

May 2010

Introduced by

1 A BILL for an Act to amend and reenact subsection 1 of section 53-06.1-01 and sections  
2 53-06.1-11, 53-06.1-12, and 53-06.1-12.3 of the North Dakota Century Code, relating to  
3 consolidation of gaming taxes and allowable expenses.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 53-06.1-01 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7 1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of  
8 merchandise prizes, ~~bingo cards excise tax, pull tab excise tax,~~ and federal excise  
9 tax imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401].

10 **SECTION 2. AMENDMENT.** Section 53-06.1-11 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **53-06.1-11. Gross proceeds - Allowable expenses - Rent limits.**

13 1. All money received from games must be accounted for according to the gaming  
14 rules. Gaming activity for a quarter must be reported on a tax return form  
15 prescribed by the attorney general. Unless otherwise authorized by the attorney  
16 general, the purchase price of a merchandise prize must be paid from a gaming  
17 bank account by check. No check drawn from a gaming or trust bank account may  
18 be payable to "cash" or a fictitious payee. A cash prize that exceeds an amount  
19 set by rule must be accounted for by a receipt prescribed by the gaming rules.

20 2. Allowable expenses may be deducted from adjusted gross proceeds. The  
21 allowable expense limit is ~~fifty-one~~ fifty-eight percent of the ~~first two hundred~~  
22 ~~thousand dollars of~~ adjusted gross proceeds per quarter ~~and forty five percent of~~  
23 ~~the adjusted gross proceeds in excess of two hundred thousand dollars per~~  
24 ~~quarter. In addition, an organization may deduct as an allowable expense:~~

Sixty-second  
Legislative Assembly

- 1           a. ~~Two and one-half percent of the gross proceeds of pull tabs.~~
- 2           b. ~~Capital expenditures for security or video surveillance equipment used for~~
- 3           ~~controlling games if the equipment is required by section 53-06.1-10 or~~
- 4           ~~authorized by rule, and it is approved by the attorney general.~~
- 5           e. ~~If an organization's total actual expenses exceed the allowable expenses~~
- 6           ~~provided by this subsection, the organization may also deduct the expenses~~
- 7           ~~up to two additional percent of the first two hundred thousand dollars of~~
- 8           ~~adjusted gross proceeds per quarter.~~
- 9        3. Cash shorts incurred in games and interest and penalty are classified as expenses.
- 10       4. For a site where bingo is conducted:
- 11       a. Except under subdivision c, if bingo is the primary game, the monthly rent
- 12       must be reasonable.
- 13       b. If bingo is not the primary game, but is conducted with twenty-one,
- 14       paddlewheels, or pull tabs, no additional rent is allowed.
- 15       e. ~~If bingo is conducted through a dispensing device and no other game is~~
- 16       ~~conducted, the monthly rent may not exceed two hundred seventy-five dollars.~~
- 17       5. For a site where bingo is not the primary game:
- 18       a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed
- 19       two hundred dollars multiplied by the necessary number of tables based on
- 20       criteria prescribed by gaming rule. For each twenty-one table with a wager
- 21       greater than five dollars, an additional amount up to one hundred dollars may
- 22       be added to the monthly rent. If pull tabs is also conducted involving a jar bar
- 23       or dispensing device, but not both, the monthly rent for pull tabs may not
- 24       exceed an additional one hundred seventy-five dollars. If pull tabs is
- 25       conducted involving both a jar bar and dispensing device, the monthly rent for
- 26       pull tabs may not exceed an additional two hundred dollars.
- 27       b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted
- 28       involving a jar bar or dispensing device, but not both, the monthly rent may
- 29       not exceed two hundred seventy-five dollars. If pull tabs is conducted
- 30       involving both a jar bar and dispensing device, the monthly rent for pull tabs
- 31       may not exceed three hundred dollars.

1           **SECTION 3. AMENDMENT.** Section 53-06.1-12 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **53-06.1-12. Gaming and ~~excise taxes~~—Exception tax - Deposits and allocations.**

4           1. A gaming tax is imposed on the total ~~adjusted~~ gross proceeds ~~earned~~ received by  
5 a licensed organization in a quarter and it must be computed and paid to the  
6 attorney general on a quarterly basis on the tax return. This tax must be paid from  
7 adjusted gross proceeds and is not part of the allowable expenses. The tax ~~rates~~  
8 ~~are:~~

9           a. ~~On adjusted gross proceeds not exceeding two hundred thousand dollars, a~~  
10 ~~tax of five percent.~~

11           b. ~~On adjusted gross proceeds exceeding two hundred thousand dollars but not~~  
12 ~~exceeding four hundred thousand dollars, a tax of ten percent.~~

13           e. ~~On adjusted gross proceeds exceeding four hundred thousand dollars but not~~  
14 ~~exceeding six hundred thousand dollars, a tax of fifteen percent.~~

15           d. ~~On adjusted gross proceeds exceeding six hundred thousand dollars, a tax of~~  
16 ~~twenty percent.~~

17           2. ~~Except as provided in subsection 3, in addition to any other tax provided by law~~  
18 ~~and in place of sales or use taxes, there is imposed on a licensed organization an~~  
19 ~~excise tax of three percent on the gross proceeds from the sale at retail of pull tabs~~  
20 ~~and three percent on the gross proceeds from the sale at retail of bingo cards to~~  
21 ~~final users. This includes pull tabs or bingo cards provided to a player in exchange~~  
22 ~~for redeemed winning pull tabs or bingo cards rate is three and sixteen one~~  
23 ~~hundredths percent of gross proceeds.~~ The tax must be paid to the attorney  
24 general at the time tax returns are filed.

25           3. ~~For organizations whose gross proceeds of pull tabs do not exceed four thousand~~  
26 ~~dollars per calendar quarter, no excise tax may be imposed on the gross proceeds~~  
27 ~~from the sale at retail of pull tabs to final users.~~

28           4. 2. Except as provided in subsection ~~5~~ 3, the attorney general shall deposit the  
29 ~~gaming and excise taxes~~ tax, monetary fines, and interest and penalties collected  
30 in the general fund in the state treasury.



- 1 attorney general, the attorney general may bring court action to collect it and may  
2 suspend the organization's license. The attorney general may for good cause  
3 waive all or part of any interest or penalty and may waive any minimal tax.
- 4 4. If a licensed organization has failed to file a tax return, has been notified by the  
5 attorney general of the delinquency, and refuses or neglects within thirty days after  
6 the notice to file a proper return, the attorney general shall determine the adjusted  
7 gross proceeds and gaming ~~and excise taxes~~ tax due according to the best  
8 information available and assess the ~~taxes~~ tax at not more than double the  
9 amount. Interest and penalty also must be assessed.
- 10 5. The attorney general may authorize a licensed organization to pay any delinquent  
11 tax, interest, or penalty on an installment plan and may set any qualifying  
12 conditions.