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Sent via Electronic Mail
Interactive Gaming Certificate Holders and Operators
Sports Wagering Certificate Holders and Operators

RE: Industry Guidance – 2024-02 REVISED
Department of Revenue Policy Concerning Credits and Refunds for Interactive Gaming and Sports Wagering Charge-Backs

Dear Certificate Holders and Operators:

On February 26, 2024, the Pennsylvania Department of Revenue ("DOR") issued Gaming Tax Bulletin 2024-01, which provides guidance on the issue of credit card charge-backs, and the ability of interactive gaming and sports wagering certificate holders and operators to claim credits or refunds based upon charge-back transactions. Thereafter, on February 28, 2024, the Pennsylvania Gaming Control Board ("Board") issued *Industry Guidance 2024-02*, affirming and supporting the position taken by DOR, as well as providing some additional information in this area. The purpose of the instant industry guidance document is to update and revise the information found in *Industry Guidance 2024-02* after consultation with representatives of the Pennsylvania gaming industry and DOR.

Gaming Tax Bulletin 2024-01 cites the applicable federal and state statutes on the issue of charge-backs, as well as the relevant portions of the Board's regulations. As indicated in the Bulletin, in order to be able to claim credits or refunds for charge-back transactions:

(1) Gaming tax must have been paid on the money that is involved in any charge-back transaction;
(2) The amount claimed must be from a <u>fraudulent</u> charge-back transaction;
(3) The certificate holder or operator must have made <u>reasonable attempts to recover</u> the funds in the fraudulent charge-back transaction; and
(4) All internal controls regarding preventing and detecting fraud must be followed.

Before claiming a credit or a refund for gaming taxes paid based upon a charge-back transaction, it is a certificate holders' and/or operators' burden to establish that the criteria listed above have been met. Related thereto, the Board and DOR developed a system using an attestation - which is part of the tax return form - as a mechanism to streamline the deduction process and reduce the need for certificate holders and/or operators to provide supporting documentation which might otherwise be required to be submitted.

In order to implement this expedited process, the Board's Bureau of Gaming Operations previously directed that certificate holders' and operators' internal controls be updated and submitted for review, under 58 Pa.Code § 811a.2(b)(14) and 1408a.3(b)(14). This directive remains true, however, pursuant to this now revised *Industry Guidance 2024-02*, the filing of a counterclaim is only required before seeking reimbursement when a certificate holder or operator is contesting a chargeback of $5,000 or greater from a single patron. [1] DOR is in the process of revising the attestation to reflect this shift in policy.

Please do not hesitate to contact the Board if you have any questions regarding this industry letter, or DOR if you have any questions regarding Gaming Tax Bulletin 2024-01.

Sincerely,

Kevin F. O'Toole

Kevin F. O'Toole
Executive Director

KFO/ssc

cc: Steve Cook, Chief Counsel, PGCB
Cyrus Pitre, Chief Enforcement Counsel, PGCB
Paul Resch, Director of Gaming Operations, PGCB
Kevin Kile, Director of Sports Wagering Operations, PGCB
Claire Yantis, Director of Administration, PGCB
Adria Zimmerman, PA Department of Revenue
Tom Gohsler, PA Department of Revenue
Shane Broderick, PA Department of Revenue

[1] To be clear, the $5,000 threshold need not be in a single transaction. Rather, a series of smaller transactions by a single patron within a 30-day period exceeding the $5,000.00 threshold will require the filing of a counterclaim.