WEST VIRGINIA CODE: §29-22D-16

§29-22D-16. Sports wagering revenues; accounting for the state's share of revenue imposed for the privilege of offering West Virginia Lottery sports wagering; limitation of other taxes; recoupment for improvements.

(a) Imposition and rate of assessment. — For the privilege of holding a license to operate sports wagering under this article, the state shall impose and collect ten percent of the licensee's adjusted gross sports wagering receipts from the operation of West Virginia Lottery sports wagering (hereinafter "privilege tax" or "tax"). The accrual method of accounting shall be used for purposes of calculating the amount of the tax owed by the licensee.

(b) Operator revenue reports and payment of privilege tax. —

(1) The tax levied and collected pursuant to §29-22D-16(a) of this code is due and payable to the commission in weekly installments on or before the Wednesday following the calendar week in which the adjusted gross sports wagering receipts were received and the tax obligation was accrued.

(2) The licensed operator shall complete and submit the return for the preceding week by electronic communication to the commission, on or before Wednesday of each week, in the form prescribed by the commission that provides:

(A) The total gross sports wagering receipts and adjusted gross sports wagering receipts from operation of West Virginia Lottery sports wagering during that week;

(B) The tax amount for which the sports wagering licensee is liable; and

(C) Any additional information necessary in the computation and collection of the tax on adjusted gross sports wagering receipts required by the commission.

(3) The tax amount shown to be due shall be remitted by electronic funds transfer simultaneously with the filing of the return. All moneys received by the commission pursuant to this section shall be deposited in the sports wagering fund in accordance with the provisions of this article.

(4) When adjusted gross receipts for a week is a negative number because the winnings paid to patrons wagering on the licensee's West Virginia Lottery sports wagering exceeds the licensee's total gross receipts from sports wagering by patrons, the commission shall allow the licensee to carry over the negative amount to returns filed for subsequent weeks. The negative amount of adjusted gross receipts may not be carried back to an earlier week and moneys previously received by the commission will not be refunded, except if the licensee surrenders its operator's license and the licensee's last return reported negative adjusted

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gross receipts. In that case, the commission shall multiply the amount of negative adjusted gross receipts by 10 percent and pay the amount to the licensee in the manner approved by the commission.

(c) Privilege tax obligation imposed by this section is in lieu of other taxes. — With the exception of the ad valorem property tax collected under chapter eleven-a of this code, the privilege tax on adjusted gross sports wagering receipts imposed by this section is in lieu of all other state and local taxes and fees imposed on the operation of, or the proceeds from operation of West Virginia Lottery sports wagering, except as otherwise provided in this section. The consumers sales and services tax imposed pursuant to §11-15-1 et seq. of this code, the use tax imposed by §11-15A-1 et seq. of this code and any similar local tax imposed at the municipal or county level, shall not apply to the licensee's gross receipts from any West Virginia Lottery sports wagering or to the licensee's purchase of sports wagering equipment, supplies, or services directly used in operation of the sports wagering authorized by this article.

(d) Acquisition of any system or wagering equipment and other items related to the operation of West Virginia sports wagering shall be considered "facility modernization improvements" eligible for recoupment as defined in §29-22A-10(b)(2) and §29-25-22(c) of this code.

(e) Prohibition on credits. — Notwithstanding any other provision of this code to the contrary, no credit may be allowed against the privilege tax obligation imposed by this section or against any other tax imposed by any other provision of this code for any investment in gaming equipment or for any investment in or improvement to real property that is used in the operation of West Virginia Lottery sports wagering.

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