



# TAX - EXEMPT ORGANIZATIONS AND GAMING

# Introduction

**Saturday night bingo in the church hall, one-armed bandits in the social club, video lottery at the veterans' club, poker night at the fraternal lodge – all of these are examples of gaming\* – sometimes called gambling – by organizations exempt from federal income tax.**

For many years now, exempt organizations have operated these and many other types of games as a part of their activities. Why do organizations “game?” Probably the number one reason is to raise funds – either to help cover the cost of running their organizations or to support worthy causes. For some organizations, gaming also permits its members to socialize with each other and fosters fellowship.

Whatever the reason, an organization conducting any type of gaming should understand how the activity can impact its federal tax-exempt status, as well as its tax and information reporting responsibilities. In the following chapters, this publication will provide an exempt organization – whether it is running games already or deciding whether to start – the information it needs to operate in a manner that will not jeopardize its exempt status or generate unexpected tax bills.

Note: Many states and localities regulate gaming by exempt organizations. This publication does not address state or local gaming licensing requirements. For licensing requirements, please consult the appropriate agencies in your locale.

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\*Gaming includes (but is not limited to): bingo, pull-tabs/instant bingo (including satellite and progressive bingo), Texas Hold-Em Poker and other card games, raffles, scratch-offs, charitable gaming tickets, break-opens, hard cards, banded tickets, jar tickets, pickle cards, Lucky Seven cards, Nevada Club tickets, casino nights, Las Vegas nights, and coin-operated gambling devices. Coin-operated gambling devices include slot machines, electronic video slot or line games, video poker, video blackjack, video keno, video bingo, video pull-tab games, etc.

# TAX-EXEMPT ORGANIZATIONS AND GAMING

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# Gaming's Impact on Tax-Exempt Status

This chapter will explore the impact of gaming on an organization's tax-exempt status according to the section of the Internal Revenue Code (the Code) under which it is exempt. Chapter 2 will explore when an organization's gaming might give rise to income tax liability. You should refer to your organization's exemption letter from the IRS to determine the subsection under which you were granted exemption. If you do not have a copy of your organization's letter, you may call EO Customer Services at 877-829-5500 (toll-free) to request a copy or to determine your organization's subsection.

Gaming is no different than the conduct of any other trade or business carried on for profit. Though the activity may generate funds to pay expenses associated with the conduct of exempt activities, gaming itself does **not** further the exempt purposes of most types of organizations.

There are several categories of organizations, however, whose exempt function includes social or recreational activities for members and their bona fide guests. For these organizations, gaming itself may further an exempt purpose.

For more information on specific subsections, see the following summaries and also Publication 557, *Tax-Exempt Status for Your Organization*.

## **Section 501(c)(3) – Charities, Schools, Churches, and Religious Organizations**

An organization may qualify for exemption under section 501(c)(3) of the Code if it is organized and operated exclusively for religious, charitable, scientific, literary or educational purposes or for the purposes of testing for public safety, fostering national or international amateur sports competition, or preventing cruelty to children or animals. To be exempt under section 501(c)(3), an organization must engage in activities that accomplish one or more of these purposes. Examples of section 501(c)(3) organizations include schools, churches, and non-profit hospitals.

A common misconception is that gaming is a "charitable" activity. There is nothing inherently charitable about gaming. It is a recreational activity and a business. Although a charity may use the proceeds from gaming to pay expenses associated with its charitable programs, gaming itself does not further exempt purposes. Thus, the sole purpose of a 501(c)(3) organization cannot be to conduct gaming.

In addition, a section 501(c)(3) organization must not be organized or operated for the benefit of private interests, such as the creator or the creator's family, shareholders of the organization, other designated individuals or persons controlled directly or indirectly by such private interests. No part of the net earnings of a section 501(c)(3) organization may inure to the benefit of any private shareholder or individual.\* An organization puts its exempt status in jeopardy when gaming results in inurement or private benefit to individuals, or where funds from the activity are diverted for private purposes.

A charity conducting gaming as an insubstantial part of its activities will not ordinarily jeopardize its tax-exempt status but may be subject to the tax on unrelated business income. See Chapter 2.

The IRS determines whether an organization is conducting a "substantial" unrelated activity by examining all of the facts and circumstances. There is no "bright-line" or numerical test prescribed by the

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\*A private shareholder or individual is a person having a personal and private interest in the activities of the organization.

Code. The IRS will consider the dollars raised by and spent on an unrelated activity as well as the time and other resources devoted to it in making the determination of substantiality.

Every 501(c)(3) organization has a second important tax classification: It is either a **private foundation** or a **public charity**. Certain types of organizations – schools, hospitals and churches, among others – are specifically listed in the Code as public charities. Many organizations, however, must show and maintain a broad base of financial support from the general public in order to be classified as public charities. If these organizations receive too much of their financial support from a limited number of sources or from an unrelated trade or business, such as gaming, they may fail the “public support” test and be classified as private foundations. Private foundations may have to cease gaming to avoid an excise tax on unrelated business enterprises.

For more information about foundation classification, the public support tests for certain public charities, and the special tax rules that apply to private foundations, see Publication 557, *Tax-Exempt Status for Your Organization*.

### **Section 501(c)(4) – Social Welfare Organizations**

Section 501(c)(4) organizations promote social welfare. These types of organizations are sometimes called *civic leagues*. They operate primarily to further the common good and general welfare of the people of a community through civic betterment and social improvements. No part of a section 501(c)(4)'s net earnings may be used to benefit any private shareholder or individual. An organization puts its exempt status in jeopardy when gaming revenue is diverted for private purposes. Examples of social welfare organizations include civic leagues, volunteer fire companies and homeowners' associations.

Gaming is considered both a business and a recreational activity; it does not ordinarily promote social welfare. For example, Rev. Rul. 66-150 holds that a 501(c)(4) organization whose primary activity was to operate a social facility (including a bar, restaurant, and game room) is not exempt. Therefore, a section 501(c)(4) organization whose primary activity is gaming may jeopardize its exempt status.

In very limited situations, however, a social activity such as gaming may be considered a social welfare activity. The volunteer fire company described in Rev. Rul. 74-361, provided a club room for both on and off duty members of the department when they were not otherwise engaged in fire calls. The facility was not open to the general public. Access to the social club served to increase camaraderie of the firefighters and encouraged better performance of the department, thus promoting social welfare.

A social welfare organization having a primary purpose other than gaming will not ordinarily jeopardize its tax-exempt status by conducting gaming, but its gaming income may be subject to the tax on unrelated business income. See Chapter 2.

### **Section 501(c)(5) and 501(c)(6) – Labor and Agricultural Organizations and Business Leagues**

Section 501(c)(5) describes labor, agricultural, and horticultural organizations. They have the objective of bettering the conditions of workers, improving the grade of products, and/or developing a higher degree of efficiency in a particular occupation. 501(c)(6) organizations are devoted to the improvement of conditions of one or more lines of business. Like section 501(c)(3) and section 501(c)(4) organizations, inurement of any part of the net earnings of a section 501(c)(5) or section 501(c)(6) organization to the benefit of any private shareholder or individual jeopardizes its exemption.

Gaming does not further the exempt purposes of any of these types of organizations. Thus, an organization exempt under sections 501(c)(5) or 501(c)(6) may jeopardize its exemption if gaming becomes the organization's primary activity, and the gaming income may also be subject to the tax on unrelated business income. See Chapter 2.

### **Section 501(c)(7), 501(c)(8) and 501(c)(10) – Social Clubs and Fraternal Organizations**

The exempt function of organizations classified under these sections includes providing social and recreational activities for members and their bona fide guests.<sup>†</sup> Thus, social clubs and fraternal organizations may engage in gaming involving only members without jeopardizing their exempt status.

Gaming open to the general public does not further the exempt purposes of social clubs or fraternal organizations. Section 501(c)(7), 501(c)(8) and 501(c)(10) organizations whose primary activity is public gaming jeopardize their exempt status and the gaming income may also be subject to the tax on unrelated business income. See Chapter 2.

Section 501(c)(7) social clubs endanger their exempt status when receipts from nonmembers – including those from gaming activities – exceed a certain amount. A social club may receive no more than 35% of its gross annual receipts (including investment income) from sources outside of its membership. Within that 35%, no more than 15% of gross receipts can come from the public's use of club facilities or services. If those limits are exceeded, the club's exempt status may be in jeopardy.

<sup>†</sup>For section 501(c)(7), 501(c)(8), 501(c)(10) and 501(c)(19) organizations, the term “bona fide guests” is generally defined as individuals whom the member invites and for whom the member pays. If, for example, a nonmember pays for his or her own wagers in gaming activities, he or she is considered to be a member of the general public and not a guest, even though he or she may have entered the organization's premises with a member. Also, if an organization requires only a nominal payment to join as a “member,” individuals making such a payment to gain admission to the organization's facilities or activities may not be considered members or bona fide guests.



### **Section 501(c)(19) – Veterans’ Organizations**

This subsection describes posts or organizations of past or present members of the U.S. Armed Forces. To qualify, at least 75% of the members must be past or present members of the U.S. Armed Forces and at least 97.5% of all members must be past or present members of the U.S. Armed Forces, cadets (including only students in college or university ROTC programs or at armed services academies) or spouses, widows, widowers, ancestors or lineal descendants of past or present members of the U.S. Armed Forces or of cadets. In addition to these membership requirements, a veterans’ organization must be operated for one or more of the following purposes:

- To promote the social welfare of the community.
- To assist disabled and needy war veterans and members of the U.S. Armed Forces and their dependents and the widows and orphans of deceased veterans.
- To provide entertainment, care, and assistance to hospitalized veterans or members of the U.S. Armed Forces.
- To carry on programs to perpetuate the memory of deceased veterans and members of the Armed Forces and to comfort their survivors.
- To conduct programs for religious, charitable, scientific, literary, or educational purposes.
- To sponsor or participate in activities of a patriotic nature.
- To provide insurance benefits for its members or dependents of its members or both.
- To provide social and recreational activities for its members.

(Note: Some older veterans’ organizations hold exemption as 501(c)(4) social welfare organizations.)

Gaming that is limited to members and bona fide guests furthers a 501(c)(19) veterans’ organization’s social and recreational purposes. However, if a 501(c)(19) organization permits the general public to participate in its social and recreational activities – including gaming – the activity does not further an exempt function.

Veterans’ organizations may endanger their exempt status if a social or recreational activity open to the public becomes a primary activity of the organization. If a social or recreational activity (such as gaming) that is open to the public is not the primary purpose of a veterans’ organization, exemption will not be jeopardized, but the gaming income may be subject to the tax on unrelated business income. See Chapter 2.

In addition, inurement of any part of the net earnings of a section 501(c)(19) organization to the benefit of any private shareholder or individual jeopardizes its exemption.

For more information about veterans’ organizations, see Publication 3386, *Tax Guide – Veterans’ Organizations*.

### **Section 527 – Political Organizations**

A political organization exempt under section 527 of the Code is organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures to influence or attempt to influence the selection, nomination, election, or appointment of an individual to a federal, state, or local public office.

Generally, political organization income (including contributions and proceeds from political fundraising or entertainment events) is not subject to tax under the Code, as long as the income results from events that are political in nature and not carried on in the ordinary course of a trade or business. One factor that indicates an event is “political” is the extent to which it is related to a political activity aside from the need of the organization for income or funds.

Political organizations often conduct raffles to raise funds. In general, the proceeds from a raffle are taxable unless they result from a political fundraising or entertainment event. Where there is no evidence that the sale of raffle tickets is closely related to a political event, the IRS will generally conclude that revenue is taxable income.

Income from bingo is also exempt function income for political organizations, provided it is segregated for use for an exempt (political) function. To be exempt, the game from which the income is derived must meet the requirements for the statutory bingo exclusion described in Chapter 2.

# Gaming and Unrelated Business Income

An exempt organization is not taxed on its income from an activity that is substantially related to its exempt purposes even if that activity is a trade or business. However, if an exempt organization regularly carries on a trade or business that is not substantially related to its exempt purpose, except that the trade or business provides funds to carry out that purpose, the organization is subject to tax on its income from that unrelated trade or business. As explained in Chapter 1, gaming is often considered unrelated to exempt purposes.

This Chapter provides an overview of the unrelated business income (UBI) tax and the exclusions from that tax. See Publication 598, *Tax on Unrelated Business Income of Exempt Organizations*, for a more in-depth discussion of the unrelated business income tax and additional information regarding filing requirements and computing unrelated business income.

The following three conditions must be met before an activity may be classified as an unrelated trade or business regularly carried on:<sup>‡</sup>

- First, the activity must be considered a trade or business;
- Second, the activity must be regularly carried on; and
- Third, the activity must not be substantially related to the organization's exempt purpose. (The fact that the activity generates income for the organization to spend on its charitable programs does **not** make the activity related to the organization's exempt purpose.)

Does gaming generate UBI? Let's look at each of the three parts of the definition in relation to gaming.

First, gaming is generally considered a "trade or business" if it generates revenue.

Second, gaming is considered "regularly carried on" if it is conducted with a frequency and continuity similar to comparable activities of a non-exempt organization and if pursued in a manner similar to commercial gaming activities. Gaming activities will not ordinarily be treated as regularly carried on if they occur only occasionally or sporadically. For example, gaming conducted only at an annual fundraising event is not regularly carried on. On the other hand, gaming that occurs weekly is considered to be regularly carried on.

Third, gaming is not per se an exempt activity. As discussed in Chapter 1, whether gaming is substantially related to an organization's exempt purposes will depend on the classification of the exempt organization.

Even if a gaming activity meets the three-part UBI definition, there are some other exceptions that may apply. These include:

- Certain bingo games;
- Activities conducted with substantially all volunteer labor;
- Qualified public entertainment activities; and
- Games of chance conducted in North Dakota.

These exceptions are explained below in more detail. In addition to these exceptions, gaming does not generate taxable income when it actually furthers the exempt purposes for which an organization exists. This can be the case for membership organizations (generally, section 501(c)(7), 501(c)(8), 501(c)(10) and 501(c)(19) organizations), as explained in Chapter 1.



<sup>‡</sup>Social clubs exempt under section 501(c)(7) are treated differently under the UBI tax rules. See the separate discussion on **Unrelated Business Income Tax and Section 501(c)(7) Social Clubs** below.

## Bingo

Certain bingo games are not included in the term “unrelated trade or business.” In order to qualify for this statutory bingo exclusion, a game must:

- Meet the definition of bingo under the Code and Regulations;
- Not violate state or local law where it is played; and
- Be played in a jurisdiction where bingo games are not regularly carried on by for-profit organizations.

Bingo is defined as a game of chance played with cards that are generally printed with five rows of five squares each. Participants place markers over randomly called numbers on the cards in an attempt to form a pre-selected pattern such as a horizontal, vertical, or diagonal line, or all four corners. The first participant to form the pre-selected pattern wins the game. In addition, for a game to meet the legal definition of bingo, wagers must be placed, winners must be determined, and prizes or other property must be distributed in the presence of all persons placing wagers in that game.

A wagering game that does not meet the definition of bingo under the Code and Regulations does not qualify for the exclusion regardless of its name. For example:

- Satellite and Internet bingo do not qualify because these games are conducted in many different places simultaneously, and those placing wagers are not all present when the wagers are placed, the winners are determined, and the prizes are distributed.
- “Instant Bingo,” “Mini Bingos,” and similar pull-tab or scratch-off games do not qualify. In these games, a player places a wager by purchasing a card containing pre-printed numbers or a pattern covered by tabs or film. By uncovering the numbers or pattern, the player discovers whether the card is a winner. Unlike bingo meeting the exclusion, the winners of these games are pre-determined.

The bingo exclusion applies only if the game is legal under the laws of the jurisdiction where it is conducted. The fact that a jurisdiction’s law prohibiting bingo is rarely enforced or is widely disregarded does not make the conduct of bingo legal for this purpose.

The bingo exclusion applies only if for-profit organizations cannot regularly carry on bingo games in any part of the same jurisdiction. Jurisdiction is normally the entire state; however, in certain situations, local jurisdiction will control.

**Example:** Church Z, a tax-exempt organization, conducts weekly bingo games in State O. State and local laws in State O expressly provide that bingo games may be conducted by tax-exempt organizations. Bingo games are not conducted in State O by any for-profit businesses. Because Z’s bingo games are not conducted in violation of state or local law and are not the type of activity ordinarily carried out on a commercial basis in State O, Z’s bingo games do not constitute an unrelated trade or business.

Because of the statutory bingo exclusion, an exempt organization may conduct games meeting the exclusion to raise funds, and the activity will not generate unrelated business income subject to taxation. (The exception does not apply to 501(c)(7) social clubs. See below.)





### **Volunteer Labor**

Does your organization use volunteers to conduct its gaming? Even if gaming is not limited to bingo games that meet the above bingo exclusion, it will **not** be considered an unrelated trade or business – and the income earned from it will not be taxed – if **substantially all** of the work is performed by volunteers. Although “substantially all” is not defined in this context, an unofficial guideline borrowed from other areas of exempt organization law is 85%. That is, if at least 85% of the work (as measured by the number of hours worked), absent other factors, is carried on by people who work without pay and no more than 15% of the work is carried on by people who are compensated. Please note, that few cases strictly apply the 85% test. Instead, “substantially all” is to be applied in a general manner.

**Example:** A volunteer fire company regularly holds a slot machine night that is open to the public. Holding public slot machine nights on a regular basis may, given the facts and circumstances of a particular case, be considered unrelated trade or business. However, because the work at the slot machine night was performed by unpaid volunteers, the income from the wagering is not taxable as unrelated business income.

**Tip:** If you intend to rely on the volunteer labor exclusion to exclude gaming from unrelated trade or business, you should maintain accurate records reflecting the number of hours worked by compensated and volunteer workers.

“Compensation” is interpreted broadly and may include payments to bartenders, waitresses, snack bar staff, maintenance workers, security, and other workers, as well as the tips such workers receive from patrons at the gaming session. A worker who obtains goods or services at a reduced price in return for his services may be considered to be compensated.

**Example:** ABC Organization operates a private school and sponsors gaming to raise revenue for the school. Parents who work at the gaming session are given a tuition reduction of \$50 for each week they work. This reduction of tuition is compensation to the parents; they are not working as “volunteers.”

Compensation may also include non-monetary benefits such as free drinks or food if such items are more than a mere gratuity and are intended to be compensation for the workers’ services. On the other hand, a worker who receives merely insignificant monetary or non-monetary benefits is considered a volunteer, not a compensated worker. Determining whether a benefit is insignificant requires consideration not only of the value of the benefit but also:

- The quantity and quality of the work performed;
- The cost to the organization of providing the benefit; and
- The connection between the benefit received and the performance of services.

Note that the volunteer labor exclusion is in addition to the “bingo” exclusion discussed above. Thus, if gaming satisfies the bingo exclusion, the bingo income is not taxed even if workers are paid, as long as state or local law does not prohibit payment. Many jurisdictions, however, **require** as a condition of receiving a gaming license that exempt organizations conduct their gaming activities with **all** volunteer labor. If an exempt organization violates such a requirement by compensating its bingo game workers, then the bingo exception would not apply if such payment rendered the game illegal under state law.

Compensation includes tips. If tipping is allowed, the exception for volunteer labor may not apply. Many jurisdictions strictly prohibit tipping at gaming venues. When the organization conducts bingo, the bingo exclusion may not be applicable if tipping occurs in violation of the jurisdiction’s prohibition.

### **Qualified Public Entertainment**

Income from qualified public entertainment activities is also excluded from the definition of unrelated business income. A “public entertainment activity” is one traditionally conducted at a fair or exposition promoting agriculture and education, including any activity whose purpose is designed to attract the public to fairs or expositions or to promote the breeding of animals or the development of products or equipment. A “qualifying organization” is an organization exempt under section 501(c)(3), section 501(c)(4), or section 501(c)(5) that regularly conducts an agricultural and educational fair or exposition as one of its substantial exempt purposes.

To be excluded from the term “unrelated trade or business,” a public entertainment activity must be conducted by a qualifying organization either:

- In conjunction with an international, national, state, regional, or local fair or exposition;
- In accordance with provisions of state law that permit only qualifying organizations (or an agency, instrumentality, or political subdivision of the state) to conduct the activity; or
- In accordance with provisions of state law that permit a qualifying organization to be granted a license to conduct the activity for 20 days or less on payment to the state of a lower percentage of the revenue from the licensed activity than is required from non-qualifying organizations.

**Example:** Organization X, a 501(c)(5) agricultural organization, conducts harness racing at an agricultural fair in State L pursuant to a state law that permits the organization to conduct parimutuel betting in connection with the races. Income from wagers placed is excluded from the tax on unrelated business income.

### **Games of Chance Conducted in North Dakota**

Most games of chance conducted by exempt organizations in North Dakota are not unrelated trades or businesses if conducting the games does not violate any state or local law. See section 311 of the Deficit Reduction Act of 1984, as amended by section 1834 of the Tax Reform Act of 1986.

### **Unrelated Business Income Tax and Section 501(c)(7) Social Clubs**

Most types of exempt organizations pay tax on their unrelated business taxable income. A section 501(c)(7) social club, on the other hand, must pay tax on its gross income except that portion that is considered *exempt function income*.

The exempt function income of a social club is, generally, its gross income from dues, fees, and charges received from members in return for providing recreational and social facilities or services to those members, their dependents, or guests. Because gaming is recreational and social, the income a social club receives from gaming activities limited to its members is considered exempt function income and is not subject to tax. On the other hand, income received from gaming activities open to nonmembers is part of the social club’s gross income that is subject to the unrelated business income tax.

Social clubs do not qualify for any of the exclusions explained above. Even if a social club conducts a bingo game that would fall within the bingo exclusion or uses only volunteers to conduct all of its gaming, if the general public participates, the income will be taxable. In addition, the nonmember income, if a large enough percentage of the social club’s overall income, may jeopardize its exempt status.

### **Determining Whether Gaming Generates UBI – Flow Chart**

The UBI rules and exceptions are complex and can be confusing. At the end of this chapter is a “flow chart” designed to help you assess whether your gaming – or other – activity creates UBI for your organization. Exhibit A is for all organizations except 501(c)(7) social clubs. Please note that the flow chart is intended to serve only as a summary of the unrelated business income rules and exclusions. See Publication 598, *Tax on Unrelated Business Income of Exempt Organizations*, for a complete explanation.

### **Reporting UBI and Paying Tax**

When gross UBI (gross receipts minus cost of good sold) equals or exceeds \$1,000, an organization must file Form 990-T, *Exempt Organization Business Income Tax Return*. If an organization’s total anticipated tax for the year equals or exceeds \$500, it must pay quarterly estimated tax, using Form 990-W, *Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations*. Failure to file the appropriate forms may subject the organization to penalties.

If you find that you are unable to file Form 990-T by the original due date, you can request an extension of time by filing Form 8868, *Application for Extension of Time To File an Exempt Organization Return*, by that original due date. If you are a corporation, you may request an automatic 6-month extension. If you are a trust, you may request an automatic 3-month extension and, if necessary, an additional 3-month extension that will be granted at the IRS’s discretion.

You must pay any unrelated business income tax due by the original due date for filing Form 990-T. No extension for paying the tax will be given. Do not send the payment with Form 990-T. You must deposit the tax by EFTPS or tax coupon.

**Is It Unrelated Business Taxable Income (UBTI)? (Does Not Apply to 501(c)(7) Organizations)**

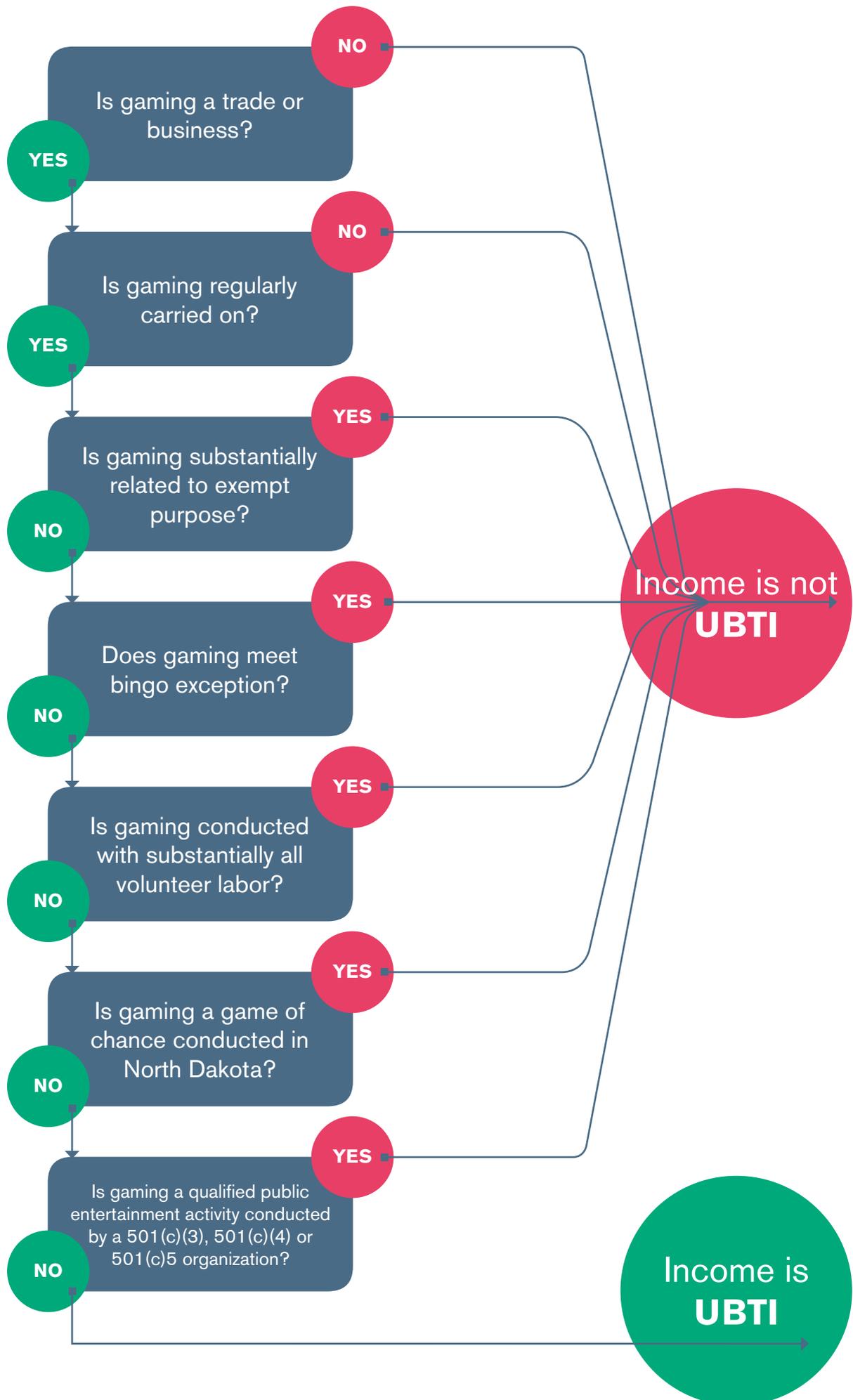


EXHIBIT A

# Maintaining Records

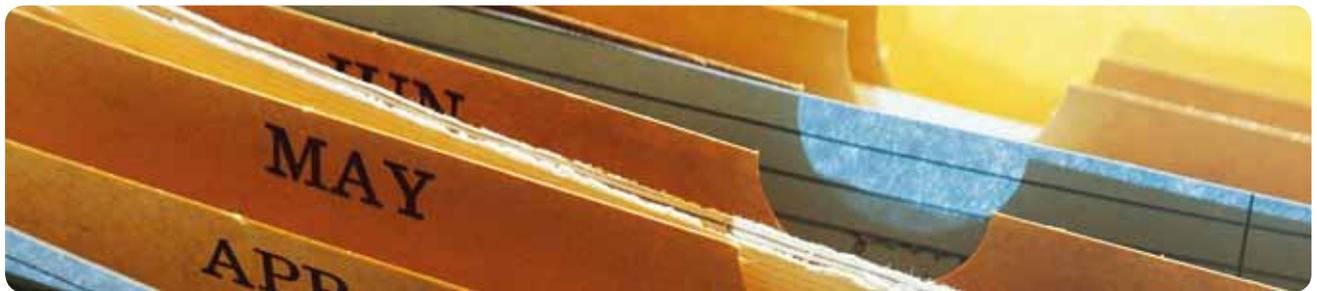
## Recordkeeping

An exempt organization must maintain complete books and records so that it can meet its reporting responsibilities and determine any tax liabilities it may have. Exempt organizations must keep the same types of books and records that other businesses maintain. These include cash receipt and disbursement journals, accounts payable journals, general ledgers, detailed source documents, and copies of any federal tax returns filed. See Publication 583, *Starting a Business and Keeping Records*, for general information about tax recordkeeping requirements.

Publication 4221-PC, *Compliance Guide for 501(c)(3) Public Charities*, or Publication 4221-NC, *Compliance Guide for Tax Exempt Organizations (other than 501(c)(3) Public Charities and Private Foundations)*, contain information on recordkeeping requirements that apply specifically to exempt organizations. Revenue Procedure 71-17, available on the IRS website at [IRS.gov](https://www.irs.gov), explains the recordkeeping required of 501(c)(7) social clubs to document member vs. nonmember income. Fraternal organizations (section 501(c)(8) and 501(c)(10)) and veterans organizations (section 501(c)(19)) should also maintain complete records of member and nonmember income.

Organizations that conduct gaming must maintain records of gross receipts from gaming, prize payouts, and other related disbursements to substantiate information submitted on the exempt organization information return (Form 990 or 990-EZ), and the income tax return (Form 990-T), if one is required.

In general, an organization must maintain records until the statute of limitations expires; generally three years from the later of the filing or due date of a return. Employment tax returns should be kept for four years after the due date of return, or four years from the date when the organization paid the tax, if the payment date was later than the due date.



## Effective Gaming Controls

Gaming can generate substantial amounts of income. Much of it is cash that passes through many hands at each gaming session. Exempt organizations should carefully oversee and control gaming to ensure that funds are not diverted to private individuals or for private purposes.

Effective oversight is more than simply choosing a location to hold the gaming and approving the lease or other arrangements with the gaming operator. The exempt organization should maintain active involvement in the conduct of the games themselves.

Here is an example of appropriate oversight for a bingo operation that conducts multiple sessions per week:

- A gaming manager/operator controls the execution of the games, including payouts, and records transactions on a “daily sheet.”
- A cashier – a different person from the gaming manager/operator – receives funds and records serial numbers of games sold.
- A third person serves as cash controller and prepares inventory/paid out reports, independently counts cash receipts, and matches the cash to the reports prepared by the gaming manager/operator. He or she also prepares and makes the bank deposit.
- A fourth person serves as inventory controller and reviews the daily sheets received from the gaming manager/operator to determine inventory usage and profit achieved. The inventory controller may also receive the bank statement directly and ensure that all deposits stated on the daily sheet appear on it.
- A fifth person writes the checks to pay gaming expenses.
- The organization’s board of directors reviews and compares bingo reports or daily sheets with previous reports for consistency. The board monitors the games to ensure internal controls are functioning properly.

If an organization also sells pull-tabs at its bingo sessions or conducts other forms of gaming, it will want to implement additional controls, such as verifying that the gaming operator reports all receipts.

State and local laws may require additional recordkeeping and reporting and impose specific internal controls over gaming. Contact the appropriate agencies to determine the state and local rules that may apply.

# Exempt Organizations Reporting Requirements

The Code requires most exempt organizations to file an annual information return showing gross income, gross receipts and disbursements and other information the IRS needs to administer the tax laws. Form 990, *Return of Organization Exempt from Income Tax*, or Form 990-EZ, *Short Form Return of Organization Exempt from Income Tax*, are the standard forms used to make this report. (See the Charities & Non-Profits section of the IRS's website at [www.irs.gov/eo](http://www.irs.gov/eo) for the filing thresholds for each of these forms.)

Most organizations whose annual gross receipts are normally \$25,000 or less (\$50,000 or less, beginning in 2010) are not required to file either of these forms. However, instead they must file a simple notice electronically on Form 990-N. The electronic notice is also called an e-Postcard. (See the Charities & Non-Profits section of the IRS's website at [www.irs.gov/eo](http://www.irs.gov/eo) for guidance on filing an e-Postcard.)

For a gaming organization, gross receipts includes **all** amounts wagered in games, not just the net proceeds after winning wagers have been paid out. Therefore, most organizations conducting gaming will have gross receipts well above the Form 990-N filing threshold.

**Note:** If an organization eligible to file an e-Postcard chooses to file a Form 990 or 990-EZ instead, it must file a **complete** return, including all required sections and schedules.

Churches and certain other religious organizations are excepted from filing either an annual return or an e-Postcard.

If you are required to file an annual return or e-Postcard, you must file it by the 15th day of the 5th month after your accounting period ends. If your accounting period coincides with the calendar year, file your return or e-Postcard by May 15th following the close of the tax year.

You can get an automatic 3-month extension of time for filing a Form 990 return by filing Form 8868, *Application for Extension of Time To File an Exempt Organization Return*, by the original due date of the return. You can request an additional 3-month extension by filing another Form 8868 before the first extension expires. A second extension will be granted at the IRS's discretion. You cannot get an extension of the due date for filing an e-Postcard.

If you are required to file an information return or e-Postcard, and you fail to do so for three consecutive years, your exempt status is automatically terminated by law.

You must make a copy of your Form 990 or 990-EZ annual information returns available for public inspection during normal business hours at your principal office and at regional or district offices. A return must be made available for a period of three years from the date it was required to be filed. You are not required, however, to disclose the names and addresses of any contributors reported on Schedule B of the return.

## Schedule G, Form 990 or Form 990-EZ

If your organization's revenue from gaming exceeds a certain amount, you will be required to complete and attach Schedule G, *Supplemental Information Regarding Fundraising or Gaming Activities*, to your Form 990 or Form 990-EZ. (For details on the threshold amounts triggering filing of Schedule G, see the instructions for Form 990 or Form 990-EZ available on the Charities & Non-Profits section of the IRS's website at [www.irs.gov/eo/.](http://www.irs.gov/eo/))

Part III of Schedule G requires specific information about your organization's gaming activities. To be able to complete this part, for each tax year you will need to know:

- Gross revenues from bingo, pull-tabs/instant bingo, and other types of gaming;
- Cash and non-cash prizes paid for each type of gaming;
- Rent or costs of facilities and other direct gaming expenses;
- Percentage of your organization's games operated in your own facilities and in outside facilities;
- Percentage of volunteer labor for each type of gaming;
- States in which you operated gaming activities and the states in which your organization holds gaming licenses;
- Revocation, suspension or termination of any of your organization's gaming licenses;
- Amount of mandatory charitable distributions from gaming proceeds required under state law, or the amount of proceeds spent on your organization's own exempt activities;
- Names and addresses of the gaming manager and the person who prepares your gaming/special events books and records; and
- Information about third parties with which your organization has contracts to receive gaming revenue.

For detailed information about filing requirements for Forms 990, 990-EZ or 990-N see the instructions for Form 990 or 990-EZ on the website. The instructions include an explanation of the public inspection rules for these forms mentioned earlier in this chapter. The website also will have a current version of Schedule G and its instructions.

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# Workers Conducting Gaming Activities

It is Saturday night, and your lodge is hosting its weekly bingo game for members and their guests. During the game, Mr. P tends the bar and Ms. J calls the numbers. The lodge pays Ms. J \$10 an hour for calling numbers. Mr. P, though not paid for tending bar, does receive tips from bingo patrons. You probably know that you should withhold income, social security, and Medicare taxes from Ms. J's wages and send these taxes and the employer share of social security and Medicare taxes to the IRS, as well as report the wages and tax to both Ms. J and the Social Security Administration (SSA) on Form W-2, *Wage and Tax Statement*. But did you also know that you may have reporting and withholding requirements for Mr. P's tip income?

This chapter, first, will help your organization classify whether its gaming activity workers are employees, independent contractors or volunteers. (You will have important, different compliance requirements for each type of worker.) Second, it will examine compensation: Is your organization compensating its gaming workers and if so, how, and how much? (Just a "tip" here: Mr. P's tips do count as compensation!) Third, we'll look at how to make sure that your organization does not inadvertently turn its gaming "volunteers" into compensated employees.

Finally, we will do a quick survey of your organization's reporting and withholding responsibilities for any compensated employees and independent contractors. (These requirements apply to **any** workers your organization pays – not just those employed in its gaming activities.) The chapter also discusses the recordkeeping and reporting that employees must do for tip income.

## **Employee, Independent Contractor or Volunteer?**

A worker at your organization's gaming activity is considered one of these:

- An employee – someone whose work your organization has the right to control and direct.
- An independent contractor – someone your organization contracts with to provide a specific service or product. Your organization contracts with the person for the end product or service and does not have the right to supervise or direct how the independent contractor does the work.
- A volunteer – someone who works for your organization for no compensation, either monetary or non-monetary. Note that volunteers can be either employees or independent contractors under the common law test.

Generally, if a worker is compensated in any manner, he or she will be either an employee or an independent contractor. As noted above, someone is your employee when you have the right to control and direct that person's work, not only as to the result to be accomplished but also as to the details and means by which that result is accomplished. In other words, an employee is someone who is subject to your will and control not only as to what shall be done but how it shall be done. You need not actually direct or control how the person works; simply your right to do so is sufficient to make the person your employee.

For more information on how to determine whether a worker is an employee or independent contractor, see Publication 15-A, *Employer's Supplemental Tax Guide*. Then, if you are still unsure whether the person you are paying is an employee or independent contractor, you can ask the IRS for a ruling by filing Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*.

## **Types of Compensation**

All pay that you give to an employee for services performed is considered wages and is subject to federal employment taxes unless an exception applies. The pay may be in cash or in other forms. It includes salaries, bonuses, commissions and fringe benefits. How you measure or make the payments does not matter.

If your organization uses a method other than cash or a readily negotiable instrument (a check) to pay its workers, you are paying them "in kind." Payments in kind may be in the form of goods, lodging, food, clothing, or services. Generally, the fair market value of such payments at the time that they are provided is subject to employment taxes; see below.

Tips gaming activity workers receive from players, whether cash or non-cash, are taxable income. Tips paid to a worker in cash, checks or other cash equivalent (including charged tips) of more than \$20 in a calendar month while working for any one employer are also wages subject to employment taxes.

## **Volunteers and Gaming Activities**

Exempt organizations often rely on uncompensated workers when conducting gaming. In fact, many states and localities require that exempt organizations use all (or substantially all) volunteer labor to conduct their games in order to qualify for a license.

If a "volunteer" worker at a gaming activity is permitted to receive tips from players and the volunteer is subject to the direction and control of the organization, he or she becomes a compensated employee. The organization would have the same reporting and withholding requirements for this person as for any other employee. (See below.) In addition, by permitting the otherwise-volunteer worker to receive tips, the organization may be violating state or local rules that require all volunteer labor for licensed gaming organizations.

Exempt organizations often want to recognize and thank their volunteers, and often do so with awards or gifts. In general, if these are non-cash items of nominal value, such as turkeys or hams around the holidays, they would not constitute taxable wages. However, cash items, including gift certificates as well as any other taxable fringe benefit, would be a payment of taxable compensation, and if the volunteer is subject to the organization's right to direct and control, the amounts are wages. This is true even if the organization receives donated gift certificates, which it then passes on to its volunteers. Organizations should be aware that their methods of thanking or recognizing volunteers may create employment tax and reporting responsibilities.

What if an organization permits an individual to help out at a gaming activity and thereby "work off" a program payment or fee that he or she would otherwise have? These arrangements – whether "voluntary" or required – can also result in a worker having wages subject to employment taxes.

**Example:** Private school X, a 501(c)(3) organization, sponsors a weekly bingo game to raise funds for the school. Parents who work at the bingo games are given a tuition reduction of \$100 for each week they work.

The fair market value of the parent's or guardian's work at the weekly bingo game is \$100 – the amount of the tuition reduction. A parent who works at the weekly bingo game has compensation of \$100. If the parent is subject to the organization's right to direct and control, the parent is an employee with wages of \$100.

### **Your Organization's Reporting and Withholding Responsibilities for Employees**

If your organization's gaming workers are employees, you are responsible for withholding and paying employment taxes and filing and furnishing the required employment tax forms and information returns. This section provides a general discussion about withholding and reporting employment taxes. If your organization has employees, see Publication 15, (*Circular E*), *Employer's Tax Guide*, and the Instructions for Forms W-2 and W-3 for the specific rules you will need to follow.

### **Soliciting a Social Security**

**Number** – An employer has a requirement to solicit an employee's social security number (SSN) at the time the employee begins. Because the employee is required to furnish Form W-4, *Employee's Withholding Allowance Certificate*, to the employer on commencement of employment, Form W-4 may be used for the initial solicitation of the employee's SSN. See Publication 1586, *Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/TINs*, for more information regarding solicitation requirements when employees do not furnish their SSNs.

**Withholding Income Tax** – As an employer, you must withhold federal income tax from your employees' wages. To know how much tax to withhold, you should have a Form W-4 on file for each employee. Ask all new employees to give you a signed Form W-4 when they start work. You can provide Formulario W-4(SP), *Certificado de Exención de Retenciones del Empleado*, in place of Form W-4, to your Spanish-speaking employees. Generally, a Form W-4 remains in effect until the employee gives you a new one.

In some cases, where a serious under-withholding problem is found to exist for a particular employee, the IRS may issue a notice (commonly referred to as a "lock-in letter") to the employer specifying the withholding rate (marital status) and maximum number of withholding allowances permitted for a specific employee for purposes of calculating the required withholding. The IRS will provide the employee with an opportunity to dispute the determination before the employer adjusts withholding based on the lock-in letter.



After the lock-in letter takes effect, the employer must disregard any Form W-4 that results in less tax withheld, until the IRS notifies the employer otherwise. However, the employer must honor any Form W-4 that claims a withholding rate (marital status), withholding allowances, and any additional amount that results in more income tax withheld than at the withholding rate and withholding allowances specified in the lock-in letter. Employers who use electronic Form W-4 systems must make sure the employee can not override the lock-in letter to decrease withholding via an electronic Form W-4 system.

**Withholding and Paying “FICA” Taxes** – The Federal Insurance Contributions Act (FICA) imposes taxes on both the employee and the employer. FICA taxes are composed of two elements: old-age, survivor, and disability insurance (OASDI, commonly known as social security) and hospital insurance (Medicare).

The social security tax rate is 12.4%, split equally between employee and employer. The tax applies to wages up to a “wage base” limit. The wage base limit is the maximum wage that is subject to the tax for the year. The wage base

limit is generally adjusted annually; a chart listing the “Contribution and Benefit Base” for each year is available at [www.socialsecurity.gov](http://www.socialsecurity.gov).

The employee and employer each pay the Medicare tax rate of 1.45% on wages, for a total of 2.9%. There is no wage base limit for Medicare tax; all covered wages are subject to Medicare tax.

The employer collects the employee portion of the social security and Medicare taxes by deducting the tax from the employee’s wages at the time of each payment. For tipped employees, an employee’s regular pay may not be enough to withhold all the taxes owed on the regular pay plus reported tips. If this happens, an employee can give the employer money until the close of the calendar year to pay the rest of the taxes.

If the employer cannot collect all the social security and Medicare taxes on the tips reported by an employee, the uncollected taxes must be reported on Form W-2. See **Employee’s Responsibility for Tip Income**, below, for more information. As an exempt organization, you need not withhold or pay FICA taxes for an em-



ployee that you pay less than \$100 for the calendar year.

If income, social security, or Medicare taxes that are required to be withheld are not withheld or are not paid, the organization is liable for the taxes and certain individuals may be personally liable for the amount of the employee taxes as a trust fund recovery penalty.

**Paying “FUTA” Taxes** – Employers are subject to a federal unemployment (FUTA) tax on the total employment wages during the calendar year. Only the employer pays FUTA tax. FUTA tax is not collected from the employee’s wages.

Services performed in the employ of a section 501(c)(3) organization are excluded from the definition of “employment” for FUTA tax purposes. Consequently, section 501(c)(3) organizations do not pay FUTA tax on their employees’ wages.

Services performed in the employ of other types of exempt organizations are excepted from the definition of FUTA employment in any calendar quarter in which the remuneration earned for those services is less than \$50.

Application of these FUTA exceptions is based on the status of the common law employer.

**Filing Form 941, Employer's Quarterly Federal Tax Return** – Every employer liable for withheld income and FICA taxes must report their liability. The report is ordinarily made quarterly on Form 941, which must be filed by the last day of the month following the close of the calendar quarter. If, by that date, you have made timely deposits (see below) in full payment of your taxes for the quarter, you can take an additional ten days to file Form 941. If you discover an underpayment or overpayment error on a previously filed Form 941, use Form 941-X, Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund, to make the correction. See Publication 15, (*Circular E*), *Employer's Tax Guide*, and the instructions for Form 941-X for more information.

**Filing Form 944, Employer's Annual Federal Tax Return** – If, based on your Form 941 reporting history, the IRS estimated that your liability for FICA tax and withheld income tax for the year will be \$1,000 or less, or you inform the IRS that you expect your annual tax liability to be \$1,000 or less, you may be notified to file an annual return on Form 944 instead of the quarterly Form 941. Form 944 is due by January 31 following the end of the calendar year of the return. If, by that date you have made timely deposits in full payment of your taxes for the calendar year, you can take an additional ten days to file Form 944. If you discover an underpayment or overpayment error on a previously filed Form 944, use Form 944-X, *Adjusted Employer's Annual Federal Tax Return or Claim for Refund*, to make the correction. See Publication 15, (*Circular E*), *Employer's Tax Guide*, and the instructions for Form 944-X for more information.

**Filing Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return** – If you are liable for FUTA tax in any calendar year, you must file Form 940 by January 31 of the following year. If you deposited all FUTA taxes for the year when due, you can take an additional 10 days to file the return.

**Depositing FICA, FUTA, and Withheld Income Taxes** – If you report less than a \$2,500 tax liability for the quarter on Form 941 (or for the year on Form 944), you may remit those taxes with the return. Otherwise, you must deposit on a monthly or semiweekly schedule using either a federal tax deposit coupon (Form 8109) or the Electronic Federal Tax Payment System (EFTPS). For more information about the deposit schedule you will be required to follow, see "Depositing Taxes" in Publication 15, (*Circular E*), *Employer's Tax Guide*. For more information about the EFTPS or to enroll, visit [www.eftps.gov](http://www.eftps.gov).

Note: There is a new exception for employers who file Form 941. Beginning January 2010, employers who file Form 941 will not have to make deposits during a quarter if their accumulated tax liability for either the current quarter or the prior quarter is less than \$2,500 and they fully pay the amount due with a timely filed return for the current quarter.

Deposit income taxes withheld from wages and FICA taxes separately from non-payroll withheld income taxes (e.g., income tax withheld from gambling winnings).

FUTA taxes must be deposited by the last day of the month following the end of any calendar quarter in which your undeposited tax liability is more than \$500. If your FUTA tax liability in any quarter (except the fourth) is \$500 or less, carry it over to the next quarter. If your liability for the fourth quarter is \$500 or less, you can either deposit the amount by EFTPS or federal tax deposit coupon, or pay it with your Form 940 by January 31.

**Filing Forms W-2, Wage and Tax Statement and W-3, Transmittal of Income and Tax Statement** – Tax-exempt organizations must furnish each employee with a copy of Form W-2, Wage and Tax Statement, by January 31 of the year after the year of payment. If employment ends before December 31 and an employee asks for Form W-2, give the employee Form W-2 within 30 days of the request or within 30 days of the final wage payment, whichever is later. The organization must file Form W-2 with the Social Security Administration (SSA) by the last day of February of the year after the year of payment (March 31 if filing electronically). Paper Forms W-2 are transmitted to the SSA using Form W-3, Transmittal of Income and Tax Statements. See the instructions for Forms W-2 and W-3 for more information.

If your employees give their consent, you may be able to furnish Forms W-2 to your employees electronically. See Pub. 15-A, *Employer's Supplemental Tax Guide*, for additional information.

If you are required to file 250 or more Forms W-2, you must file them electronically, unless the IRS granted you a waiver. You are encouraged to file electronically even if you are filing fewer than 250 Forms W-2. The 250 threshold applies separately to each type of form. Thus, for example, if a person is required to file 200 returns on Form 1099-MISC and 350 returns on Form W-2 for a calendar year, the person is not required to file Forms 1099-MISC electronically but is required to file Forms W-2 electronically.

### **Employee's Responsibility for Tip Income**

An employee who receives tips should keep a daily tip record so that he or she can accurately report tips to the employer and on his or her tax return. The daily tip record can take the form of a tip diary such as that found in IRS Form 4070A, *Employees Daily Record of Tips*.

Every employee who, while working for your organization, receives cash tips in any calendar month of at least \$20 must report those tips in a written statement by the 10th day of the following month. To report, the employee may use Form 4070, *Employee's Report of Tips to Employer*, or some other written statement containing the following information:

- Employee's name, address, and social security number;
- Employer's name, business name (if different), and address;
- The month for which the report is made; and
- The total tips received in that month.

You may establish an electronic tip reporting system in lieu of receiving tip statements in paper form.

An employee who fails to report tips that are required to be reported must pay the employee's portion of the FICA tax on those tips by filing Form 4137, *Social Security and Medicare Tax on Unreported Tip Income*, with the employee's Form 1040, *U.S. Individual Income Tax Return*. The employee is also subject to a penalty equal to 50% of the employee's portion of the FICA tax on the unreported tips unless the failure was due to reasonable cause and not due to willful neglect.

For more information on an employee's responsibilities with respect to reporting tip income, see Publication 531, *Reporting Tip Income*.

If the taxes on an employee's tips are greater than the regular pay from the employer, the employee can either pay the taxes when the employee files Form 1040 or the employee can give the employer money to be applied to the underwithheld taxes. The employer will report any uncollected FICA taxes on Form W-2. If the employee waits to pay the taxes with the employee's Form 1040, the employee may be subject to a penalty for underpayment of estimated taxes. See Publication 505, *Tax Withholding and Estimated Tax*, for more information.



### **Your Organization's Reporting Responsibilities for Independent Contractors**

If your organization pays independent contractors – *i.e.*, a compensated worker who is not your organization's employee – it does not have to withhold or pay FICA taxes. However, you may be required to withhold 28% of any reportable payments for federal income tax. This is referred to as backup withholding, and applies when a payee refuses or neglects to provide a Taxpayer Identification Number (TIN) or the IRS notifies the organization that the reported TIN is incorrect. See Publication 1281, *Backup Withholding for Missing and Incorrect Name/TIN(s)*. Whether your organization has made reportable payments may depend on the amount paid during the year and whether an exception applies. See Form 1099-MISC below.

**Soliciting a TIN** - Your organization should solicit an independent contractor's TIN before the independent contractor provides services, and before you pay the person. You can use Form W-9, *Request for Taxpayer Identification Number and Certification*.

Formulario W-9(SP), *Solicitud y Certificación del Número de Identificación del Contribuyente*, may be used in place of Form W-9, for Spanish-speaking nonemployees. Form W-9 certifies the correct TIN and name of person receiving payments, and will help the organization verify whether it needs to complete Form 1099-MISC with respect to a payment. Form W-9 is not filed with the IRS, but kept in your organization's records.

**Filing and Furnishing Form 1099-MISC, *Miscellaneous Income*** – Use Form 1099-MISC to report payments to independent contractors of \$600 or more. Include fees, salaries, commissions, prizes, and awards for services performed as a nonemployee. Generally, payments to a corporation are not required to be reported on Form 1099-MISC. However, you must use Form 1099-MISC to report payments of \$600 or more for medical or health care services provided by corporations, including professional corporations. Forms 1099-MISC must be furnished to payees by January 31 and filed with the IRS by February 28 (March 31 if filing electronically) for all payments made in the prior calendar year. Paper Forms 1099-MISC are transmitted to the IRS using Form 1096, *Annual Summary and Transmittal of U.S. Information Returns*. You may furnish the copies to the payees electronically. See the General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G for more information. If you are required to file 250 or more Forms 1099-MISC, you must file them electronically, unless the IRS granted you a waiver. You are encouraged to file electronically even if you are filing fewer than 250 Forms 1099-MISC.

**Example:** Organization Y pays Ted Oaks \$100 per week for 9 weeks to clean up the hall where bingo sessions are held. Mr. Oaks operates a janitorial service as a sole proprietorship, has the right to hire and fire workers, and provides needed tools and supplies. Y does not have the right to direct and control Mr. Oaks. Therefore, Mr. Oaks is not a Y employee. Y must file Form 1099-MISC with the IRS and furnish a copy of Form 1099-MISC to Mr. Oaks.

For more details on the types of payments that must be reported on Form 1099-MISC, see the instructions for Form 1099-MISC.

# Reporting Winnings and Withholding Income Tax

It's Saturday night again, and your organization is hosting a bingo game meeting the statutory bingo exclusion. Mr. S pays \$5 for a bingo card and sits down to play. "B-I-N-G-O!!!" It's Mr. S's lucky night. He wins the game and the jackpot of \$1,200. In tax terminology, the "wager" is \$5 and the "winnings" are \$1,200. Did you know that your organization must report Mr. S's winnings to the IRS?

## Reportable Winnings

If you pay the winner or winners of a game more than a certain amount, you must report the amount and information about the winner(s) to the IRS. The threshold amount at which winnings become reportable depends on the type of game involved.

Unless the winnings are from poker, keno, bingo, or slot machines, you must report a payment of winnings, including raffle prizes, when the amount paid is:

- \$600 or more, and
- At least 300 times the amount of the wager.

In determining whether the \$600 threshold is met, you may reduce the winnings by the amount of the wager.

**Example:** Mr. G buys a \$2 raffle ticket from your organization. At the raffle, Mr. G's number is drawn and he wins \$1,000. Because the winnings (\$998) are greater than \$600 and more than 300 times the amount of the wager, you must report Mr. G's winnings to the IRS.

**Example:** Mr. S buys a \$2 pull-tab and wins \$600. You may reduce the winnings by the amount of the wager, in which case the winnings are \$598. You do not have to report Mr. S's winnings because the \$600 threshold is not met.

*Keno Games:* Keno is a gambling game, a variety of the game of lotto, played with numbered balls or knobs, and cards also numbered.

You must report winnings from a keno game that are \$1,500 or more after deducting the amount of the wager. That is, you must reduce the amount of the winnings by the amount of the wager in determining whether the \$1,500 threshold is met.

**Example:** One of your gaming activities is keno. Ms. E wagers \$5 on keno and wins \$1,500. The winnings are less than \$1,500 after deducting the amount of the wager (\$1,495), so you do not have to report Ms. E's winnings.

*Bingo Games and Slot Machines:* You must report winnings from a bingo game or slot machine that are \$1,200 or more before deducting the amount of the wager.

**Example:** You have a slot machine in the barroom of your lodge. Ms. C feeds a quarter into the slot machine and wins \$1,200. You must report Ms. C's winnings because the winnings are \$1,200 or more before deducting the amount of the wager.

*Poker Tournaments:* If you sponsor a poker tournament, you must report any winnings of more than \$5,000 after deducting the wager (i.e., the entry or "buy-in" fee). You need not report poker tournament winnings paid before March 4, 2008, or winnings that are \$5,000 or less.

Summary of Reportable Winnings		
Type of Game	Winnings Amount at Least:	Reduced by Amount of Wager?
Bingo	\$1,200	No
Slot machines	\$1,200	No
Keno	\$1,500	Yes
Other wagering transactions (e.g., instant bingo, pull-tabs, raffles, etc.)	\$600 and at least 300 times the wager	At option of payer
Poker tournaments	\$5,000.01	Yes

## Reporting Winnings

Each time you pay reportable winnings, you must complete a Form W-2G, *Certain Gambling Winnings*, to report those winnings to the IRS and to the person receiving the winnings (the “payee”). The payee should provide you with his or her name, address, and taxpayer identification number (e.g., social security number), and you should verify the information from the person’s driver’s license, social security card, voter registration card, or other proper identification.

If you use a paper form, you must file copy A of Form W-2G with the IRS by February 28 following the calendar year in which you paid the winnings. Use Form 1096 to transmit paper Forms W-2G to the IRS. If you file electronically, you must file Form W-2G by March 31 following the calendar year in which you paid the winnings. If you complete 250 or more Forms W-2G in a year, you cannot file the paper form; you must file electronically instead.

In addition to filing of Form W-2G with the IRS, you must give the winner copies B and C of Form W-2G by January 31 following the calendar year in which you paid the winnings.

*Multiple Winners:* When the payee is one of a group of two or more winners, or is not the actual winner, he or she must complete and sign a Form 5754, *Statement by Person(s) Receiving Gambling Winnings*, and give it to you. The payee enters his or her name, address, and taxpayer identification number in Part I. In Part II, the payee enters the name, address, and taxpayer identification number of each person entitled to the winnings, together with the amount won and the amount of any additional winnings from identical wagers. You then prepare a separate Form W-2G for each winner listed in Part II of Form 5754.

For more information on how to complete and file Form W-2G, see the Instructions for Forms W-2G and 5754 and the General Instructions for Forms 1099, 1098, 5498, and W-2G.

## Regular Income Tax Withholding

Ms. V pays \$10 for a ticket in your church raffle. As luck would have it, hers is the winning ticket. You pay Ms. V winnings of \$6,000. You now know that you have to report the winnings to the IRS. But did you also know that you have to withhold income tax from Ms. V’s winnings?

You must withhold income tax from a payment of winnings when the proceeds from the wager are more than \$5,000 and the wager was placed in:

- A sweepstakes, wagering pool, lottery, raffle, or poker tournament; or,
- Any other wagering transaction, if such proceeds are at least 300 times the amount wagered.

### Exceptions:

1. Do not withhold income tax on winnings from bingo, keno, or slot machines no matter what the amount of winnings. (However, see below.)
2. You need not withhold income tax on winnings from a poker tournament as long as you report the winnings on Form W-2G.

The “proceeds from a wager” are the difference between the amount of the winnings and the amount of the wager. When the winnings are in the form of a non-cash payment, such as a car won at a raffle, the proceeds from the wager are the difference between the fair market value of the item won and the amount of the wager.

You must deduct and withhold tax from the winnings in an amount equal to the product of the third lowest rate of tax applicable under section 1(c) of the Code (i.e., the rates applicable to unmarried individuals) and the amount subject to withholding. The applicable rate is 25% for 2003-2010 and 28% for 2011 and thereafter. The amount subject to withholding is the difference between the amount of the winnings and the amount of the wager. Withhold on the entire amount, not just on that portion greater than \$5,000.

**Example:** In 2010, your organization conducts a raffle, and Mr. L purchases a \$1 ticket. At the drawing, Mr. L’s number is drawn and he wins \$6,000. Because the proceeds from the wager are more than \$5,000 (\$6,000 prize minus \$1 ticket), you must withhold \$1,500 ( $\$5,999 \times 25\%$ ) from the winnings.

A non-cash prize, such as a car, with a fair market value exceeding \$5,000 after deducting the amount of the wager is also subject to withholding. The tax is computed and paid under either of the following two methods:

- The winner pays the withholding tax to the organization conducting the gaming activity. In this case, the withholding amount is 25% (through 2010, 28% thereafter) of the fair market value of the non-cash item less the amount of the wager.
- The organization pays the withholding tax on behalf of the winner. In this case, the withholding amount is 33.33% (through 2010) of the fair market value of the non-cash item less the amount of the wager. (The withholding percentage in this case is higher, because the winner gets not only the value of the prize but also the value of having the taxes paid by the organization.)

*Signature of the Payee on Form W-2G:* Any person who receives a payment of winnings from which you are required to withhold tax must sign the Form W-2G on which those winnings are reported. By signing, the payee declares that no other person is entitled to any portion of the payment and that the winnings are subject to regular gambling withholding.

### **“Backup” Withholding**

You may be required to withhold 28% of gambling winnings (including winnings from bingo, keno, slot machines, and poker tournaments) for federal income tax. This is referred to as backup withholding, and applies when:

- The winner of reportable winnings does not furnish a correct TIN;
- 25% has not been withheld; and
- The winnings are at least \$600 and at least 300 times the wager (or the winnings are at least \$1,200 from bingo or slot machines or \$1,500 from keno or more than \$5,000 from a poker tournament).

**Example:** Your organization has slot machines in its barroom. Mr. B wins \$1,200 at the slot machine. Mr. B refuses to give you his taxpayer identification number. Because winnings of \$1,200 or more from a slot machine are reportable winnings, you must report the winnings on Form W-2G. Slot machine winnings are not subject to regular withholding at the 25% rate, but because Mr. B refuses to give you his taxpayer identification number so that you can properly complete the Form W-2G, you must backup withhold \$336. ( $\$1,200 \times 28\%$ )

You will pay Mr. B \$864 ( $\$1,200 - \$336$ ) instead of the entire amount of winnings. If you mistakenly pay Mr. B the entire \$1,200, your organization will be responsible for paying the backup withholding amount of \$336.

Backup withholding applies to the total amount of the winnings reduced by the amount wagered, if the payer chooses to make that reduction.

## **Summary of Withholding Requirements**

<b>Type of Gaming</b>	<b>Regular Withholding At 25% If Winnings Are:</b>	<b>Backup Withholding At 28% If Winner Does Not Provide TIN and Winnings are:</b>
Bingo	N/A	≥ \$1,200
Slot machines	N/A	≥ \$1,200
Keno	N/A	≥ \$1,500
Sweepstakes, wagering pools, lotteries, and raffles	> \$5000	\$600 to \$5,000
Wagering transactions when winnings are at least 300 times the amount wagered	> \$5,000	\$600 to \$5,000
Poker tournaments	N/A if winnings are reported on Form W-2G	> \$5,000

### **Reporting Withheld Taxes**

Report the amount of any taxes withheld from winnings (whether at the regular or backup withholding rate) in box 2 of the Form W-2G on which you report the winnings.

### **Withholding Tax on Nonresident Aliens**

Generally, gambling winnings paid to a nonresident alien are subject to withholding at 30% on the gross proceeds unless the income is exempted by treaty. But winnings of a nonresident alien from blackjack, baccarat, craps, roulette, or big-6 wheel are not subject to withholding and reporting.

The winnings and tax withheld are reported on Form 1042, *Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*, and Form 1042-S, *Foreign Person’s U.S. Source Income Subject to Withholding*. For more information, see Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

### **Annual Return of “Non-Payroll Withheld Taxes”**

Taxes withheld from gaming winnings are called non-payroll withheld taxes. You must report the total amount of federal income tax you withhold from such payments during the year on Form 945, *Annual Return of Withheld Federal Income Tax*. Non-payroll payments include gaming winnings subject to either regular or backup withholding. Therefore, the amounts you report on your annual Form 945 must include the total amount of tax withheld from gaming winnings that you reported on all the Forms W-2G filed for the year. You must file Form 945 by January 31 following the close of the reporting year. If you discover an underpayment or overpayment error due to an administrative error on a previously filed Form 945, use Form 945-X, *Adjusted Annual Return of Withheld Federal Income Tax or Claim for Refund*, to make the correction. See Publication 15, (*Circular E*) *Employer’s Tax Guide* and the instructions for Form 945-X for more information.

### **Depositing Non-Payroll Withheld Taxes**

If you report less than a \$2,500 non-payroll tax liability for the year, you may pay the tax with your annual timely-filed Form 945. If your non-payroll tax liability is \$2,500 or greater, you must deposit those taxes on a monthly or semi-weekly schedule using either a deposit coupon (Form 8109) or the Electronic Federal Tax Payment System (EFTPS). Be sure to deposit non-payroll withheld taxes separately from any payroll taxes for which your organization may be liable.

For more information about the deposit schedule you will be required to follow, see “Depositing Taxes” in Publication 15, (*Circular E*), *Employer’s Tax Guide*. For more information about the EFTPS or to enroll, visit [www.eftps.gov](http://www.eftps.gov).



# Gaming Excise Taxes

Most gaming requires the participant to stake, or bet, some money for the chance of winning a prize, award, or jackpot. The money a bettor places in a game is called the wager. If you are engaged in the business of accepting wagers, you may be required to pay two separate excise taxes. These are in addition to any unrelated business income tax that gaming may generate. The excise taxes are:

- A tax on wagers (“wagering tax”); and
- An occupational tax on persons in the business of accepting wagers and on persons who receive wagers on behalf of someone in the business of accepting wagers (“occupational tax”).

You are engaged in the business of accepting wagers for an event or contest if, depending on the outcome, you are assuming the risk of profit and loss. This is true regardless of how few bets you accept or how infrequently you take them

## **Wagering Tax**

You are required to pay the wagering tax when you accept a wager from a bettor—

- On a sports event;
- On a contest;
- Participating in a wagering pool with respect to a sports event or contest, if the wagering pool is conducted for profit; or
- Participating in a lottery conducted for profit.

(Some wagers are exempt – see the section “Wagers Exempt from Wagering Tax,” below.)

*Conducted for Profit:* A wagering pool or lottery is conducted for profit if it earns a direct profit, if it is expected to generate an indirect profit such as increased sales or attendance, or if the operator takes a percentage of the contributions or charges a fee to join the pool.

## **Wagers Subject to Wagering Tax**

Note: Any person or entity in the business of accepting wagers will be liable for the wagering excise tax even if such a business is illegal in the state where it is conducted. The categories of wagers to which the tax applies are detailed below.

*Sports Events:* If you accept a wager placed on a sports event, you must pay the wagering tax on the wager. It does not matter whether the sports event is an amateur, scholastic, or professional event. Typical sports events on which wagers are placed include horse, auto or dog racing; boxing or wrestling matches; baseball, football or basketball games; tennis or golf matches; or track meets.

*Contests:* You are responsible for paying the wagering tax if you accept a wager placed on a contest. A contest includes any kind of contest involving speed, skill, endurance, popularity, politics, strength, appearances, etc. Typical contests on which wagers are placed include dance marathons, log-rolling contests, wood-chopping contests, spelling bees and beauty contests.

*Wagering Pools:* If you conduct a wagering pool for profit and accept a wager placed in the wagering pool, you must pay the wagering tax on the wager. A wagering pool is any scheme or method where prizes are distributed to one or more winning bettors based on the outcome of a sports event or contest; or a combination of both.

*Lotteries:* If you conduct a lottery for profit, and accept a wager placed in the lottery, you must pay the wagering tax on the wager. A lottery is a type of wagering in which:

- A prize is offered;
- Participants pay for the opportunity to win the prize; and,
- The prize is awarded by chance.

A lottery also includes “numbers game” types of wagering in which the player pays a fixed amount and selects a number or combination of numbers. If the selected number or numbers appear or are published in the mutually understood manner, the lottery operator pays the player a prize. Tip jars, raffles, pull-tabs, and similar games meet the definition of wagers placed in a lottery.

## **Wagers Exempt from Wagering Tax**

There is no wagering tax on wagers placed in

- Games when all participants are present;
- Drawings conducted by exempt organizations; or

- Games played on a coin-operated device.

*Games When All Are Present:* A wager placed in a game in which the wagers are placed, the winners are determined, and the prizes are distributed in the presence of all persons placing wagers in such game is not subject to the wagering tax.

Games of this type involve group play, and include bingo meeting the statutory bingo exclusion (as described in Chapter 2), keno, card games, dice games, and games involving wheels of chance, such as roulette wheels.

*Drawings Conducted By Exempt Organizations:* A wager placed in a drawing conducted by a tax-exempt organization is not considered a “wager placed in a lottery conducted for profit” (and, thus, is not subject to the tax on wagers) so long as no part of the net proceeds from such drawing “inures” to the benefit of any private shareholder or individual.

*Drawing:* A drawing is any physical drawing of a ticket or use of a wheel or similar device by which the winner is conclusively determined by a number, letter, legend, or symbol without reference to an outside event that is beyond the control of the operator.

*Inures to the Benefit of Private Shareholders or Individuals:* This phrase comes directly from the Code and describes a circumstance where a drawing, defined above, benefits an individual personally in some way. This could happen if, for example, the drawing operator’s salary is unreasonable, or if he receives a percentage of the total wagers as compensation.

When the drawing is conducted by a membership organization, such as a social club, fraternal society, or veterans’ organization, the drawing could benefit the members if wagers are accepted from nonmembers and used for operating expenses or to pay for member benefits or services. If, however, the wagering revenue is separately accounted for and earmarked solely for charitable purposes, there is no inurement and no liability for wagering tax arises. And, if the wagers are accepted from members only, proceeds of a drawing may be used for the organization’s operations without triggering the wagering tax.

**Example:** S, a social club exempt under section 501(c)(7), sells lottery tickets. Only club members may purchase tickets. The winners receive a portion of the proceeds from the sale of the tickets. The remaining proceeds go to the general funds of the club and are used to defray its operating expenses or to offset losses incurred in the club’s activities, which are devoted exclusively to the pleasure and recreation of its members. Because the drawing is limited to members and the net proceeds are used solely to meet the club’s operating expenses, none of the proceeds inure to the benefit of any private shareholder or individual. Therefore, the club is not engaged in the business of accepting wagers placed in a lottery conducted for profit, and is not liable for wagering tax.

**Example:** B, a veterans’ organization exempt under section 501(c)(19), occasionally sells pull-tabs at bingo games which are open to the general public. A portion of the proceeds from pull-tab sales are used to pay B’s operating and administrative expenses, without which B would have to increase its dues or other member contributions. Because a portion of the net proceeds from the pull-tabs indirectly inures to the members, B is considered to be engaged in the business of accepting wagers placed in a lottery conducted for profit and is liable for wagering taxes.

**Example:** Y, a section 501(c)(3) organization, sells pull-tabs. The organization uses net proceeds from pull-tab sales to carry out its exempt purpose. There is no inurement or private benefit to individuals, so the wagering tax does not apply to the sales of the pull-tabs.

*Coin-Operated Device:* There is no wagering tax on amounts spent to operate coin-operated devices. Coin-operated devices include slot machines, pinball machines, and video machines such as those that display poker hands.

*Parimutuel Wagering:* There is no wagering tax on wagers placed with or in a wagering pool conducted by a parimutuel enterprise licensed under state law.

*State-conducted Lotteries:* There is no wagering tax on wagers placed in lotteries, sweepstakes or wagering pools conducted by a state, under state law where the wager is placed with the state or its authorized employees or agents.

### **Rate of Wagering Tax**

The tax rate depends on whether the wager is authorized under the law of the state in which it is accepted, in other words, on whether the wager is legal. The tax on legal wagers is 0.25% of the amount of the wager. The tax on unauthorized, or illegal, wagers is 2% of the amount of the wager.

**Example:** Lodge Y, a fraternal beneficiary society exempt under section 501(c)(8) sells pull-tabs at its bar to both members and nonmembers. The proceeds go to Y’s general account to pay administrative and operating expenses. Y is liable for wagering tax because the proceeds from pull-tab sales to nonmembers inure to the private benefit of Y’s members. The rate of tax is 0.25% because Y is licensed by the state to sell pull-tabs and the wager is legal under state law.

The amount of the wager is the sum risked by the bettor, including any charges incurred in placing the bet. If you charge the bettor for the wagering tax as a separate charge, the charge is not included in the amount of the wager.

If you engage in illegal wagering, paying the wagering tax does not shield you from any penalties or punishment under federal or state law.

### **Monthly Return of Wagering Tax**

You must file a return on Form 730, *Monthly Tax Return for Wagers*, for every month in which you accept a wager on which you owe wagering tax. Use Form 730 to report the gross amount of wagers accepted and to figure the tax on those wagers.

File the Form 730 by the last day of the month following the month for which you are reporting. For example, if you accepted wagers in April, you would report them on your Form 730 due by May 31. Once you file a Form 730, you must continue to file it every month, regardless of whether you owe wagering tax, until you stop accepting wagers. If you stop accepting wagers, check the “final return” box on the last Form 730 you file.

### **Paying the Wagering Tax**

You can pay the wagering tax either electronically by using the Electronic Federal Tax Payment System (EFTPS) or by mailing a check or money order with your Form 730. Include the payment voucher Form 730-V whenever you mail any payment.

### **Occupational Tax**

An annual occupational tax must be paid by—

- Any person or organization that is responsible for paying wagering tax; and,
- Any person who receives wagers on behalf of a person or organization that is responsible for paying wagering tax.

In other words, if you are in the business of accepting wagers and are required to pay wagering tax, then you and each of your employees or agents who receive wagers on your behalf must separately pay an occupational tax. If your games meet any of the exemptions to the wagering tax shown above, you will not be liable for the occupational tax.

If you engage in illegal wagering, paying the occupational tax does not shield you from any penalties or punishment under federal or state law.

### **Amount of the Tax**

The amount of the occupational tax depends on whether the wager is authorized, i.e., legal, under the laws of the state in which the wager is accepted.

- If the person or organization required to pay the occupational tax accepts only authorized wagers, the amount of the tax is \$50 per year.
- If the person or organization required to pay the occupational tax accepts any wager that is not authorized, the amount of the tax is \$500 per year.

### **Registering and Paying the Occupational Tax**

Each person required to pay the occupational tax must register with the IRS by filing a return on Form 11-C, *Occupational Tax and Registration Return for Wagering*. The occupational tax must be paid when filing the return.

*Initial Return:* You must file the first return on Form 11-C and pay the occupational tax before you start accepting wagers. The tax for the year in which you start accepting wagers is determined proportionately, from the first day of the month in which you begin accepting wagers to the following June 30. For example, if you accept wagers for the first time on April 14, you must pay a prorated tax for the period from April 1 to June 30. You would pay a tax that is 91/365ths of the annual tax.

*Subsequent Returns:* After your initial return, you must file subsequent returns on Form 11-C by July 1 of each year to cover a one-year period beginning July 1 and ending June 30 of the following year. You must pay the tax for the entire year, even if you accept wagers for only a part of the year.

### **Recordkeeping by the Organization for Wagering and Occupational Taxes**

*Daily Record:* You must keep a daily record showing the gross amount of all wagers on which wagering tax is due. The record for each day's operations must show:

- The gross amount of wagers accepted;
- The gross amount of each class or type of wager accepted on each separate event, contest, or other wagering medium;
- The gross amount, separately, of wagers-
  - » Accepted directly by you or at your registered place of business; and
  - » Accepted for you by your agents at any place other than your registered place of business; and

- The gross amount of tax collected from or charged to bettors as a separate item.

*Records of Agents and Employees:* You must maintain a separate record of each agent or employee receiving wagers on your behalf. Such record must include the employee's or agent's name, address, periods of employment, and employer identification number.

*Form 730 and Form 11-C:* You must keep a copy of each Form 730 and Form 11-C that you file.

You must keep each record at your principal place of business for at least three years from the due date of the return to which the record pertains. The record must be available to the IRS at all times.

### **Recordkeeping by Agents and Employees**

Every agent or employee of your organization that receives wagers on your behalf at any place other than your registered place of business must keep a daily record of:

- The gross amount of wagers received;
- The amount, if any, retained as a commission or as compensation for receiving the wagers; and
- The amount turned over to you.

Such records must be kept for a period of at least three years from the date the wager was received, and must be available to the IRS at all times.



# General Tax Calendar for Organizations That Conduct Gaming (Calendar Year Filers)

**Note:** This calendar does not account for Saturdays, Sundays, or legal holidays. If a due date for performing any act for tax purposes falls on a Saturday, Sunday, or legal holiday, it is delayed until the next day that is not a Saturday, Sunday, or legal holiday. See Publication 509, Tax Calendar for [Year], for due dates adjusted to take account of the weekends and holidays of the particular calendar year.

*Fiscal Year Filers:* If you use a fiscal year as your accounting period rather than a calendar year, change the dates in this calendar as follows:

- File Form 990 or 990-EZ (or file Form 8868 to apply for an extension to file Form 990 or 990-EZ) by the 15th day of the 5th month after your accounting period ends.
- File Form 990-T (or file Form 8868 to apply for an extension to file Form 990-T) by the 15th day of the 5th month after your accounting period ends.
- Pay estimated unrelated business income tax is due by the 15th day of the 4th, 6th, 9th, and 12th months of your fiscal year.

The first quarter of a calendar year comprises January, February, and March.

## **By January 10**

*Employees who work for tips:* If you received \$20 or more in tips during December, report them to your employer. You can use Form 4070, *Employee's Report of Tips to Employer*.

## **By January 15**

*Social Security, Medicare and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in December.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in December.

## **By January 3**

*Employers:* Give your employees their copies of Form W-2 for the previous year.

*Payers of gambling winnings:* If you either paid reportable gambling winnings or withheld income tax from gambling winnings the previous calendar year, give the winners their copies of Form W-2G.

*Nonpayroll taxes:* File Form 945 to report income tax withheld the previous calendar year on all nonpayroll items, including backup withholding and withholding on gambling winnings. Deposit or pay any undeposited tax. If your tax liability is less than \$2,500, you can pay it in full with a timely filed return. If you deposited the tax for the year in full and on time, you have until February 10 to file the return.

*Social Security, Medicare, and withheld income tax:* File Form 941 for the fourth quarter of the previous calendar year. Deposit or pay any undeposited tax. If your tax liability is less than \$2,500, you can pay it in full with a timely filed return. If you deposited the tax for the quarter in full and on time, you have until February 10 to file the return.

*Certain small employers:* File Form 944 to report Social Security, Medicare and withheld income taxes for the previous calendar year. Deposit or pay any undeposited tax. If your tax liability is \$2,500 or more the entire previous year but less than \$2,500 for the fourth quarter of the previous year, deposit any undeposited tax or pay it in full with a timely filed return.

*Federal unemployment tax:* File Form 940 for the previous calendar year. If your undeposited tax is \$500 or less, you can either pay it with your return or deposit it. If it is more than \$500, you must deposit it. If you deposited the tax for the year in full and on time, you have until February 10 to file the return.

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during December.

## **By February 10**

*Employees who work for tips:* If you received \$20 or more in tips during January, report them to your employer. You can use Form 4070, *Employee's Report of Tips to Employer*.

## **February 15**

*Social Security, Medicare, and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in January.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in January.



**By February 28**

*Payers of gambling winnings:* If you use a paper form, you must file Copy A of all Forms W-2G for winnings for the previous calendar year by February 28 with the IRS. Use Form 1096, *Annual Summary and Transmittal of U.S. Information Returns*, to transmit paper Forms W-2G to the IRS. If you file electronically, the due date is extended to March 31.

*Payers of independent contractors:* If you use a paper form, you must file Form 1099-MISC for payments for the previous calendar year by February 28 with the IRS. Use Form 1096, *Annual Summary and Transmittal of U.S. Information Returns*, to transmit paper Forms 1099-MISC to the IRS. If you file electronically, the due date is extended to March 31.

**By the Last Day of February (February 28 or February 29 in leap years)**

*Employers:* If you use a paper form, you must file Copy A of all Forms W-2 issued for the previous calendar year by the last day of February, with the Social Security Administration (SSA). Use Form W-3, Transmittal of Wage and Tax Statements, to transmit paper Forms W-2 to the SSA. If you file electronically, the due date is extended to March 31.

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during January.

**By March 10**

*Employees who work for tips:* If you received \$20 or more in tips during February, report them to your employer. You can use Form 4070, *Employee's Report of Tips to Employer*.

**By March 15**

*Social Security, Medicare, and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in February.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in February.

**By March 31**

*Electronic Filing of Forms 1099-MISC, W-2, and W-2G:* File electronic Forms W-2 with the SSA. For information on reporting Form W-2 information to the SSA electronically, visit the Social Security Administration's web page at [www.socialsecurity.gov/employer](http://www.socialsecurity.gov/employer). File electronic Forms 1099-MISC and W-2G with the IRS. For information on filing information returns electronically with the IRS, see Publication 1220, *Specifications for Filing Forms 1098, 1099, 5498, and W-2G Electronically*.

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during February.

The second quarter of a calendar year comprises April, May, and June.

**By April 10**

*Employees who work for tips:* If you received \$20 or more in tips during March, report them to your employer. You can use Form 4070, *Employee's Report of Tips to Employer*.

**By April 15**

*Social Security, Medicare, and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in March.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in March.

*Unrelated business income tax:* If total expected tax for the tax year is \$500 or more, deposit the first installment of estimated tax. Use Form 990-W to figure your estimated tax liability.

**By April 30**

*Social Security, Medicare and withheld income tax:* File Form 941 for the first quarter of the calendar year. Deposit or pay any undeposited tax. If your tax liability is less than \$2,500, you can pay it in full with a timely filed return. If you deposited the tax for the quarter in full and on time, you have until May 10 to file the return.

*Federal unemployment tax:* Deposit the tax owed through March if more than \$500.

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during March.



**By May 10**

*Employees who work for tips:* If you received \$20 or more in tips during April, report them to your employer. You can use Form 4070, *Employee's Report of Tips to Employer*.

**By May 15**

*Social Security, Medicare, and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in April.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in April.

*Exempt organization annual information return or notice:* File annual information return (Form 990 or 990-EZ) or e-Postcard (Form 990-N). If you want an automatic 3-month extension to file Form 990 or 990-EZ, file Form 8868. Then, file Form 990 or 990-EZ by August 15.

*Unrelated business income tax return:* File Form 990-T to report your unrelated business income and unrelated business income tax liability for the previous calendar year, and deposit any tax due in full. Corporations may request an automatic 6-month extension to file Form 990-T by filing Form 8868. Then, file Form 990-T by November 15.

Trusts may request an automatic 3-month extension to file Form 990-T by filing Form 8868. Then, file Form 990-T by August 15.

**By May 31**

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during April.

**By June 10**

*Employees who work for tips:* If you received \$20 or more in tips during May, report them to your employer. You can use Form 4070, *Employee's Report of Tips to Employer*.

**By June 15**

*Social Security, Medicare, and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in May.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in May.

*Unrelated business income tax:* If total expected tax for the year is \$500 or more, deposit second installment of estimated tax. Use Form 990-W to figure your estimated tax liability.

**By June 30**

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during May.

The third quarter of a calendar year comprises July, August, and September.

**By July 1**

*Occupational excise taxes:* File Form 11-C to register and pay the annual tax if you are in the business of taking wagers.

**By July 10**

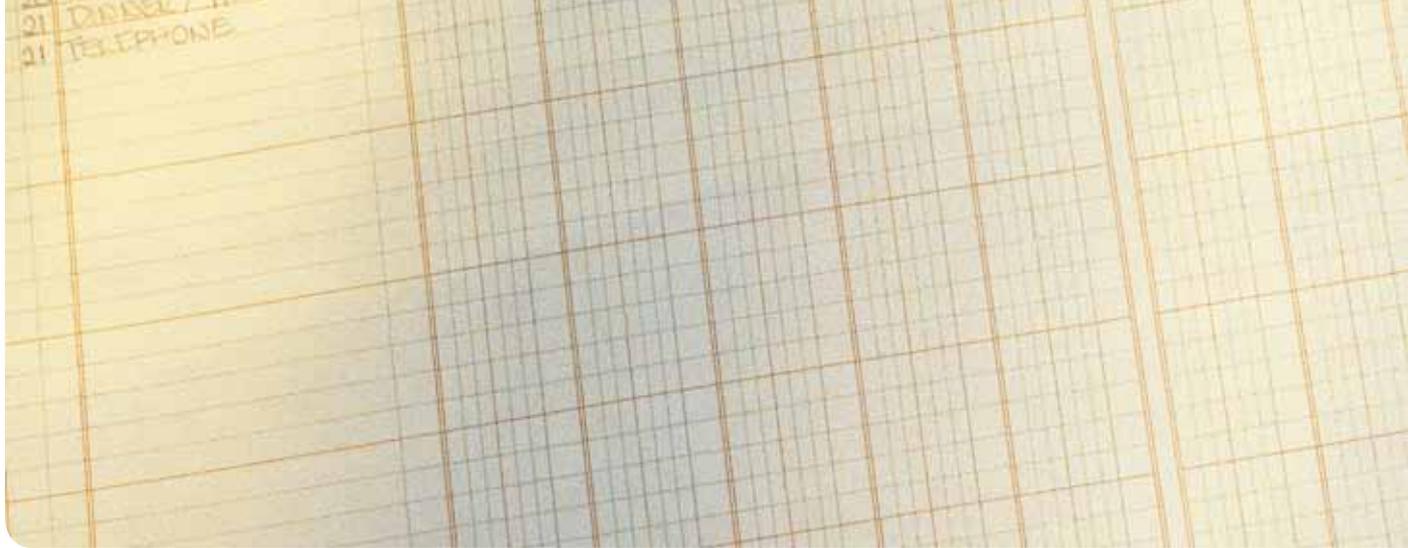
*Employees who work for tips:* If you received \$20 or more in tips during June, report them to your employer. You can use Form 4070, *Employee's Report of Tips to Employer*.

**By July 15**

*Social Security, Medicare, and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in June.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in June.





### **By July 31**

*Social Security, Medicare, and withheld income tax:* File Form 941 for the second quarter of the calendar year. Deposit or pay any undeposited tax. If your tax liability is less than \$2,500, you can pay it in full with a timely filed return. If you deposited the tax for the quarter in full and on time, you have until August 10 to file the return.

*Certain small employers:* Deposit any undeposited tax if your tax liability is \$2,500 or more for the calendar year but less than \$2,500 for the second quarter.

*Federal unemployment tax:* Deposit the tax owed through June if more than \$500.

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during June.

### **By August 10**

*Employees who work for tips:* If you received \$20 or more in tips during June, report them to your employer. You can use Form 4070, *Employee's Report of Tips to Employer*.

### **By August 15**

*Social Security, Medicare, and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in July.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in July.

*Exempt organization annual information return:* If you requested an automatic 3-month extension to file your annual information return, file Form 990 or 990-EZ, or file Form 8868 to request an additional (not automatic) 3-month extension. If an additional 3-month extension is granted, file Form 990 or 990-EZ by November 15.

### **By August 31**

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during July.

### **By September 10**

*Employees who work for tips:* If you received \$20 or more in tips during August, report them to your employer. You can use Form 4070, *Employee's Report of Tips to Employer*.

### **By September 15**

*Social Security, Medicare, and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in August.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in August.

*Unrelated business income tax:* If total expected tax for the year is \$500 or more, deposit third installment of estimated tax. Use Form 990-W to figure your estimated tax liability.

### **By September 30**

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during August.

The fourth quarter of a calendar year comprises October, November, and December.

### **By October 10**

*Employees who work for tips:* If you received \$20 or more in tips during September, report them to your employer. You can use Form 4070, *Employee's Report of Tips to Employer*.

### **By October 15**

*Social Security, Medicare, and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in September.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in September.



### **By October 31**

*Social Security, Medicare, and withheld income tax:* File Form 941 for the third quarter of the calendar year. Deposit or pay any undeposited tax. If your tax liability is less than \$2,500, you can pay it in full with a timely filed return. If you deposited the tax for the quarter in full and on time, you have until November 10 to file the return.

*Certain small employers:* Deposit any undeposited tax if your tax liability is \$2,500 or more for the calendar year but less than \$2,500 for the third quarter.

*Federal unemployment tax:* Deposit the tax owed through September if more than \$500.

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during September.

### **By November 10**

*Employees who work for tips:* If you received \$20 or more in tips during October, report them to your employer. You can use Form 4070, *Employee's Report of Tips to Employer*.

### **By November 15**

*Social Security, Medicare, and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in October.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in October.

*Exempt organization annual information return:* If you were given an additional 3-month extension to file your annual information return, file Form 990 or 990-EZ.

*Unrelated business income tax:* If you requested an automatic 6-month extension to file your exempt organization business income tax return (corporations only), file Form 990-T.

### **By November 30**

*Income tax withholding:* Ask employees whose withholding allowances will be different next calendar year to fill out a new Form W-4, *Employee's Withholding Allowance Certificate*.

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during October.

### **By December 10**

*Employees who work for tips:* If you received \$20 or more in tips during November, report them to your employer. You can use Form 4070, *Employee's Report of Tips to Employer*.

### **By December 15**

*Social Security, Medicare, and withheld income tax:* If the monthly deposit rule applies, deposit the tax for payments in November.

*Nonpayroll withholding:* If the monthly deposit rule applies, deposit the tax for payments in November.

*Unrelated business income tax:* If total expected tax for the year is \$500 or more, deposit fourth installment of estimated tax. Use Form 990-W to figure your estimated tax liability.

### **December 31**

*Wagering tax:* File Form 730 and pay the tax on wagers accepted during November.

# Summary of Forms, Publications and Other Resources for Organizations Conducting Gaming

## **Forms**

Form 990, *Return of Organization Exempt From Income Tax*

Form 990-EZ, *Short Form Return of Organization Exempt From Income Tax*

Form 990-N, *e-Postcard* (electronic only)

Form 8868, *Application for Extension of Time To File an Exempt Organization Return*

Schedule G, Form 990 or Form 990-EZ, *Supplemental Information Regarding Fundraising or Gaming Activities (Form 990 or Form 990-EZ)*

Form 990-T, *Exempt Organization Business Income Tax Return*

Form W-2G, *Certain Gambling Winnings*

Form 1096, *Annual Summary and Transmittal of U.S. Information Returns*

Form 5754, *Statement by Person(s) Receiving Gambling Winnings*

Form 1042, *Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*

Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*

Form 945, *Annual Return of Withheld Federal Income Tax*

Form 8109, *Federal Tax Deposit Coupon*

Form 730, *Monthly Tax Return for Wagers*

Form 730-V, *Payment Voucher*

Form 11-C, *Occupational Tax and Registration Return for Wagering*

Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*

Form W-4, *Employee's Withholding Allowance Certificate*

Form 941, *Employer's QUARTERLY Federal Tax Return*

Form 944, *Employer's ANNUAL Federal Tax Return*

Form 940, *Employer's Annual Federal Unemployment Tax Return*

Form W-2, *Wage and Tax Statement*

Form W-3, *Transmittal of Income and Tax Statements*

Form 4070A, *Employee's Daily Record of Tips*

Form 4070, *Employee's Report of Tips to Employer*

Form 4137, *Social Security and Medicare Tax on Unreported Tip Income*

Form W-9, *Request for Taxpayer Identification Number and Certification*

Form 1099-MISC, *Miscellaneous Income*

## **Publications**

Publication 557, *Tax-Exempt Status for Your Organization*

Publication 598, *Tax on Unrelated Business Income of Exempt Organizations*

Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*

Publication 15, (Circular E), *Employer's Tax Guide*

Publication 15-A, *Employer's Supplemental Tax Guide*

Publication 531, *Reporting Tip Income*

Publication 583, *Starting a Business and Keeping Records*

Publication 4221-PC, *Compliance Guide for 501(c)(3) Public Charities*

Publication 4221-NC, *Compliance Guide for Tax Exempt Organizations (other than 501(c)(3) Public Charities and Private Foundations)*

## **Other Resources**

*IRS Tax-Exempt and Government Entities Customer Account Services:* (877) 829-5500 (toll-free). This department can answer your technical and procedural questions concerning charities and other non-profit organizations.

*Business and Specialty Tax Line:* (800) 829-4933 (toll-free). For specific questions about employment taxes.

*IRS Forms and Publications:* (800) 829-3676 (toll-free) You can order tax forms and publications for delivery by U. S. mail. Be aware that quantities are limited. Forms and publications may also be ordered through the IRS website; see below.

*IRS Main website:* [www.irs.gov](http://www.irs.gov)

*Tax Information for Charities & Other Non-Profits:* [www.irs.gov/eo](http://www.irs.gov/eo)

*Social Security Administration website:* [www.socialsecurity.gov/employer](http://www.socialsecurity.gov/employer)

*IRS Forms and Publications:* [www.irs.gov/formspubs/](http://www.irs.gov/formspubs/). You may download forms or publications or place an order for current year items to be delivered by U.S. Mail.

*EO Update:* The IRS electronic newsletter with information for tax-exempt organizations and the practitioners who represent them. To subscribe, go to [www.irs.gov/eo](http://www.irs.gov/eo) and click on the "EO Newsletter" link on the left side of the page.

*Life Cycle of an Exempt Organization:* To view, go to [www.irs.gov/eo](http://www.irs.gov/eo) and click on the "Life Cycle" link on the left side of the page.

*Stay Exempt – Tax Basics for 501(c)(3) Organizations:* A specialized educational website from the IRS Exempt Organizations office. Go to [www.StayExempt.irs.gov/](http://www.StayExempt.irs.gov/).

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