwealth." The term "General Fund" is added in subsection (a). Subsection (b) contains new paragraphs that are inserted relating to "Deposits and transfers of gross table game revenue to Treasury by certificate holders." The current subsection (b) is re-lettered to (c), and has been revised to delete the terms "on the same banking day" to reflect a change in Department procedure. The current subsection (c) is re-lettered to (d). Both paragraphs (d)(1) and (d)(2) contain new references to appropriate sections of the act related to distributions of local share assessments.

The title and content of § 1001.6. (relating to administration of amounts deposited by licensed gaming entities with Treasury to pay Commonwealth gaming related costs and expenses (\$5 million)) is amended to remove the "\$5 million" references and add the term "certificate holders." New language has been inserted with references to the appropriate section of the act.

Section 1001.7. (relating to deposits of license, permit and other fees) has been amended to include new language relating to deposits of table game fees and fines within the General Fund.

Section 1001.8. (relating to State Gaming Fund transfers) contains several amendments: Paragraph (2) under subsection (b) is amended to replace the January 1 publication date of the annual inflation adjustment notice with February 1. This new date reflects a more accurate time frame for filing the notice. The Department is required to utilize the Consumer Price Index, which is released in January, for the annual inflation adjustment. Paragraphs (1) and (2) of subsection (c) have been amended to add new language regarding the certificate holders' reporting of table game revenue to the Department.

Section 1001.10. (relating to Pennsylvania Race Horse Development Fund transfers) is amended in subsection (b) to add language referencing exceptions in the new act relating to distributions from the Pennsylvania Race Horse Development Fund.

Fiscal Impact

The Department of Revenue has determined that the regulations will have minimal fiscal impact on the Commonwealth.

Paperwork

The regulations will not generate substantial paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The regulations will become effective upon publication in the Pennsylvania Bulletin. The regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

Contact Person

The contact person for an explanation of the regulations is Mary R. Sprunk, Office of Chief Counsel, PA Department of Revenue, Dept. 281061, Harrisburg, Pennsylvania 17128-1061.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on November 3, 2010, the Department submitted a copy of the regulations with proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101

- 732-506). In accordance with section 5.1(j.1) of the Regulatory Review Act (71 P.S. § 745.5a(j.1)), the regulations were deemed approved by the Committees on _____. IRRC met on _____, and approved the regulations under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)).

Findings

The Department finds that the regulations are necessary and appropriate for the administration and enforcement of the authorizing statute. Under section 204 of the CDL, the Department also finds that the proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) are unnecessary because it is in the public interest to expedite this amended regulation that reduces the burden to the taxpayer.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 61 Pa. Code, are amended at Chapter 1001 to read as set forth in Annex A.

(b) The Secretary shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

(c) The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the Pennsylvania Bulletin.

C. DANIEL HASSELL
SECRETARY OF REVENUE

09/25/10

CONTINUATION SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

ANNEX A

Title 61. Revenue, Part IX. Pennsylvania Gaming Cash Flow Management, Chapter 1001. Pennsylvania Gaming Cash Flow Management.

GENERAL PROVISIONS

§ 1001.1. Scope.

This chapter establishes procedures for the administration and distribution of all net slot machine revenue, gross table game revenue, collection of tax and collection of other assessments under the act. In addition, this chapter clarifies the administrative procedures for transferring the statutorily established amounts of funding as prescribed in the act.

§ 1001.2. Purpose.

The purpose of this chapter is to notify prospective licensed entities and certificate holders, as well as the general public, of the procedures and requirements for distributing net slot machine revenue, gross table game revenue, collection of tax and collection of other assessments.

§ 1001.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

* * * * *

Annual minimum distribution—[Other than for a Category 3 licensee] As provided under the act, 2% of the gross terminal revenue of the licensed gaming entity or \$10 million, whichever is greater.

* * * * *

CCS—The central control computer system controlled by the Department and accessible by the Board, to which all slot machines communicate for the purpose of recording, reviewing, reporting and auditing real-time information regarding the events that occur during the operation of a slot machine. [This includes distinguishing between daily deposits made by licensed gaming entities of taxes due on play of slot machines and all other transfers of moneys to Commonwealth accounts not considered a daily deposit under this chapter.] The system calculates the taxes and assessments due daily and provides information to the Department to track daily deposits.

Certificate holder - As defined in section 1103 of the act (relating to definitions).

* * * * *

Fund--A fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances and the changes therein, that are segregated for the purpose of carrying on specific activities or attaining certain objectives established for the receipt of gross terminal revenue distributions and gross table game revenue under the act.

General fund--The fund into which general, non-earmarked revenues of the Commonwealth are deposited and from which monies are appropriated to pay the general expenses of the Commonwealth.

Gross table game revenue--As defined in section 1103 of the act (relating to definitions).

* * * * *

§ 1001.4. Calculations of credit against tax and Race Horse Improvement Daily Assessment.

(a) Credit against tax. The amount of the credit must be equal to the difference between the tax calculated at the rate in effect when a license was issued to the licensed gaming entity and certificate holder and the tax calculated at the increased rate. The credit shall be applied on a dollar-for-dollar basis but may not extend

beyond the 10-year period following the initial issuance of the license.

(b) Race Horse Improvement Daily Assessment. The amount of this assessment shall be calculated in accordance with section 1405(b) of the act (relating to Pennsylvania Race Horse Development Fund). [This assessment shall be multiplied by 18% of daily gross terminal revenue for all active and operating Category 1 licensed gaming entities that are conducting live racing. The amount may not exceed 12% of that day's gross terminal revenue for that licensed gaming entity, and shall be subject to the daily assessment cap established under section 1405(c) of the act.]

§ 1001.5. Administration and distribution of moneys held by licensed gaming entities, certificate holders and the Commonwealth.

(a) Application of section. This section applies to the collection of tax, the collection of other assessments and all transfers of moneys to and from the General Fund, State Gaming Fund, Pennsylvania Gaming Economic Development and Tourism Fund, Pennsylvania Race Horse Development Fund and any other fund as specified in this chapter.

(b) Deposits and transfers of gross table game revenue to Treasury by certificate holders.

(1) Certificate holders shall make computations of table game revenue in accordance with section 13A62 of

the act (relating to table game taxes), on a daily basis and shall report the computed amount to the Department on a weekly basis on the form and in the manner prescribed by the Department.

(2) A deposit is required to be made at the time the report is submitted to the Department into the Department's collection account established to collect the taxes and assessments.

(c) Deposits and transfers to Treasury by licensed gaming entities.

(1) The Department will notify each licensed gaming entity, Treasury and Office of the Budget of the actual amount each licensed gaming entity shall be required to deposit with Treasury as calculated by the CCS in accordance with sections 1323, 1403 and 1405-1407 of the act. A licensed gaming entity shall make deposits with Treasury [on the same banking day as the date] after receipt of the Department's notice to the licensed gaming entity and by the date and times specified by the Department.

* * * * *

[(c)](d) Distributions of local share assessments.

(1) Distributions of local share assessments to municipalities. If a licensed gaming entity and certificate holder fails to reach the requisite annual

minimum distribution as required under the act within 15 days following the end of the municipality's fiscal year, the Department will notify the licensed gaming entity and certificate holder of the shortfall and the amount to be remitted. A licensed gaming entity and certificate holder shall remit the difference required to meet the requisite annual minimum distribution as required under the act within 15 days following the end of the municipality's fiscal year. The licensed gaming entity and certificate holder shall remit the required payment to the Department for distribution in accordance with sections 1403(c)(3) and 13A63(c) of the act (relating to establishment of state gaming fund and net slot machine revenue distribution; and local share assessment). Distributions specified in this chapter shall be made by the licensed gaming entity and certificate holder to the Department, no later than 15 days from the Department's notice of the shortfall.

(2) Distributions of local share assessments to counties. The Department will make distributions in accordance with [section] sections 1403(c)(2) and 13A63(b) of the act. If the minimum distribution exceeds the applicable annual municipal allocation cap in section 1403(c)(3) of the act, the amount in excess of the municipal allocation cap shall be distributed by the

Department in accordance with section 1403(c)(2) of the act.

§ 1001.6. Administration of amounts deposited by licensed gaming entities and certificate holders with Treasury to pay Commonwealth gaming related costs and expenses [(\$5 million)].

(a) No later than 2 business days prior to the commencement of slot machine operations, the licensed gaming entity and certificate holder shall [deposit \$5 million] make all deposits required under section 1401 of the act (relating to slot machine licensee deposits) in the Department's Collection Account. Upon transfer of the [\$5 million] deposit into Treasury's Concentration Account, the deposit shall be credited to an account established in Treasury for the licensed gaming entity and certificate holder. The account established shall also be used to recognize and account for all future deposits required from the licensed gaming entity and certificate holder by the Department for administrative costs and all future withdrawals made by the Department for reimbursement of administrative costs.

(b) Each licensed gaming entity and certificate holder shall maintain a minimum account balance with Treasury [of \$5 million] in accordance with section 1401 of the act.

(c) Moneys related to this account shall be transferred to the Department's Collection Account and from Treasury by EFT or other methods of funds transfer in accordance with [§ 1001.5(b)] § 1001.5(c) (relating to administration and distribution of moneys held by licensed gaming entities, certificate holders and the Commonwealth).

(d) Reimbursement of Commonwealth expenses will be as follows:

(1) The Department will issue to the licensed gaming entity and certificate holder, periodic assessments of expenses incurred by the Board, Department, Office of Attorney General and the Pennsylvania State Police, regarding expenses directly related to the licensed gaming entity and certificate holder, under budgets approved by the Board and upon appropriation by the General Assembly as required in section 1402.1 of the act (relating to itemized budget reporting). Expenses not included in budgets approved by the Board may not be assessed against the licensed entity under this section.

(2) Expenses incurred by the Commonwealth and assessed to the licensed gaming entity and certificate holder shall be charged back to the licensed gaming entity and certificate holder and deducted from the licensed gaming entity's and certificate holder's account, as

specified in section 1401 of the act (relating to slot machine licensee deposits) and this section.

(3) General administrative costs of the Commonwealth not specifically assessed to a licensed gaming entity and certificate holder under paragraph (1), shall be borne by each licensed gaming entity and certificate holder on a prorata basis, at the discretion of the Secretary of Revenue until all Category 1 and Category 2 licensed gaming entities and certificate holders are operating as permitted under the act.

§ 1001.7. Deposits of license, permit and other fees.

The fees for manufacturers' and suppliers' licenses, employment permits and other licenses and permits as the Board may require, excluding license fees paid for Categories 1, 2 and 3 licenses under sections 1209 and 1305 of the act (relating to slot machine license fee; and Category 3 slot machine license), shall be deposited with Treasury into a restricted receipt account within the State Gaming Fund. Fees to be paid under section 13A61 of the act (relating to table game authorization fee) and fees related to table games to be paid under section 1208 of the act (relating to collection of fees and fines) shall be deposited within the General Fund in accordance with section 13A61(f). The fees deposited within the Gaming

Fund will be transferred from a restricted receipt account into a restricted revenue account of the State Gaming Fund to be used by the Board to pay its operating expenses. License fees paid for Categories 1, 2 and 3 licenses under sections 1209 and 1305 of the act shall be paid into the State Gaming Fund in accordance with sections 1209(d) and 1305 of the act.

§ 1001.8. State Gaming Fund transfers.

* * * * *

(b) Quarterly distributions. Quarterly distributions from the State Gaming Fund to counties or municipalities in which a licensed facility is located, as determined by the Board, and as specified in Chapter 14 of the act (relating to revenues), shall be performed in accordance with the Governor's Management Directive 305.4 (relating to payments to counties), § 1001.5 (relating to administration and distribution of moneys held by licensed gaming entities, certificate holders and the Commonwealth) and the following provisions:

(1) The Department will submit payment requisitions, accompanied by documentation, to the Office of the Budget for payment through Treasury.

(2) The Department will determine the annual inflation adjustment and will publish notice of the

inflation adjustment in the *Pennsylvania Bulletin* by
[January 1] February 1 of each year.

* * * * *

(c) Tax, assessments and credit against tax.

(1) Determinations of gross terminal revenue and the calculations of taxes and other assessments due will be determined by the Department based on the actual calculations by the CCS and the certificate holders' weekly reports of table game revenue made to the Department.

(2) Except in the case of gross table game revenue which will be self-reported to the Department by the certificate holders, [The] the Department will notify each licensed gaming entity and Treasury of the amount of tax and other assessments due to the Commonwealth.

(3) Each licensed gaming entity and certificate holder shall deposit the amount specified in paragraph (2) into the Department's Collection Account, in the manner prescribed by [§ 1001.5(b)] § 1001.5(c).

* * * * *

(5) Taxes and other assessments due as determined by the Department shall remain payable by the licensed gaming entity and certificate holder to the Department in accordance with section 1501(a) of the act (relating to responsibility and authority of department)

regardless of any discrepancies between the licensed gaming entity's and certificate holder's calculation and that of the Department's or amounts contested by any party concerning the credit against taxes due. Resolution of disputed payments due will be addressed by the Department through adjustments it makes to its calculation of future payment amounts due. The Department may make adjustments to its calculation of future payment amounts due after resolution of any dispute regarding the amount of taxes due. The Department will provide notice to the Board of the final calculations of taxes due under this subsection.

(6) Any remittance due that is caused by the imposition of the tax or other assessments on nonbanking days as well as holidays shall be remitted by the licensed gaming and certificate holder on the next banking day. For example, any tax that has accrued on Independence Day shall be transferred on the following banking day.

(d) Imposition of a penalty. Failure to comply with this section that results in the failure to transmit the requisite amounts to the Department's Collection Account shall result in the imposition of a penalty of 5% per month up to a maximum of 25% of the amounts due and unpaid by the licensed gaming entity and certificate holder. Payments made by a licensed gaming entity toward delinquent amounts,

including penalties, shall be allocated to the licensed gaming entity's delinquency in accordance with the priority of payments as specified under section 209 of the Taxpayers' Bill of Rights (72 P.S. § 3310-209).

* * * * *

§ 1001.10. Pennsylvania Race Horse Development Fund transfers.

(a) Prior to making each Race Horse Improvement Daily Assessment against a licensed gaming entity, the Department will determine the amount of each licensed gaming entity's gross terminal revenue.

(b) Except as provided in paragraphs (a)(2) and (a)(2.1) of section 1406 of the act (relating to distributions from Pennsylvania Race Horse Development Fund), [Eighteen] eighteen percent of the gross terminal revenue of each Category 1 licensed gaming entity shall be returned to each active and operating Category 1 licensed gaming entity that conducts live racing subject to the assessment cap in section 1405(c) of the act (relating to Pennsylvania Race Horse Development Fund), and subject to the allocations specified in section 1406(a)(1)(i)--(iii) of the act (relating to distributions from Pennsylvania Race Horse Development Fund).

* * * * *

Department of Revenue - Notice of Final-Omitted Rulemaking

61 Pa. Code §§ 1001.1 - 1001.10

Amendments to
Pennsylvania Gaming Cash Flow Management

15-450

SECRETARY'S CERTIFICATION

I, C. Daniel Hassell, do hereby certify that I have reviewed this final-omitted regulation and determined that the final-omitted regulation is consistent with the principles outlined in Executive Order 1996-1.



C. Daniel Hassell
Secretary of Revenue

Department of Revenue - Notice of Final-Omitted Rulemaking


61 Pa. Code §§ 1001.1 - 1001.10

Amendments to
Pennsylvania Gaming Cash Flow Management

15-450

FORM AND LEGALITY

I certify that I have reviewed this final-omitted regulation for form and legality, that I have discussed any legal and policy issues with the attorneys responsible for this final-omitted regulation, that I have made all appropriate revisions and that all information contained in the Preamble and Annex A is current and accurate.



Jeffery Snavelly
Acting Chief Counsel

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 15-450
 SUBJECT: AMENDMENTS TO PENNSYLVANIA GAMING CASH FLOW MANAGEMENT
 AGENCY: DEPARTMENT OF REVENUE

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

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FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
11/3/10	<u>[Signature]</u> (minority)	HOUSE COMMITTEE ON FINANCE <u>S. Rohrer</u>
11/3/10	<u>[Signature]</u>	MAJORITY CHAIRMAN <u>D. LEVDANSKY</u>
11/3/10	<u>[Signature]</u> (minority)	SENATE COMMITTEE ON FINANCE <u>J FERLO</u>
11/3/10	<u>[Signature]</u>	MAJORITY CHAIRMAN <u>P. BROWNE</u>
11/3/10	<u>[Signature]</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
	<u>[Signature]</u>	ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)