



The Good, the Bad, and the Ugly: Proposed Changes in Reporting Gaming Winnings

by Joshua Peukert

The Internal Revenue Service (IRS) recently published Notice 2015-21, “Safe Harbor for Determining a Wagering Gain or Loss from Slot Machine Play,” asking for comments based on issues such as the following:

- 1) The definition of the term “slot machine.”
- 2) The definition of a “session of play.”
- 3) Whether payouts of merchandise and bonus rewards should be included as winnings.
- 4) Whether this method should be expanded to other forms of gambling other than electronically tracked slot play.
- 5) What the problems of administration might be for casinos.

In concurrence with Notice 2015-21, the IRS published “Information Returns; Winnings from Bingo, Keno, and Slot Machines,” which proposes regulations updating tax reporting rules and provides notice of a public hearing regarding the proposed regulations to be held on June 17, 2015. In addition, the IRS requested comments from casinos specifically related to a potential reduction in the reporting threshold of taxable winnings from bingo, keno, and slot machines in an attempt to standardize reporting thresholds.

Summary of the Proposed Changes – the Good

While standardized reporting thresholds are still in the research phase, the IRS has revised their stance on the use of a properly completed W-9 as an acceptable form of identification for reportable gambling winnings. Based on the proposed changes, a W-9 could be used to obtain a patron’s social security number for Form W-2G with government-issued identification. In addition, the IRS has also altered the regulations for submitting a W-2G. They are now allowing the preparation of a single W-2G for winnings from a single bingo or keno game or slot machine play for one gaming session (this is defined by the IRS as one calendar day for slot machine play), rather than preparing a separate form for each taxable event. The casino may elect to complete a single W-2G for some, all, or no patrons, at their discretion.

Summary of the Proposed Changes – the Bad

The final proposed revision, which stands to make a large impact on casinos, is the aggregation of certain slot machine

play. This is also referred to as the “Safe Harbor Method.” Under the proposed regulations, electronically tracked slot machine play is defined as slot machine play where an electronic player system that is controlled by the gaming establishment (such as through the use of a player’s card or similar system) and that records the amount a specific individual won and wagered on slot machine play.

To determine whether reportable activity for electronically tracked slot machine winnings has occurred, two criteria must be considered:

- 1) Whether, during a session, customer winnings less customer wagers are \$1,200 or more; and
- 2) A single win of \$1,200 or more occurred during that session.

If both of these criteria have been met, then the casino must aggregate all customer gambling winnings for that session less the total wagers. If the result of the gambling activity does not result in a win in excess of \$1,200, then a reportable activity has not occurred. If a player’s card is not used, only those single wins in excess of \$1,200 must be reported without a reduction for any amounts wagered. Wagers and subsequent winnings from different types of games are not required to be combined to determine reporting thresholds. This revision would also require additional behind the house changes in the slot monitoring and player-tracking systems to assist in aggregation of individual player activity.

Just Plain Ugly

The IRS is also debating a reduction in the current threshold from \$1,200 for bingo and slot machines and \$1,500 for keno to a single \$600 threshold for these games. While the reduction is not part of the current revision, the IRS has made it clear that this is something that is being considered. From a casino standpoint, the reduction to a \$600 reporting threshold will create tremendous amounts of work. Two major effects can occur from this reduction: additional personnel time commitments to pay the customer and machine downtime while the machine payment is being processed. One tribal casino estimates that this change will create more than 31,000 additional taxable jackpots and will cost approximately \$550,000 in additional staff and lost revenue due to machine downtime. Since the revisions could create such a large impact on casinos’ bottom lines, the IRS is asking for comments on the feasibility of reducing the threshold.

"While standardized reporting thresholds are still in the research phase, the IRS has revised their stance on the use of a properly completed W-9 as an acceptable form of identification for reportable gambling winnings."

What Should You Do Next?

- Obtain the actual Federal Register Vol. 80 No. 42/Wednesday March 4, 2015/Internal Revenue Service Rules Pages 11600-11607.

Consider the following:

- Would the lowering of reporting thresholds affect your casino operations?
- Would you change the proposed wording for session or electronically tracked slot machine play?
- How difficult would it be for the aggregation of gambling winnings for electronically tracked slot machine play given your current slot reporting and player tracking systems?
- Would the aggregate reporting method be useful for gambling winnings other than winnings from bingo, keno, and slot machine play?

Prepare comments, which must be received by June 2nd, 2015 based on Federal Register Vol. 80, No. 42/Wednesday March 4, 2015/ Proposed Rules page 11600.

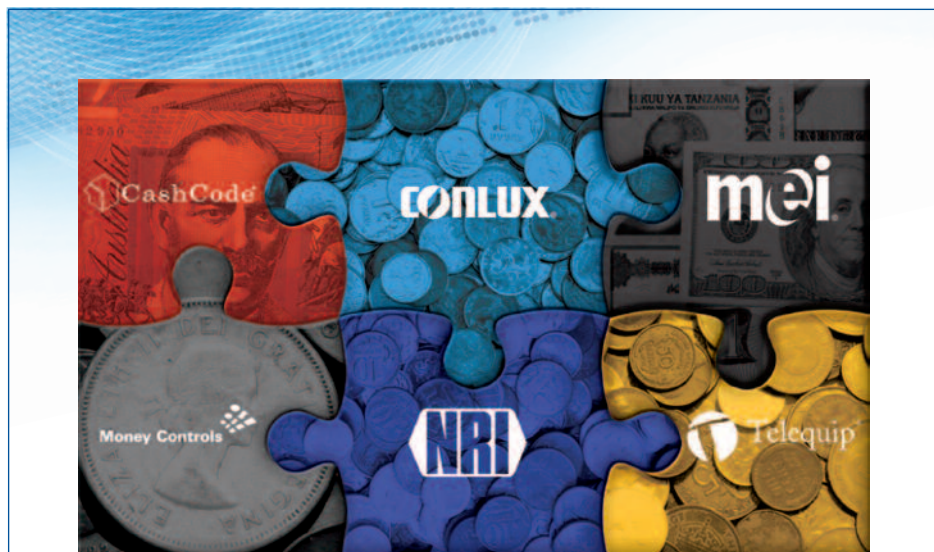
- Obtain IRS Notice 2015-21 regarding an optional safe harbor method to determine a wagering gain or loss from certain slot machine play.

Consider the following:

- Do you need to make any changes to the eight items requested for comments?

Prepare comments which must be submitted by June 1st, 2015 based on Notice 2015-21.

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