

## CHAPTER 297E

### GAMBLING TAXES

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#### 297E.02 TAX IMPOSED.

Subdivision 1. **Imposition.** A tax is imposed on all lawful gambling other than (1) pull-tab deals or games; (2) tipboard deals or games; and (3) items listed in section 297E.01, subdivision 8, clauses (4) and (5), at the rate of 8.5 percent on the gross receipts as defined in section 297E.01, subdivision 8, less prizes actually paid. The tax imposed by this subdivision is in lieu of the tax imposed by section 297A.62 and all local taxes and license fees except a fee authorized under section 349.16, subdivision 8, or a tax authorized under subdivision 5.

The tax imposed under this subdivision is payable by the organization or party conducting, directly or indirectly, the gambling.

Subd. 2. **Tax-exempt gambling.** An organization's receipts from lawful gambling that are excluded or exempt from licensing under section 349.166, are not subject to the tax imposed by this section or section 297A.62. This exclusion from tax is only valid if at the time of the event giving rise to the tax the organization either has an exclusion under section 349.166, subdivision 1, or has applied for and received a valid exemption from the lawful gambling control board.

*[For text of subs 2a and 3, see M.S.2000]*

Subd. 4. **Pull-tab and tipboard tax.** (a) A tax is imposed on the sale of each deal of pull-tabs and tipboards sold by a distributor. The rate of the tax is 1.7 percent of the ideal gross of the pull-tab or tipboard deal. The sales tax imposed by chapter 297A on the sale of the pull-tabs and tipboards by the distributor is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs or tipboards by the organization is exempt from taxes imposed by chapter 297A and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 8.

(b) The liability for the tax imposed by this section is incurred when the pull-tabs and tipboards are delivered by the distributor to the customer or to a common or contract carrier for delivery to the customer, or when received by the customer's authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

The tax imposed by this subdivision is imposed on all sales of pull-tabs and tipboards, except the following:

(1) sales to the governing body of an Indian tribal organization for use on an Indian reservation;

(2) sales to distributors licensed under the laws of another state or of a province of Canada, as long as all statutory and regulatory requirements are met in the other state or province;

(3) sales of promotional tickets as defined in section 349.12; and

(4) pull-tabs and tipboards sold to an organization that sells pull-tabs and tipboards under the exemption from licensing in section 349.166, subdivision 2. A distributor shall require an organization conducting exempt gambling to show proof of its exempt status before making a tax-exempt sale of pull-tabs or tipboards to the organization. A distributor shall identify, on all reports submitted to the commissioner, all sales of pull-tabs and tipboards that are exempt from tax under this subdivision.

(c) A distributor having a liability of \$120,000 or more during a fiscal year ending June 30 must remit all liabilities in the subsequent calendar year by electronic means.

(d) Any customer who purchases deals of pull-tabs or tipboards from a distributor may file an annual claim for a refund or credit of taxes paid pursuant to this subdivision for unsold pull-tab and tipboard tickets. The claim must be filed with the commissioner on a form prescribed by the commissioner by March 20 of the year following the calendar year for which the refund is claimed. The refund must be filed as part of the customer's February monthly return. The refund or credit is equal to 1.7 percent of the face value of the unsold pull-tab or tipboard tickets, provided that the refund or credit will be 1.75 percent of the face value of the unsold pull-tab or tipboard tickets for claims for a refund or credit of taxes filed on the February 2001 monthly return. The refund claimed will be applied as a credit against tax owing under this chapter on the February monthly return. If the refund claimed exceeds the tax owing on the February monthly return, that amount will be refunded. The amount refunded will bear interest pursuant to section 270.76 from 90 days after the claim is filed.

*[For text of subs 6 to 11, see M.S.2000]*

**History:** 2000 c 418 art 1 s 44; 1Sp2001 c 5 art 17 s 16

## 297E.06 ORGANIZATION REPORTS AND RECORDS.

*[For text of subs 1 to 3, see M.S.2000]*

Subd. 4. **Annual audit.** (a) An organization licensed under chapter 349 with gross receipts from lawful gambling of more than \$300,000 in any year must have an annual financial audit of its lawful gambling activities and funds for that year. An organization licensed under chapter 349 with gross receipts from lawful gambling of more than \$150,000 but not more than \$300,000 in any year must have an annual financial review of its lawful gambling activities and funds for that year. Audits and financial reviews under this subdivision must be performed by an independent accountant licensed by the state of Minnesota.

(b) The commissioner of revenue shall prescribe standards for audits and financial review required under this subdivision. The standards may vary based on the gross receipts of the organization. The standards must incorporate and be consistent with standards prescribed by the American institute of certified public accountants. A complete, true, and correct copy of the audit report must be filed as prescribed by the commissioner.

**History:** 2001 c 96 s 5

## 297E.16 CONTRABAND.

Subdivision 1. **Seizure.** Contraband may be seized by the commissioner or by any sheriff or other police officer, hereinafter referred to as the "seizing authority," with or without process, and is subject to forfeiture as provided in subdivision 2.

Subd. 2. **Inventory; judicial determination; appeal; disposition of seized property.** (a) Within ten days after the seizure of alleged contraband described in section 349.2125, subdivision 1, the person making the seizure shall serve by certified mail an inventory of the property seized on the person from whom the property was seized, if known, and on any person known or believed to have any right, title, interest, or lien in the property, at the last known address, and file a copy with the commissioner or the director of alcohol and gambling enforcement. The notice must include an explanation of the right to demand a judicial forfeiture determination.

(b) Within 60 days after the date of service of the inventory, which is the date of mailing, the person from whom the property was seized or any person claiming an interest in the property may file a demand for judicial determination of whether the property was lawfully subject to seizure and forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the commissioner of revenue or the director of alcohol and gambling enforcement, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is \$7,500 or

less, the claimant may file an action in conciliation court for recovery of the property. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee.

(c) The complaint must be captioned in the name of the claimant as plaintiff and the seized property as defendant, and must state with specificity the grounds on which the claimant alleges the property was improperly seized and the plaintiff's interest in the property seized. No responsive pleading is required of the commissioner or director, and no court fees may be charged for the commissioner's or director's appearance in the matter. The proceedings are governed by the Rules of Civil Procedure. Notwithstanding any law to the contrary, an action for the return of property seized under this section may not be maintained by or on behalf of any person who has been served with an inventory unless the person has complied with this subdivision. The court shall hear the action without a jury and determine the issues of fact and law involved.

(d) If a judgment of forfeiture is entered, the seizing authority may, unless the judgment is stayed pending an appeal, either (1) cause the forfeited property, other than a vehicle, to be destroyed; or (2) cause it to be sold at a public auction as provided by law. The person making a sale, after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are established as being bona fide and as existing without the lienor having any notice or knowledge that the property was being used or was intended to be used for or in connection with the violation. The balance of the proceeds must be paid 70 percent to the seizing authority for deposit as a supplement to its operating fund or similar fund for official use, and 20 percent to the county attorney or other prosecuting agency that handled the court proceeding, if there is one, for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes. The remaining ten percent of the proceeds must be forwarded within 60 days after resolution of the forfeiture to the department of human services to fund programs for the treatment of compulsive gamblers. If there is no prosecuting authority involved in the forfeiture, the 20 percent of the proceeds otherwise designated for the prosecuting authority must be deposited into the general fund.

(e) If no demand for judicial determination is made, the property seized is considered forfeited to the seizing authority by operation of law and may be disposed of by the seizing authority as provided where there has been a judgment of forfeiture.

Subd. 3. [Repealed, 1Sp2001 c 5 art 18 s 11]

**History:** 1Sp2001 c 5 art 18 s 4,5