

November 12, 2021

Ms. Kinna Brewington
Internal Revenue Service
Room 6526
1111 Constitution Avenue NW
Washington, DC 20224

Re: Request for Comment: Form W-2G, Certain Gambling Winnings; OMB Number: 1545-0238

To Whom It May Concern:

The American Gaming Association (AGA)—the national trade group representing the commercial and tribal U.S. casino gaming industry—appreciates the opportunity to provide comments on Internal Revenue Service (IRS) Form W-2G, Certain Gambling Winnings.

Filing a Form W-2G is triggered when a patron's slot jackpot win is \$1,200 or more, a number that has been stagnant since 1977. When adjusted for inflation, a \$1,200 jackpot in 1977 is the equivalent to more than \$5,000 today. This outdated policy creates significant compliance burdens on both the IRS and the gaming industry.

The AGA has repeatedly requested the Department of Treasury and IRS address this long-standing issue by using their existing regulatory authority to increase the dollar threshold for tax information reporting of slot machine jackpots under current Treasury Regulation § 1.6041-10. This includes most recently writing to the Department in 2019 and again in July 2021 in collaboration with the National Indian Gaming Association.^{1 2}

Congress has also weighed in: the FY2021 Omnibus Appropriations bill included language directing the Department of Treasury to review this issue and report back by the end of March 2021. To date, this report has not been submitted to Congress. Several members of Congress sent a letter to Secretary Yellen in September on the threshold and the required Treasury report.^{3 4}

We understand that as many as 2 million Forms W-2G are filed with the IRS annually, despite most of these customers being in a losing position at the end of the year. Raising the threshold for reporting slot machine wins on Form W-2G is a benefit to the IRS, taxpayers, and the casino

¹ See 2019 enclosure.

² See July 2021 enclosure.

³ "The Committee encourages the Treasury Department to examine using its regulatory authority to update the dollar threshold for tax information reporting for slot machine jackpots. The Department is directed to report to Congress within 90 days of enactment of this Act on the feasibility of updating the threshold within such authority." Financial Services and General Government Appropriations Bill, 2021 (Page 30, Lines 22-27).

⁴ See September 2021 enclosure.



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gaming industry. It would streamline and enhance the quality of information collected, enable the IRS to focus limited enforcement resources on those taxpayers most likely to have year-end net slot winnings, and minimize the collection burden on casino staff.

We respectfully ask that you use your regulatory authority to update the threshold to \$5,000, in-line with inflation rates.

Thank you for your consideration of our comments on Form W-2G. If you have any questions, please do not hesitate to reach out to Chris Cylke, Senior Vice President, Government Relations, at ccylke@americangaming.org.

Sincerely,

William C. Miller, Jr.
President & CEO
American Gaming Association

August 5, 2019

The Honorable David Kautter
Assistant Secretary, Tax Policy
U.S. Department of the Treasury
Washington, DC 20220

Dear Assistant Secretary Kautter,

The American Gaming Association (AGA) strongly urges that the Treasury Department exercise its regulatory authority under section 7805 of the Internal Revenue Code to update the dollar threshold for tax information reporting for slot machine jackpots under current Treasury Regulation § 1.6041-10. Based on the reasons outlined below, the gaming industry supports a modernization of the outdated slot jackpot reporting threshold.

The Outdated Slot Reporting Threshold Imposes Undue Burdens on Both IRS and Industry

Reg. § 1.6041-10 currently sets the casino's tax information reporting threshold for a patron's slot jackpot win at \$1,200. The same \$1,200 slot jackpot reporting threshold has been in place since 1977, more than 40 years. It is outdated and imposes significant compliance burdens on both the IRS and the gaming industry:

- **The Reporting Threshold Should Be Updated to Properly Reflect Inflation**

Clearly a \$1,200 slot jackpot today is not the same as a \$1,200 jackpot in 1977. Based on inflation over the past 40 years, a comparable jackpot reporting threshold today would be in the range of \$4,700. This static reporting threshold has dramatically increased the number of reportable jackpots, which has increased the operational costs and associated burdens of the casinos, their customers, and the IRS.

- **Tax Administration Would Benefit from a Threshold Targeted at Customers with Net Gaming Income at the End of the Year**

Currently a sea of slot jackpot reports on Form W-2G floods an underfunded and understaffed IRS each year. We understand that as many as 2 million Forms W-2G are filed

with the IRS annually. At the same time, most slot customers are in a losing position at the end of the year.

It is important to remember that, unlike other forms of tax information reporting, such as bank interest on Form 1099, which report actual income, the Form W-2G “flag” reporting of a “payment” on a gross basis is different from the ultimate determination of the patron’s taxable gain or loss from slot play. The IRS in Chief Counsel Advice from the Associate Chief Counsel for Income Tax & Accounting has stated: “We note that § 6041 requires gambling businesses to report payments over certain dollar amounts, ‘gross receipts’ reporting. The amount reported as gross receipts is not reduced by the amount (basis) of the wager.” The Chief Counsel Advice continued, “However, such reported payments are not necessarily taxable wagering gains. A gambling business may issue *an information return for a casual gambler’s winning spin*, but the gambler continues to play and wagers and loses that amount during slot machine play. Wagering gain or loss is determined at the time the casual gambler redeems his or her tokens at the end of slot machine play.” (IRS Chief Counsel Advice Memorandum AM2008-011, PSTN-138904-08 (dated 12/5/08), at p. 5 n. 2 [emphasis added] (attached)).

Updating the slot jackpot reporting threshold to a realistic level such as \$5,000 would enable the IRS to focus its limited enforcement resources on those taxpayers who are most likely to have net slot winnings at the end of the taxable year.

- **The Gaming Industry Burden Faces a Substantial Burden from Tax Information Reporting on Slot Play**

When a slot patron hits a jackpot of \$1,200 or more, the slot machine locks up and is out of service while the casino staff manually processes the tax information reporting paperwork. AGA is not aware of any other industry that must take its assets out of production in order to comply with its tax information reporting obligations.

Treasury Has the Regulatory Authority to Update the Slot Reporting Threshold and Has Exercised Such Authority in the Past

The history of Treasury’s regulations on the slot jackpot reporting threshold underscores that Treasury has regulatory authority to update the threshold. Treasury described this regulatory history in the preamble to the proposed version of Reg. § 1.6041-10:

“Section 6041 generally requires information reporting by every person engaged in a trade or business who, in the course of such trade or business, makes payments of gross income of \$600 or more in any taxable year. The current regulatory reporting thresholds for winnings from bingo, keno, and slot machines deviate from this general rule. Prior to the adoption of the current thresholds in 1977, reporting from bingo, keno, and slot

machines was based on a sliding scale threshold tied to the amount of the wager and required the wager odds to be at least 300 to 1. On January 7, 1977, temporary regulation § 7.6041-1 was published establishing reporting thresholds for payments of winnings from bingo, keno, and slot machine play in the amount of \$600.¹ In Announcement 77-63, 1977-8 IRB 25, the IRS announced that it would not assert penalties for failure to file information returns before May 1, 1977, to allow the casino industry to submit, and the IRS to consider, information regarding the industry's problems in complying with the reporting requirements.² After considering the evidence presented by the industry, the IRS announced in a press release that effective May 1, 1977, information reporting to the IRS would be required on payments of winnings of \$1,200 or more from a bingo game or a slot machine play, and \$1,500 or more from a keno game net of wager. On June 30, 1977, § 7.6041-1 was amended to raise the reporting thresholds for winnings from a bingo game and slot machine play to \$1,200, and the reporting threshold for winnings from a keno game to \$1,500.³ [See Preamble to Prop. Reg. § 1.6041-10, 80 *Federal Register* 11600 (March 4, 2015). (attached)]

The amendment to Reg. § 7.6041 raising the slot reporting threshold to \$1,200 in 1977 was "issued under the authority contained in section 7805 of the Internal Revenue Code of 1954." (Treasury Decision 7492, 42 *Federal Register* 33286 (June 30, 1977) (attached)). Code section 7805 provides that "the Secretary shall prescribe all needful rules and regulations for the enforcement of this title [Internal Revenue Code]. . . ."⁴

Conclusion

For all of the reasons outlined above, AGA respectfully requests that the Secretary once again, as he has in the past, exercise his regulatory authority under section 7805 to update the reporting threshold for slot jackpots to a substantially higher level that reflects current realities, such as \$5,000.

¹ 42 *Federal Register* 1471 (January 7, 1977) (attached).

² In Announcement 77-63, the IRS stated: "The Service has announced that it will not assert penalties for failure to file information returns, with respect to payments made before May 1, 1977, to report winnings of \$1,000 or more from a keno or bingo game or slot machine play. The extension of the penalty deadline has been made in order to allow the Treasury Department time to consider information which is to be submitted by the gaming industry dealing with its problems of compliance with the requirements." (attached).

³ According to the preamble to the amendment to Regulation § 7.6041-1, "this Treasury decision changes from \$600 to \$1,200 the threshold for the requirement that the payor report payments of winnings from a bingo game or slot machine play to the Internal Revenue Service. The threshold amount for the requirement of reporting winnings from a keno game has been changed from \$600 to \$1,500 and may be determined by reducing the amount won in one game by the amount wagered in that one game. The amendments promulgated in this Treasury decision were announced by the Internal Revenue Service in Reno, Nevada, by a press release dated May 2, 1977." T.D. 7492, 42 *Federal Register* 33286 (June 30, 1977). (attached).

⁴ The current \$1,200 slot jackpot reporting threshold is now found in Treas. Reg. § 1.6041-10(b)(1)(i)(C) (T.D. 9807 (12/29/2016)).

We appreciate your consideration of this request and look forward to further dialogue with the Department regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "W. C. Miller, Jr.", with a stylized flourish at the end.

William C. Miller, Jr.
President & CEO

Enclosures: IRS Memo Re: Reporting of Wagering Gains and Losses, December 12, 2008
Excerpt from Fed. Register, Vol. 80, No. 42, March 4, 2015
Excerpt from Fed. Register, Vol. 42, No. 126, June 30, 1977

**Office of Chief Counsel
Internal Revenue Service
Memorandum**

Release Number: **AM2008-011**

Release Date: 12/12/08

CC:ITA:B01

POSTN-138904-08

Third Party Communication: None

Date of Communication: Not Applicable

UILC: 165.08-00, 61.00-00

date: December 05, 2008

to: Roland Barral
Area Counsel
(Large & Mid-Size Business)

from: George J. Blaine
Associate Chief Counsel
(Income Tax & Accounting)

subject: Reporting of Wagering Gains and Losses

This Chief Counsel Advice responds to your request for assistance about a recurring issue in litigation. This advice may not be used or cited as precedent.

ISSUE

How does a casual gambler determine wagering gains and losses from slot machine play?

FACTS

The taxpayer (Mrs. X) is a casual gambler. The taxpayer uses the cash receipts and disbursements method of accounting and files her returns on a calendar year basis. The taxpayer properly substantiates all gains and losses incurred in her

wagering transactions pursuant to § 6001 of the Internal Revenue Code and Rev. Proc. 77-29, 1977-2 C.B. 538.

The taxpayer is retired on a modest, fixed income. Therefore, she carefully limits the amount of money she gambles. Her practice is to commit only \$100 to slot machine play on any visit to a casino. She wagers until she loses the original \$100 committed to gambling or until she stops gambling and "cashes out." Upon cashing out, the taxpayer may have \$100 (the basis of her wagers), less than \$100 (a wagering loss), or more than \$100 (a wagering gain).

The taxpayer went to a casino to play the slot machines on ten separate occasions throughout the year. On each visit to the casino, the taxpayer exchanged \$100 of cash for \$100 in slot machine tokens and used the tokens to gamble. Taxpayer did not use cash, credit or "player's cards" to gamble. On five occasions, the taxpayer lost her entire \$100 in tokens before terminating play. On the other five occasions, the taxpayer redeemed her remaining tokens for the following amounts of cash: \$20, \$70, \$150, \$200 and \$300.

ANALYSIS

Section 61 provides that gross income means all income from whatever source derived. Rev. Rul. 54-339, 1954-2 C.B. 89, holds that wagering gains are included in gross income. See Umstead v. Commissioner, T.C. Memo. 1982-573, 44 TCM 1294, 1295 (1982).

Section 165(a) allows a deduction for any loss sustained during the taxable year and not compensated for by insurance or otherwise.

Section 165(d) provides that losses from wagering transactions are allowed only to the extent of the gains from such transactions.

Section 1.165-10 of the Income Tax Regulations provides that losses sustained during the taxable year on wagering transactions shall be allowed as a deduction but only to the extent of the gains during the taxable year from such transactions.

Wagering Gains and Wagering Losses

Section 165(d) uses the words "gains" and "losses" from wagering transactions without ascribing a technical meaning to the terms. In the absence of a stated definition to the contrary, the literal language of the statute should control. If the language of a statute is plain, clear, and unambiguous, the statutory language is to be applied according to its terms, unless a literal interpretation of the statutory language would lead to absurd results. United States v. Ron Pair Enterprises, Inc., 489 U.S.

235, 241 (1989); Burke v. Commissioner, 105 T.C. 41, 59 (1995). In ordinary parlance, a wagering "gain" means the amount won in excess of the amount bet (basis). See Rev. Rul. 83-103, 1983-2 C.B. 148, at 149, holding that in calculating wagering gains, the cost (or basis) of the wager is excluded. That is, the wagering gain is the total winnings less the amount of the wager. The term wagering "loss" means the amount of the wager (basis) lost.

Casual gamblers may deduct their wagering losses only to the extent of their wagering gains; gamblers may not carry over excess wagering losses to offset wagering gains in another taxable year or offset non-wagering income. Skeeles v. United States, 118 Ct. Cl. 362 (1951), cert. denied, 341 U.S. 948 (1951). Casual gamblers may not net their gains and losses from slot machine play throughout the

year and report only the net amount for the year. See United States v. Scholl, 166 F.3d 964 (9th Cir. 1999).¹

A key question in interpreting § 165(d) is the significance of the term "transactions." The statute refers to gains and losses in terms of wagering transactions. Some would contend that transaction means every single play in a game of chance or every wager made. Under that reading, a taxpayer would have to calculate the gain or loss on every transaction separately and treat every play or wager as a taxable event. The gambler would also have to trace and recompute the basis through all transactions to calculate the result of each play or wager. Courts considering that reading have found it unduly burdensome and unreasonable. See Green v. Commissioner, 66 T.C. 538 (1976); Szkirscak v. Commissioner, T.C. Memo. 1980-129. Moreover, the statute uses the plural term "transactions" implying that gain or loss may be calculated over a series of separate plays or wagers.

The better view is that a casual gambler, such as the taxpayer who plays the slot machines, recognizes a wagering gain or loss at the time she redeems her tokens. We think that the fluctuating wins and losses left in play are not accessions to wealth until the taxpayer redeems her tokens and can definitively calculate the amount above or below basis (the wager) realized. See Commissioner v. Glenshaw Glass Co., 348 U.S. 426 (1955). For example, a casual gambler who enters a casino with \$100 and redeems his or her tokens for \$300 after playing the slot machines has a wagering gain of \$200 (\$300 - \$100). This is true even though the taxpayer may have

¹ Gamblers must report wagering gains, even though their losses over a tax year exceed their gains. That increases a casual gambler's AGI and has a significant tax impact (especially on low income taxpayers), because many tax benefits phase out as AGI increases, e.g., exclusion of social security payments.

had \$1,000 in winning spins and \$700 in losing spins during the course of play.

Likewise, a casual gambler who enters a casino with \$100 and loses the entire amount after playing the slot machines has a wagering loss of \$100, even though the casual gambler may have had winning spins of \$1,000 and losing spins of \$1,100 during the course of play.²

Calculating the Taxpayer's Gains and Losses

Under the facts presented, the taxpayer purchased and subsequently lost \$100 worth of tokens on five separate occasions. As a result, the taxpayer sustained \$500 of wagering losses ($\$100 \times 5$). The taxpayer also sustained losses on two other occasions, when the taxpayer redeemed tokens in an amount less than the \$100 (basis) of tokens originally purchased. The loss is the basis of the bet (\$100 in tokens) minus the amount of the tokens eventually redeemed. Therefore, on the day the taxpayer redeemed \$20 worth of tokens, the taxpayer incurred an \$80 wagering loss ($\$100 - \$20$). On the day the taxpayer redeemed \$70 worth of tokens, the taxpayer incurred a \$30 wagering loss ($\$100 - \$70$).

On three occasions, the taxpayer redeemed tokens in an amount greater than the \$100 of tokens originally purchased. The amount redeemed less the \$100 basis of the wager constitutes a wagering gain. See Rev. Rul. 83-130, supra. On the day the taxpayer redeemed \$150 worth of tokens, the taxpayer had a \$50 wagering gain

² We note that § 6041 requires gambling businesses to report payments over certain dollar amounts, "gross receipts" reporting. The amount reported as gross receipts from many types of gambling is not reduced by the amount (basis) of the wager. See Rev. Proc. 77-29, 1977-2 C.B. 538. However, such reported payments are not necessarily taxable wagering gains. A gambling business may issue an information return for a casual gambler's winning spin, but the gambler continues play and wagers and loses that amount during slot machine play. Wagering gain or loss is determined at the time the casual gambler redeems his or her tokens at the end of slot machine play.

(\$150-\$100). On the day the taxpayer redeemed \$200 worth of tokens, the taxpayer had a \$100 wagering gain (\$200-\$100). And on the day the taxpayer redeemed \$300 worth of tokens, the taxpayer had a \$200 wagering gain (\$300-\$100).

For the year, the taxpayer had total wagering gains of \$350 (\$50 + \$100 + \$200) and total wagering losses of \$610, (\$500 from losing the entire basis of \$100 on five occasions + \$80 and \$30 from two other occasions). The taxpayer's wagering losses exceeded her wagering gains for the taxable year by \$260 (\$610 - \$350). The taxpayer must report the \$350 of wagering gains as gross income under § 61. Scholl, supra. However, under §165(d), the taxpayer may deduct only \$350 of the \$610 wagering losses. The taxpayer may not carry over the excess wagering losses to offset wagering gains in another taxable year or offset non-wagering income. Skeeles, supra.

A casual gambler who elects to itemize deductions may deduct wagering losses, up to wagering gains, on Form 1040, Schedule A. In this case, the taxpayer may deduct only \$350 of her \$610 of wagering losses as an itemized deduction. A casual gambler who takes the standard deduction rather than electing to itemize may not deduct any wagering losses. See Rev. Rul. 54-339, 1954-2 C.B. 89.

CASE DEVELOPMENT, HAZARDS AND OTHER CONSIDERATIONS

This writing may contain privileged information. Any unauthorized disclosure of this writing may undermine our ability to protect the privileged information. If disclosure is determined to be necessary, please contact this office for our views.

Please call Clifford M. Harbourt at (202) 622-4800 if you have any further questions.

3. **Mail:** Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-5B, 1000 Independence Avenue SW., Washington, DC 20585-0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

4. **Hand Delivery/Courier:** Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586-2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted.

Docket: The docket is available for review at www.regulations.gov, including Federal Register notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The Secretary of Energy has approved publication of this notice of proposed rulemaking.

Issued in Washington, DC, on February 25, 2015.

Kathleen B. Hogan,
Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2015-04503 Filed 3-3-15; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[REG-132253-11]

RIN 1545-BL68

Information Returns; Winnings From Bingo, Keno, and Slot Machines

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations under section 6041 regarding the filing of information returns to report winnings from bingo, keno, and slot machine play. The proposed regulations affect persons who pay winnings of \$1,200 or more from bingo and slot machine play, \$1,500 or

more from keno, and recipients of such payments. This document also provides a notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by June 2, 2015. Outlines of topics to be discussed at the public hearing scheduled for June 17, 2015 at 10 a.m. must be received by June 2, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-132253-11), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-132253-11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-132253-11). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, David Bergman, (202) 317-6844; concerning submissions of comments, the hearing, or to be placed on the building access list to attend the hearing, Oluwafunmilayo P. Taylor (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations to Title 26 of the Code of Federal Regulations under section 6041 of the Internal Revenue Code. The proposed regulations would update and simplify the existing information reporting requirements under § 7.6041-1 of the Temporary Income Tax Regulations under the Tax Reform Act of 1976 for persons who make reportable payments of bingo, keno, or slot machine winnings. The updated requirements are proposed to be set forth in a new § 1.6041-10 of the regulations. Accordingly, when § 1.6041-10 of the proposed regulations becomes final, the regulations under § 7.6041-1 will be removed.

Section 6041 generally requires information reporting by every person engaged in a trade or business who, in the course of such trade or business, makes payments of gross income of \$600 or more in any taxable year. The current regulatory reporting thresholds for winnings from bingo, keno, and slot machines deviate from this general rule. Prior to the adoption of the current thresholds in 1977, reporting from bingo, keno, and slot machines was

based a sliding scale threshold tied to the amount of the wager and required the wager odds to be at least 300 to 1. On January 7, 1977, temporary regulation § 7.6041-1 was published establishing reporting thresholds for payments of winnings from bingo, keno, and slot machine play in the amount of \$600. In Announcement 77-63, 1977-8 IRB 25, the IRS announced that it would not assert penalties for failure to file information returns before May 1, 1977, to allow the casino industry to submit, and the IRS to consider, information regarding the industry's problems in complying with the reporting requirements. After considering the evidence presented by the casino industry, the IRS announced in a press release that effective May 1, 1977, information reporting to the IRS would be required on payments of winnings of \$1,200 or more from a bingo game or a slot machine play, and \$1,500 or more from a keno game net of the wager. On June 30, 1977, § 7.6041-1 was amended to raise the reporting thresholds for winnings from a bingo game and slot machine play to \$1,200, and the reporting threshold for winnings from a keno game to \$1,500.

Section 7.6041-1(c) provides that bingo, keno, and slot machine winnings are reported on the Form W-2G, "Certain Gambling Winnings." The payor must provide a copy of the Form W-2G to the payee by January 31 of the year following the year in which the reportable payment is made, and the payor must file the Form W-2G with the IRS by February 28 of the year following the year in which the reportable payment is made. The Form W-2G must include, among other things, the name, address, and taxpayer identification number of the payee and a general description of the two forms of identification used to verify this information.

Explanation of Provisions

The current regulations governing information reporting of winnings from bingo, keno, and slot machine play were published in 1977. There have been significant changes in gaming industry technology since that time. For instance, today many gaming establishments employ electronic slot machines and other mechanisms, such as player's cards, that permit electronic tracking of wagers and/or winnings. In addition, there have been many changes in the tax information reporting regime since the late 1970s, such as the enactment of backup withholding and requirements for electronic filing of information returns, including the Form W-2G. Current regulations under § 7.6041-1 of

the Temporary Income Tax Regulations do not take these changes into account. Accordingly, the Treasury Department and the IRS think the regulations for reporting winnings from bingo, keno, and slot machine play need to be updated in light of these developments and that there are opportunities to reduce burden and simplify reporting. The changes proposed by this document are intended to accomplish these goals. In addition, the Treasury Department and the IRS specifically request comments on certain topics addressed by the regulations.

Filing Requirement

Proposed § 1.6041-10(a) retains the general rule from § 7.6041-1 of the Temporary Income Tax Regulations that every person engaged in a trade or business who, in the course of its trade or business, pays reportable gambling winnings must make an information return with respect to such payments. Proposed § 1.6041-10(a) clarifies that, consistent with current law and as provided in § 1.6041-1(b) of the regulations, the term "persons engaged in a trade or business" includes not only those engaged in a trade or business for profit or gain, but also organizations whose activities are not for profit or gain, such as tax-exempt organizations and governmental entities.

Proposed § 1.6041-10(b) sets thresholds for when winnings from bingo, keno, and slot machine play will be treated as reportable gambling winnings and subject to reporting. Existing § 7.6041-1(b) of the Temporary Income Tax Regulations sets one threshold for bingo and slots, and a different threshold for keno. In addition, under § 7.6041-1(b) of the Temporary Income Tax Regulations, winnings from a keno game are reduced by the amount wagered in that game in determining whether the reporting threshold is satisfied, whereas for bingo and slot machine play winnings are not reduced by the amount wagered in determining whether the reporting threshold is satisfied.

Under the proposed regulations, the reporting thresholds for winnings from bingo, keno and slot machine play (other than electronically tracked slot machine play) remain the same as under the existing regulations. These thresholds are intended to reach a balance between reporting burden and compliance risk. Based on over 35 years of experience with the current thresholds, the IRS thinks they are sufficient at this time to verify correct reporting of wagering income. Accordingly, § 1.6041-10(b) of the proposed regulations provides that

reportable gambling winnings means (i) \$1,200 or more in the case of one bingo game or slot machine play, and (ii) \$1,500 or more in the case of one keno game. However, advances in technology in the nearly four decades since the existing rules were adopted may overcome the compliance concerns that prompted the higher reporting thresholds and may warrant reducing the thresholds for bingo, keno, and slots to \$600, consistent with other information reporting thresholds under § 6041(a). Accordingly, the IRS and Treasury will continue to monitor the effectiveness of the existing (and proposed) reporting thresholds, and may propose to reduce those thresholds at a future time. Comments are specifically requested regarding the proposed reporting thresholds, including the feasibility of reducing those thresholds to \$600 at a future time, whether electronically tracked slot machine play should have a separate reporting threshold, and whether the amounts should be uniform for bingo, keno, and slot machine play.

In addition, the proposed regulations retain the rule from § 7.6041-1(b) of the Temporary Income Tax Regulations that, in determining whether the reporting threshold is satisfied, the amount of the winnings from bingo or slot machine play is not reduced by the amount wagered, but the amount of winnings from one keno game is reduced by the amount wagered in that one game. Allowing the winnings from one keno game to be reduced by the amount wagered in that one game has been permitted by the regulations for over 35 years. This rule has been relied upon by payors and is an established norm in the gaming industry. The proposed regulations do not permit the winnings from one bingo game or slot machine play to be reduced by the amount wagered in that one game or pull because the IRS does not have data indicating that this is feasible. Comments are requested regarding whether reportable gambling winnings in the case of bingo and slot machine play (other than electronically tracked slot machine play) should be determined by netting the wager against the winnings as with keno.

The proposed regulations also include new rules for determining the reporting threshold for electronically tracked slot machine play. Under § 1.6041-10(b)(1) of the proposed regulations, electronically tracked slot machine play means slot machine play where an electronic player system that is controlled by the gaming establishment (such as through the use of a player's card or similar system) records the

amount a specific individual won and wagered on slot machine play. The new reporting threshold rules for electronically tracked slot machine play rules are intended to simplify reporting by allowing payors to leverage their existing technology and processes to report winnings from electronically tracked slot machine play. In addition, these changes are intended to facilitate reporting that more closely reflects gross income that will be reported by payees on their individual income tax returns. See Notice 2015-21 for more information on computing gross income attributable to electronically tracked slot machine play. Comments are specifically requested with respect to the definitions of session and electronically tracked slot machine play.

Under these new rules, gambling winnings for electronically tracked slot machine play must be reported when two criteria are met: (i) The total amount of winnings earned from electronically tracked slot machine play during a single session netted against the total amount of wagers placed on electronically tracked slot machines during the same session is \$1,200 or more; and (ii) at least one single win during the session (without regard to the amount wagered) equals or exceeds \$1,200. The first criterion helps to implement the safe harbor for computing gross income attributable to electronically tracked slot machine play described in Notice 2015-21. The second criterion is intended to be consistent with the casino industry's current practice of gathering payee information when a player wins a single jackpot that satisfies the reporting threshold. The \$1,200 threshold for each criterion is intended to balance reporting burden and compliance risk as discussed previously. Pursuant to § 1.6041-10(b)(3) of the proposed regulations, a session begins when a patron places the first wager on a particular type of game at the payor's gaming establishment and ends when the patron places his or her last wager on the same type of game before the end of the same calendar day at the same establishment. Under this rule, reporting with respect to electronically tracked slot machine play is not required if no single win (without reduction for the amount of the wager) meets the \$1,200 reporting threshold or if the net amount of winnings reduced by the amount of all wagers for the session is less than \$1,200. However, if the \$1,200 reporting threshold for a single win is satisfied and all winnings from electronically tracked slot machine play during a session netted against all

wagers on electronically tracked slot machine play during that session are \$1,200 or more, gambling winnings for the session must be reported on a Form W-2G.

Proposed § 1.6041-10(b)(2) also includes several clarifications regarding the definition of reportable gambling winnings. First, the proposed regulations clarify that all winnings from all cards played during one bingo game are combined and that all winnings from all "ways" on a multi-way keno ticket are combined. Second, the proposed regulations clarify that winnings from different types of games are not combined to determine whether the reporting thresholds are satisfied, and that bingo, keno, electronically tracked slot machine play, and slot machine play that is not electronically tracked are all different types of games.

Proposed § 1.6041-10(b)(4) also adds a definition of the term "slot machine" to these information reporting regulations. Under this definition, a slot machine is a device that, by application of the element of chance, may deliver or entitle the person playing or operating the device to receive cash, premiums, merchandise, or tokens, whether or not the device is operated by inserting a coin, token, or similar object. The definition of slot machine in the proposed regulations is intended to be consistent with § 44.4402-1(b)(1) of the Wagering Tax Regulations.

Filing and Form and Content of the Information Return

Proposed § 1.6041-10(d) retains the requirement in § 7.6041-1(c) of the Temporary Income Tax Regulations that a payor of reportable gambling winnings file a Form W-2G, "Certain Gambling Winnings," or successor form, on or before February 28 (or March 31, if filed electronically) of the year following the calendar year in which the reportable gambling winnings were paid. Outdated references to the place of filing have been replaced with a requirement that the return is filed with the appropriate Internal Revenue Service location designated in the instructions to the form.

Proposed § 1.6041-10(g) requires a payor of reportable gambling winnings to provide a statement of the reportable gambling winnings to each payee on or before January 31st of the calendar year after the calendar year in which the gambling winnings were paid. Although § 7.6041-1 of the Temporary Income Tax Regulations does not address when to provide statements to the payees, the proposed regulations are a restatement of the requirement to furnish statements to payees in section 6041(d). In

addition, proposed § 1.6041-10(i) clarifies that the rules for reporting winnings from bingo, keno, and slot machine play under proposed § 1.6041-10 do not apply to payments made to foreign persons. Instead, gambling winnings paid to a foreign person are generally subject to 30 percent withholding under sections 1441(a) and 1442(a) and are reportable 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. Proposed § 1.6041-10(e) retains the rules in § 7.6041-1(c) of the Temporary Regulations regarding the information that is required on the return, including the requirement that the payor describe on the return the two types of identification relied on to verify the payee's identity. However, proposed § 1.6041-10(e) now requires that one of the forms of identification include the payee's photograph to ensure that certain safeguards are in place to properly identify the payee. In addition, under proposed § 1.6041-10(f), the type of identification that is acceptable has been expanded.

Payee Identification

Section 7.6041-1(c)(3) of the Temporary Income Tax Regulations, which has been in place since 1977, provides that the identification verifying the payee's identity must include the payee's social security number. According to those regulations, examples of acceptable identification include a driver's license, a social security card, or a voter registration card. However, today most forms of identification do not include a person's social security number. Therefore, many payees do not have identification that contains the payee's social security number and, even if they do, they may not have this identification with them at the time that they receive a payment of reportable gambling winnings. To address this issue, § 1.6041-10(f) of the proposed regulations provides that, in addition to government-issued identification, a properly completed Form W-9 signed by the payee is an acceptable form of identification to verify the payee's identifying information. This rule is consistent with procedures currently used by many payors to address the fact that most forms of identification do not contain social security numbers. Accordingly, payors who verify payee information using identification set forth in proposed § 1.6041-10(f) before the date that final regulations implementing these provisions are published in the **Federal Register** will be treated as

meeting the requirements of § 7.6041-1(c) of the Temporary Income Tax Regulations.

Aggregate Reporting Method

Proposed § 1.6041-10(h) provides an alternative method for reporting multiple winnings from bingo, keno, and slots. Under current regulations, each payment of gambling winnings from a single bingo or keno game, or slot machine play that meets the reporting threshold is required to be reported on a Form W-2G to the same payee. To simplify reporting, proposed § 1.6041-10(h) would allow a payor who makes more than one payment of reportable gambling winnings to the same payee from the same type of game during the same session to report the aggregate amount of such reportable gambling winnings on one Form W-2G. This aggregate reporting method may be used at the payor's option. Proposed § 1.6041-10(h)(3) sets forth certain recordkeeping requirements for a payor using the aggregate reporting method.

Gambling Winnings Other Than Bingo, Keno, and Slot Machine Play

These proposed regulations apply to reporting of gambling winnings from bingo, keno, and slot machine play. The Treasury Department and the IRS are aware that taxpayers required to report winnings from pari-mutuel gambling may have concerns, similar to those addressed in these proposed regulations, relating to when wagers with respect to horse races, dog races, and jai alai may be treated as identical. Identical wagers are combined and offset against winnings to determine proceeds from the wager for purposes of determining whether the reporting thresholds are satisfied. The Treasury Department and the IRS intend to amend the regulations under § 31.3402(q)-1 in a manner consistent with these proposed regulations and request comments from the public on this topic. In addition, comments are requested regarding whether the aggregate reporting method should be available for gambling winnings other than winnings from bingo, keno, and slot machine play.

Proposed Effective/Applicability Date

These regulations are proposed to apply to payments made on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined

in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that this rule merely provides guidance as to the timing and filing of information reporting returns for payors who make reportable payments of bingo, keno, or slot machine winnings and who are required by section 6041 to make returns reporting those payments. The requirement for payors to make information returns is imposed by statute and not these regulations. In addition, this rule is reducing the existing burden on payors to comply with the statutory requirement by simplifying the process for payors to verify payees' identities using a broader range of documents that are more readily available and also by allowing payors to reduce the number of information returns they issue if they adopt the new aggregate reporting methodology in the regulations. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. In addition to the requests for comments noted in the Background Section, Treasury and the IRS request comments on any other aspects of the proposed rules, and any other issues relating to the payment of bingo, keno, and slot machine winnings that are not addressed in the proposed regulations. All comments will be available at www.regulations.gov for public inspection and copying.

A public hearing has been scheduled for June 17, 2015, beginning at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In

addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of § 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) and an outline of the topics to be discussed and the time to be devoted to each topic by June 2, 2015. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Charles W. Gorham, formerly of the Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment Taxes and Collection of Income Tax at Source.

Proposed Amendment to the Regulations

Accordingly, 26 CFR parts 1 and 31 are proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805* * *

■ **Par. 2.** Section 1.6041–10 is added to read as follows:

§ 1.6041–10 Return of information as to payments of winnings from bingo, keno, and slot machine play.

(a) *In general.* Every person engaged in a trade or business (as defined in § 1.6041–1(b)) and who, in the course of such trade or business, makes a payment of reportable gambling winnings (defined in paragraph (b)(2) of

this section) must make an information return with respect to such payment. Unless the provisions of paragraph (h) of this section (regarding aggregate reporting) apply, a separate information return is required with respect to each payment of reportable gambling winnings.

(b) *Definitions.*—(1) *Electronically tracked slot machine play.* For purposes of this section, the term “electronically tracked slot machine play” means slot machine play using an electronic player system that is controlled by the gaming establishment (such as through the use of a player's card or similar system) that records the amount a specific individual won and wagered on slot machine play.

(2) *Reportable gambling winnings.* (i) For purposes of this section, the term “reportable gambling winnings” is defined as follows:

(A) For bingo, the term “reportable gambling winnings” means winnings of \$1,200 or more from one bingo game, without reduction for the amount wagered. All winnings received from all wagers made during one bingo game are combined (for example, all winnings from all cards played during one bingo game are combined).

(B) For keno, the term “reportable gambling winnings” means winnings of \$1,500 or more from one keno game reduced by the amount wagered on the same keno game. All winnings received from all wagers made during one keno game are combined (for example, all winnings from all “ways” on a multi-way keno ticket are combined).

(C) For slot machine play (other than electronically tracked slot machine play as defined in paragraph (b)(1) of this section), the term “reportable gambling winnings” means winnings of \$1,200 or more from one slot machine play, without reduction for the amount wagered.

(D) For electronically tracked slot machine play (as defined in (b)(1) of this section), the term “reportable gambling winnings” means net winnings of \$1,200 or more, but only if the winnings from at least one electronically tracked slot machine play during the session, without reduction for any amount wagered, is \$1,200 or more. For purposes of this paragraph (b)(2)(i)(D) of this section, net winnings is determined by combining the amount of all winnings from all electronically tracked slot machine play during the session reduced by the amount of all wagers from all electronically tracked slot machine play during the same session.

(ii) Winnings and wagers from different types of games are not combined to determine if the reporting threshold is satisfied. Bingo, keno, and

slot machine play are different types of games. Electronically tracked slot machine play and slot machine play that is not electronically tracked are different types of games.

(iii) Winnings include the fair market value of a payment in any medium other than cash.

(iv) The amount wagered in the case of a free play is zero.

(v) For purposes of paragraph (b)(2)(i)(D) of this section, with respect to electronically tracked slot machine play, if the amount wagered during a session exceeds the amount won during the same session, the amount of winnings is zero.

(3) *Session.* For purposes of this section, a session of play begins when a patron places the first wager on a particular type of game at a gaming establishment and ends when the patron places his or her last wager on the same type of game before the end of the same calendar day at the same gaming establishment. For purposes of this section, the time is determined by the time zone of the location where the patron places the wager. A session of play is always determined with reference to a calendar day (24-hour period from 12 a.m. through 11:59 p.m.) and ends no later than the end of that calendar day. Nothing in this section prohibits a payor from terminating a session for any reason before the end of that calendar day.

(4) *Slot machine.* The term "slot machine" means a device that, by application of the element of chance, may deliver, or entitle the person playing or operating the device to receive cash, premiums, merchandise, or tokens whether or not the device is operated by insertion of a coin, token, or similar object.

(c) *Examples.* The following examples illustrate the provisions of paragraphs (a) and (b) of this section:

Example 1. At 10 a.m., A wagers \$20 at casino R on one play on a slot machine that is not electronically tracked. A wins \$1,200 from this wager. At 2 p.m. on the same day, A wagers \$100 on one keno game at casino R. A wins \$1,550 from that wager. A makes no other wagers that day:

(i) Under paragraph (b)(2)(i)(C) of this section, A's \$1,200 in winnings from slot machine play that is not electronically tracked are not reduced by the amount wagered. Therefore, the \$1,200 winnings from slot machine play that is not electronically tracked are reportable gambling winnings. R must report the \$1,200 in winnings from slot machine play that it pays to A.

(ii) Under paragraph (b)(2)(ii) of this section, because winnings from different types of games are not combined to determine whether the threshold for

reportable gambling winnings is satisfied, A's winnings from slot machine play that is not electronically tracked are not combined with A's winnings from keno. A's winnings from keno are below the \$1,500 reporting threshold for keno, because the gross amount of \$1,550 that A won is reduced by the \$100 amount that A wagered. R is therefore not required to report the winnings from keno that it pays to A under paragraph (b)(2)(i)(B) of this section.

Example 2. Between 11 a.m. and 11 p.m. on the same day, B places five wagers of \$20 each at casino Q on slot machine play that is not electronically tracked. B wins a total of \$1,600 during that period of time as follows: an \$800 win on the first play, no win on the second play, no win on the third play, a \$600 win on the fourth play, and a \$200 win on the fifth play. Under paragraph (b)(2)(i)(C) of this section, winnings from slot machine play that is not electronically tracked are not combined to determine whether the reporting threshold is satisfied. Therefore, none of B's winnings is a reportable gambling winning and Q is not required to report winnings from slot machine play that it pays to B.

Example 3. During one session at casino R, C places two \$20 wagers on one electronically tracked slot machine and three \$20 wagers on a different electronically tracked slot machine. The first four wagers result in no wins. The fifth wager results in a win of \$2,000. C makes no further wagers on any games at R during the same session. C's combined winnings for the session (\$2,000) reduced by C's combined wagers for the session (\$100) is \$1,900, which is over the \$1,200 threshold described in paragraph (b)(2)(i)(D) of this section. In addition, C had one win in the same session of \$1,200 or more (\$2,000 win). Therefore, under paragraph (b)(2)(i)(D) of this section, R paid reportable gambling winnings with respect to electronically tracked slot machine play of \$1,900. Accordingly, R must report the winnings of \$1,900 that it paid to C.

Example 4. Assume the same facts as in *Example 3*, except that the fourth wager results in an \$800 win and the fifth wager results in a \$1,000 win. C's combined winnings for the session of \$1,800 (\$800 + \$1,000) reduced by C's combined wagers placed during the session of \$100 is \$1,700. However, C did not have a single win during that session of \$1,200 or more, as required under paragraph (b)(2)(i)(D) of this section, for there to be reportable gambling winnings from electronically tracked slot machine play. Accordingly, R is not required to report the winnings from the session from electronically tracked slot machine play that it pays to C.

Example 5. During one session, D places ten \$200 wagers on electronically tracked slot machine play at casino S. The first nine wagers result in no wins. The last wager results in a \$1,500 win. D's combined winnings for the session (\$1,500) reduced by D's combined wagers placed during the session (\$2,000) did not result in any net winnings from electronically tracked slot machine play during the session. Under paragraph (b)(2)(i)(D) of this section, gambling winnings from a session of

electronically tracked slot machine play are not reportable gambling winnings unless they include a single win of \$1,200 or more and the net amount of all winnings during the session reduced by all wagers placed during the session is \$1,200 or more. Here, there was a single win of \$1,500, which exceeds the threshold for a single win under paragraph (b)(2)(i)(D) of this section. However, because the net amount of the winnings reduced by all the wagers placed during the session is not \$1,200 or more, paragraph (b)(2)(i)(D) of this section is not satisfied. Therefore, during the session, D did not have reportable gambling winnings with respect to electronically tracked slot machine play during the session and S is not required to report the winnings it pays D with respect to electronically tracked slot machine play during this session.

Example 6. During one session, E places five \$20 wagers at casino T on slot machine play that is not electronically tracked. The first four wagers result in no wins. The fifth wager results in a win of \$1,200. During the same session, E also places five \$20 wagers at casino T on slot machine play that is electronically tracked. The first four wagers result in no wins. The fifth wager results in a win of \$1,400. E makes no wagers on any other games at T during that session. Under paragraph (b)(2)(ii) of this section, winnings from slot machine play that is not electronically tracked and winnings from electronically tracked slot machine play are not combined. However, even without combining the winnings from both types of slot machine play, T paid reportable gambling winnings with respect to both the slot machine play that is not electronically tracked, and electronically tracked slot machine play as follows:

(i) Under paragraph (b)(2)(i)(C) of this section, E's \$1,200 of winnings from slot machine play that is not electronically tracked is not reduced by the amount wagered, even though all of E's wagers were placed during the same session. Accordingly, the \$1,200 of winnings from slot machine play that is not electronically tracked meets the threshold in paragraph (b)(2)(i)(C) of this section and T must report the \$1,200 in winnings from slot machine play that is not electronically tracked that it pays to E.

(ii) Because E's combined winnings from electronically tracked slot machine play during the session (\$1,400) reduced by E's combined wagers on electronically tracked slot machine play placed during the session (\$100) is \$1,200 or more (\$1,400 - \$100 = \$1,300) and E had at least one win during the same session of \$1,200 or more (a win of \$1,400), under paragraph (b)(2)(i)(D) of this section, T paid E reportable gambling winnings with respect to electronically tracked slot machine play. Accordingly, T must also report winnings from the electronically tracked slot machine play during the session of \$1,300 that it pays to E.

Example 7. During the same session, F makes five \$20 wagers at casino V on slot machine play that is electronically tracked on the same slot machine. The first three wagers result in no wins. The fourth wager results in a win of \$900. The fifth wager results in

a win of \$1,100. After the fifth wager, F uses free play to make a wager. The free play wager occurs during the same session as the five wagers and is also electronically tracked. As a result of the free play, F wins \$1,200. In this case, there are reportable gambling winnings from electronically tracked slot machine play. Under paragraph (b)(2)(i)(D) of this section, F's combined winnings from electronically tracked slot machine play during the session (\$3,200) reduced by F's combined wagers placed on electronically tracked slot machine play during the session $((\$20 \times 5) + 0 = \$100)$ is \$3,100, and F had at least one win in the same session of \$1,200 or more (a win of \$1,200 from the free play). Accordingly, V must report the \$3,100 of winnings from the electronically tracked slot machine play during the session that it pays to F.

Example 8. Between 11 p.m. and 11:59 p.m. on Day 1, G makes five \$20 wagers at casino W on slot machine play that is electronically tracked. The first four wagers placed on Day 1 result in no wins. The fifth wager placed on Day 1 results in an \$800 win. Between 12:00 a.m. and 12:15 a.m. on Day 2, G makes two \$20 wagers on the same slot machine at casino W that is electronically tracked. The first wager placed on Day 2 results in a win of \$600. The second wager placed on Day 2 results in a win of \$900.

(i) Under paragraphs (b)(2)(i)(D) and (b)(3) of this section, the winnings from one session of electronically tracked slot machine play are not combined with the winnings from another session of electronically tracked slot machine play for purposes of determining reportable gambling winnings. In this case, G engaged in electronically tracked slot machine play during two sessions, even though he played the same type of game on the same machine at the same gambling establishment. Therefore, each session must be analyzed to determine whether there were reportable gambling winnings from electronically tracked slot machine play.

(ii) During the session on Day 1, G won \$800. Because no single win was \$1,200 or more on Day 1, there were no reportable gambling winnings from electronically tracked slot machine play on Day 1 under paragraph (b)(2)(i)(D) of this section, and W does not have to report the winnings from electronically tracked slot machine play on Day 1 that it paid to G.

(iii) During the session on Day 2, G won \$600 and \$900. Because no single win was \$1,200 or more on Day 2, there were no reportable gambling winnings from electronically tracked slot machine play on Day 2 under paragraph (b)(2)(i)(D) of this section, and W does not have to report the winnings from electronically tracked slot machine play on Day 2 that it paid to G.

(d) **Prescribed form; time and place for filing the return.** The return described in paragraph (a) of this section is a Form W-2G, "Certain Gambling Winnings" or successor form. The Form W-2G must be filed with the appropriate Internal Revenue Service location designated in the instructions to the form on or before February 28

(March 31, if filed electronically) of the year following the calendar year in which the reportable gambling winnings were paid. See section 6011 and § 1.6011-2 for requirements to file electronically.

(e) **Information included on the return.** Each return required by paragraph (a) of this section must contain:

(1) The name, address, and taxpayer identification number of the payor;

(2) The name, address, and taxpayer identification number of the payee;

(3) A general description of the two types of identification (as described in paragraph (f) of this section), one of which must have the payee's photograph on it, that the payor relied on to verify the payee's name, address, and taxpayer identification number;

(4) The date and amount of payment;

(5) The type of wagering transaction (bingo, keno, slot machine play, or electronically tracked slot machine play);

(6) In the case of a bingo or keno game, any number, color, or other designation assigned to the game for which the payment is made;

(7) In the case of slot machine play (including electronically tracked slot machine play), the identification number of the slot machine(s) (for example, location and asset number);

(8) Any other information required by the form, instructions, revenue procedure, or other applicable guidance published in the Internal Revenue Bulletin. In the case of aggregate reporting under paragraph (h) of this section, the amount of the payment in paragraphs (e)(4) is the aggregate amount of payments of reportable gambling winnings from the same type of game (bingo, keno, slot machine play, or electronically tracked slot machine play) made to the same payee during the same session (as defined in paragraph (b)(3) of this section). Unless otherwise provided in forms, instructions, or other guidance, in the case of aggregate reporting under paragraph (h) of this section the information required by paragraphs (e)(5), (6), (7) of this section, and this paragraph (e)(8) must be maintained by the payor as described in paragraph (h)(3) of this section.

(f) **Identification.** The following items are treated as identification for purposes of paragraph (e)(3) of this section—

(1) Government-issued identification (for example, a driver's license, passport, social security card, military identification card, or voter registration card) in the name of the payee; and

(2) A Form W-9, "Request for Taxpayer Identification Number and Certification," signed by the payee, that

includes the payee's name, address, taxpayer identification number, and other information required by the form. A Form W-9 is not acceptable for this purpose if the payee has modified the form (other than pursuant to instructions to the form) or if the payee has deleted the jurat or other similar provisions by which the payee certifies or affirms the correctness of the statements contained on the form.

(g) **Furnishing a statement to the payee.** Every payor required to make a return under paragraph (a) of this section must also make and furnish to each payee, with respect to each payment of reportable gambling winnings, a written statement that contains the information that is required to be included on the return under paragraph (e) of this section. The payor must furnish the statement to the payee on or before January 31st of the year following the calendar year in which payment of the reportable gambling winnings is made. The statement will be considered furnished to the payee if it is provided to the payee at the time of payment or if it is mailed to the payee on or before January 31st of the year following the calendar year in which payment was made.

(h) **Aggregate reporting of bingo, keno, and slot machine winnings—(1) In general.** In lieu of filing a separate information return for each payment of reportable gambling winnings as required by paragraph (a) of this section, a payor may use the aggregate reporting method (defined in paragraph (h)(2) of this section) to report reportable gambling winnings from bingo, keno, or slot machine play (including electronically tracked slot machine play). A payor using the aggregate reporting method to file information returns under paragraph (a) of this section must also furnish statements to the payee under paragraph (g) of this section using the aggregate reporting method.

(2) **Aggregate reporting method defined.** (i) The aggregate reporting method is a method of reporting more than one payment of reportable gambling winnings from the same type of game (bingo, keno, slot machine play, or electronically tracked slot machine play) made to the same payee during the same session (as defined in this paragraph (b)(3) of this section) on one information return or statement.

(ii) A payor may use the aggregate reporting method for payments to some payees and not others, at its own discretion. In addition, with respect to a single payee, the payor may use the aggregate reporting method to report

winnings from one type of game, but not for winnings from another type of game.

(iii) Failure to report some reportable gambling winnings from a particular type of game during one session to a particular payee under the aggregate reporting method (for whatever reason, including because the winnings are not permitted to be reported using the aggregate reporting method under paragraph (h)(4) of this section) will not disqualify the payor from using the aggregate reporting method to report other reportable gambling winnings from that type of game during that session to that payee.

(3) *Recordkeeping under the aggregate reporting method.* A payor using the aggregate reporting method must maintain a record of every payment of reportable gambling winnings from the same type of game made to the same payee during the session that will be reported using the aggregate reporting method. Every individual that the payor has determined is responsible for an entry in the record must confirm the information in the entry by signing the record in a manner that will enable the signature to be associated with the relevant entry. Each payment of a reportable gambling winning made to the same payee and reported under the aggregate reporting method must have its own entry in the record, however, the information required by paragraphs (e)(1), (2), and (3) of this section is not required to be recorded more than one time per session. A payor that uses the aggregate reporting method must retain a copy of the record in its files. The record (which may be electronic provided the requirements set forth in forms, instructions, or guidance published in the Internal Revenue Bulletin are met) must include the following information about each payment:

- (i) The payee's signature confirming the information in the record;
- (ii) The information required under paragraph (e) of this section;
- (iii) The time of the win resulting in the reportable gambling winnings;
- (iv) Except in the case of electronically tracked slot machine play, the total amount of reportable gambling winnings;
- (v) In the case of electronically tracked slot machine play—
 - (A) The total amount of the winnings during the session from electronically tracked slot machine play; and
 - (B) The total amount of the wagers placed during the session on electronically tracked slot machine play;

(vi) The amount of reportable gambling winnings;

(vii) The method of payment to the payee (for example, cash, check, voucher, token, or chips); and

(viii) The name and gaming license number of the individual that the payor has determined is responsible for ensuring that the entry with respect to the reportable gambling winnings (including the general description of two types of identification used to verify the payee's name, address, and taxpayer identification number) is complete and accurate. Such individual may or may not be the same individual who prepared the entry.

(4) *When the aggregate reporting method may not be used.* A payor cannot use the aggregate reporting method if—

- (i) The payee is a foreign person;
- (ii) The payor knows or has reason to know that the person making the wager is not the person entitled to the winnings or is not the only person entitled to the winnings (regardless of whether the person making the wager furnishes a Form 5754, "Statement by Person(s) Receiving Gambling Winnings," or successor form); or
- (iii) Backup withholding under section 3406(a) applies to the payment.

(5) *Examples.* The following examples illustrate the provisions of this paragraph (h):

Example 1. On Day 1, C places five wagers at casino R on five different slot machines that are not electronically tracked. The first two wagers result in no win. The third wager results in a \$1,500 win. The fourth wager results in a \$2,500 win. The fifth wager results in an \$800 win:

(i) Under paragraph (b)(2)(i)(C) of this section, there are reportable gambling winnings from the slot machine play that is not electronically tracked of \$4,000 (\$1,500 + \$2,500). The \$800 win is not a reportable gambling winning from slot machine play that is not electronically tracked because it does not equal or exceed the \$1,200 threshold.

(ii) Because all of the amounts were won on the same type of game (even though each of the winnings occurred on different machines) during the same session, R is permitted to use the aggregate reporting method under this paragraph (h). If R decides not to use the aggregate reporting method and meets the requirements of paragraph (h), a separate Form W-2G would have to be filed and furnished for the payment of reportable gambling winnings of \$1,500 and for the payment of reportable gambling winnings of \$2,500. However, if R decides to use the aggregate reporting method, R may report total reportable gambling winnings from slot machine play that is not electronically tracked of \$4,000 (\$1,500 + \$2,500) on one Form W-2G.

Example 2. Assume the same facts as *Example 1*, except that in addition to the winnings described in *Example 1*, at 1 a.m. on Day 2, C wins \$3,250 from one slot

machine play that is not electronically tracked at casino R. Even though C played the same type of game (slot machines that are not electronically tracked) on Day 1 and Day 2, because under paragraph (b)(3) of this section the win at 1 a.m. on Day 2 is a win during a new session, under paragraph (h)(2)(i) of this section the \$3,250 of reportable gambling winnings cannot be aggregated with the reportable gambling winnings of \$4,000 from Day 1 on a single Form W-2G. Accordingly, if R uses the aggregate reporting method, R must file two Forms W-2G with respect to C's reportable gambling winnings on Day 1 and Day 2. R must report \$4,000 of reportable gambling winnings from slot machine play paid to C on Day 1 on the first Form W-2G, and \$3,250 of reportable gambling winnings from slot machine play paid to C on Day 2 on the second Form W-2G.

Example 3. At 2 p.m. on Day 1, D won \$2,000 (after reducing the amount of the win by the amount wagered) playing one keno game at casino S. D provides S with his driver's license. The driver's license has D's photograph on it, as well as D's name and address. The driver's license does not include D's social security number. D cannot remember his social security number and has no other identification at the time with his social security number on it. D does not provide S with his social security number before S pays the winnings to D. Because D cannot remember his social security number, D cannot complete and sign a Form W-9. S deducts and withholds \$560 (28 percent of \$2,000) under the backup withholding provisions of section 3406(a) and pays the remaining \$1,440 in winnings to D. D returns to casino S and at 6 p.m. on Day 1 wins \$1,500 (after reducing the amount of the win by the amount wagered) in one keno game. D provides S with his driver's license as well as D's social security card. S generally uses the aggregate reporting method and in all cases where it is used, S complies with the requirements of this paragraph (h). At 8 p.m. and 10 p.m. on Day 1, D wins an additional \$1,800 and \$1,700 (after reducing the amount of the win by the amount wagered), respectively, from two different keno games. For each of these two wins, an employee of S obtains the information from D required by this paragraph (h):

(i) Under paragraph (b)(2)(i)(B) of this section, each of D's wins from the four games of keno on Day 1 (\$2,000, \$1,500, \$1,700, and \$1,800) are reportable gambling winnings. Because D's first win on Day 1 was at 2 p.m. and D's last win on Day 1 was at 10 p.m., all of D's reportable gambling winnings from keno are won during the same session. Because S satisfies the requirements of paragraph (h)(2)(i), S may use the aggregate reporting method to report D's reportable gambling winnings from keno. However, pursuant to paragraph (h)(4)(iii) of this section, the \$2,000 payment made to D at 2 p.m. cannot be reported under the aggregate reporting method because that payment was subject to backup withholding. Accordingly, if S uses the aggregate reporting method under this paragraph (h), S will have to file two Forms W-2G with respect to D's reportable gambling winnings from keno on

Day 1. On the first Form W-2G, S will report \$2,000 of reportable gambling winnings and \$560 of backup withholding with respect to the 2 p.m. win from keno, and on the second Form W-2G S will report \$5,000 of reportable gambling winnings from keno (representing the three payments of \$1,500, \$1,700, and \$1,800 that D won between 6 p.m. and 10 p.m. on Day 1).

Example 4. In one session on Day 1, E won five reportable gambling winnings from five different bingo games at a casino T. T generally uses the aggregate reporting method and in all cases where it is used, T complies with the requirements of this paragraph (h). Although E signed the entry in the record T maintains for payment of the first four reportable gambling winnings, E refuses to sign the entry in the record for the fifth payment of reportable gambling winnings. T may use the aggregate reporting method for the first four payments of reportable gambling winnings to E. However, because the entry in the record for the fifth payment of reportable gambling winnings does not include E's signature, that payment may not be reported under the aggregate reporting method. Accordingly, if T uses the aggregate reporting method under paragraph (h) of this section, T must prepare two Forms W-2G as follows: On the first Form W-2G, T must report the first four payments of reportable gambling winnings from bingo made to E on Day 1. On the second Form W-2G, T must report the fifth payment of reportable gambling winnings from bingo made to E on Day 1.

(i) *Payments to foreign persons.* See § 1.6041-4 regarding payments to foreign persons. See § 1.6049-5(d) for determining whether the payee is a foreign person.

(j) *Effective/applicability date.* This section applies to payments of reportable gambling winnings from bingo, keno, slot machine play, and electronically tracked slot machine play made on or after the date these regulations are published as final regulations in the **Federal Register**. For payments made before that date, other than payments from electronically tracked slot machine play, payors may rely on the provisions of these proposed regulations.

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Par. 3.** The authority citation for part 31 continues to read in part as follows:

26 U.S.C. 7805 * * *

§ 31.3406(g)-2 [Amended]

■ **Par. 4.** In § 31.3406(g)-2, paragraph (d)(3) is amended by removing the text

“§ 7.6041-1” and adding the text “§ 1.6041-10” in its place.

* * * * *

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2015-04437 Filed 3-3-15; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2015-0024]

RIN 1625-AA00

Safety Zone; Rotary Club of Fort Lauderdale New River Raft Race, New River; Fort Lauderdale, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone on the waters of the New River in Fort Lauderdale, Florida during the Rotary Club of Fort Lauderdale New River Raft Race, on Saturday, April 18, 2015. The safety zone will encompass the waters between Esplanade Park to just east of the Southeast 3rd Avenue Bridge. Approximately 100 participants will attend the race. The safety zone is necessary to ensure the safety of the participants, participant vessels, and the general public during the event. Persons and vessels, except those participating in the event, are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before April 3, 2015.

Requests for public meetings must be received by the Coast Guard on or before April 3, 2015.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal: <http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal

holidays. The telephone number is 202-366-9329.

See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer John K. Jennings, Sector Miami Prevention Department, Coast Guard; telephone (305) 535-4317, email John.K.Jennings@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number USCG-2015-0024 in the “SEARCH” box and click “SEARCH.” Click on “Submit a Comment” on the line associated with this rulemaking.

vestment trust may be revoked under section 856(g) for any taxable year and all succeeding taxable years by filing a statement with the district director for the district in which the taxpayer maintains its principal place of business on or before the 90th day after the first day of the first taxable year for which the revocation is to be effective.

Because the purpose of this Treasury decision is to provide immediate guidance as to the manner of making certain elections made available by reason of the enactment of the Tax Reform Act of 1976, it is hereby found impracticable to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

(Sec. 7805, Internal Revenue Code of 1954 (88A Stat. 917; 26 U.S.C. 7805) and certain provisions of the Tax Reform Act of 1976 (P.L. 94-455))

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: January 3, 1977.

CHARLES M. WALKER,
Assistant Secretary of the
Treasury.

[FR Doc. 77-703 Filed 1-4-77; 4:53 pm]

[TD 7467]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Temporary Regulations Relating to Information Reporting Requirements on Certain Winnings From Bingo, Keno, and Slot Machines

This document contains temporary income tax regulations (26 CFR Part 7) under section 6041 of the Internal Revenue Code of 1954 pursuant to section 1207 (d) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1705) in order to provide rules with respect to information reporting requirements on certain winnings from bingo, keno, and slot machines.

Section 6041 of the Code provides, in general, that all persons engaged in a trade or business and making a payment in the course of such trade or business of \$600 or more to another person must file an information return with respect to that payment under such regulations and in such form and manner and to such extent as the Secretary prescribes. Winnings from gambling are subject to this general rule of section 6041 and the existing regulations thereunder.

Section 7.6041-1 provides specific rules for reporting winnings from bingo, keno, and slot machines. Effective February 1, 1977, every person engaged in a trade or business and making any payment of winnings of \$600 or more from a bingo or keno game or a slot machine play is required to make an information return with respect to that payment. The regulation makes no exception to this requirement based on betting odds. Further, the regulation provides that in de-

termining whether winnings equal or exceed \$600 the following rules apply:

(1) The amount of winnings shall not be reduced by the amount wagered; (2) winnings include the fair market value of a payment in any medium other than cash; (3) all winnings of the winner from one bingo or keno game must be aggregated; and (4) winnings and losses from any other wagering transaction by the winner shall not be taken into account.

A new Form W-2G is prescribed for use in reporting winnings from bingo, keno, and slot machines. The form shows the name, address, and social security or employer identification number of the payor and the winner and contains a general description of two types of identification furnished for verification of the winner's name, address, and social security number. In addition, the form contains the date and amount of the payment and certain other information depending upon the type of wagering transaction with respect to which the payment is made.

ADOPTION OF AMENDMENT TO THE REGULATIONS

In order to prescribe temporary income tax regulations relating to information reporting requirements on certain winnings from bingo, keno, and slot machines under section 6041 of the Internal Revenue Code of 1954, pursuant to section 1207(d) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1705), the following temporary regulations are hereby adopted and added to Part 7 of Title 26 of the Code of Federal Regulations:

§ 7.6041-1. Return of information as to payments of winnings from bingo, keno, and slot machines.

(a) *In general.* On or after February 1, 1977, every person engaged in a trade or business and making any payment in the course of such trade or business of winnings of \$600 or more (including winnings which are exempt from withholding under section 3403(q)(5)) from a bingo or keno game or a slot machine play shall make an information return with respect to such payment.

(b) *Special rules.* For purposes of paragraph (a) of this section, in determining whether such winnings equal or exceed \$600—

(1) The amount of winnings shall not be reduced by the amount wagered;

(2) Winnings shall include the fair market value of a payment in any medium other than cash;

(3) All winnings by the winner from one bingo or keno game shall be aggregated; and

(4) Winnings and losses from any other wagering transaction by the winner shall not be taken into account.

(c) *Prescribed form.* The return required by paragraph (a) of this section shall be made on Form W-2G and shall be filed with the Internal Revenue Service Center serving the district in which is located the principal place of business of the person making the return on or

before February 28 of the calendar year following the calendar year in which the payment of winnings is made. Each Form W-2G shall contain the following:

(1) Name, address, and employer identification number of the person making the payment;

(2) Name, address, and social security number of the winner;

(3) General description of two types of identification (e.g., "driver's license", "social security card", or "voter registration card") furnished to the maker of the payment for verification of the winner's name, address, and social security number;

(4) Date and amount of the payment; and

(5) Type of wagering transaction. In addition, in the case of a bingo or keno game, Form W-2G shall show any number, color, or other designation assigned to the game with respect to which the payment is made. In the case of a slot machine play, Form W-2G shall show the identification number of the slot machine.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805 of the Internal Revenue Code of 1954 (88A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: January 3, 1977.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

[FR Doc. 77-704 Filed 1-4-77; 4:53 pm]

Title 31—Money and Finance: Treasury SUBTITLE B—REGULATIONS RELATING TO MONEY AND FINANCE

CHAPTER I—MONETARY COUNCILS, DEPARTMENT OF THE TREASURY

PART 101—MITIGATION OF FORFEITURE OF COUNTERFEIT GOLD COINS

Establishment of Part

Pursuant to the authority vested in me by 18 U.S.C. 492, Act of June 25, 1948, C. 645, 62 Stat. 710, I hereby issue in 31 CFR Chapter I, a new Part 101. This Part establishes a policy whereby certain innocent purchasers or holders of gold coins who have forfeited them to the United States because they were determined to be counterfeit, can, under certain conditions, recover the gold bullion from the coins. Since the material contained herein constitutes a general statement of policy for which public participation is unnecessary, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effect-

§ 43n.4 Filing of applications and deadline for filing.

(a) Application forms may be obtained from the Superintendent, Michigan Agency, Bureau of Indian Affairs, Sault Ste. Marie, Michigan 49783. Completed applications must be received by the Superintendent by close of business on November 1, 1977.

(b) Applications received after that date will be denied for failure to file in time regardless of whether the applicants otherwise meet the requirements for enrollment.

RAYMOND V. BUTLER,
Acting Deputy Commissioner
of Indian Affairs.

[FR Doc. 77-18643 Filed 6-29-77; 8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY SUBCHAPTER A—INCOME TAX

[T.D. 7492]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Information Reporting Requirements on Certain Winnings From Bingo, Keno, and Slot Machines

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides an amendment to temporary income tax regulations relating to information reporting requirements on certain winnings from bingo, keno and slot machines. These regulations are issued pursuant to a provision of the Tax Reform Act of 1976. These amended regulations apply to all persons engaged in a trade or business and making any payment in the course of that trade or business of winnings of \$1,200 or more from a bingo game or slot machine play or \$1,500 or more from a keno game.

DATE: The regulations apply to payments made on or after May 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Leonard T. Marcinko of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION: This Treasury decision postpones from February 1, 1977, to May 1, 1977, the effective date of regulations which were published under section 8041 of the Internal Revenue Code of 1954. In addition, this Treasury decision changes from \$600 to \$1,200 the threshold for the requirement that the payer report payments of winnings from a bingo game or slot machine play to the Internal Revenue Service. The threshold amount for the requirement of reporting the

winnings from a keno game has been changed from \$600 to \$1,500 and may be determined by reducing the amount won in one game by the amount wagered in that one game. The amendments promulgated in this Treasury decision were announced by the Internal Revenue Service in Reno, Nevada, by a news release dated May 2, 1977.

DRAFTING INFORMATION

The principal author of this regulation was Leonard T. Marcinko of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENT TO THE REGULATIONS

In order to postpone the effective date and to change the threshold reporting requirement in temporary income tax regulations under section 6041 of the Internal Revenue Code of 1954, published in the *Federal Register* for January 7, 1977 (42 FR 1471), paragraphs (a) and (b) of § 7.6041-1 of the Temporary Income Tax Regulations under the Tax Reform Act of 1976 (26 CFR Part 7) are amended to read as follows:

§ 7.6041-1 Return of information as to payments of winnings from bingo, keno, and slot machines.

(a) *In general.* On or after May 1, 1977, every person engaged in a trade or business and making a payment in the course of such trade or business of winnings (including winnings which are exempt from withholding under section 3402(a)(6)) of \$1,200 or more from a bingo game or slot machine play or of \$1,500 or more from a keno game shall make an information return with respect to such payment.

(b) *Special rules.* For purposes of paragraph (a) of this section, in determining whether such winnings equal or exceed the \$1,200 or \$1,500 amount—

(1) In the case of a bingo game or slot machine play, the amount of winnings shall not be reduced by the amount wagered;

(2) In the case of a keno game, the amount of winnings from one game shall be reduced by the amount wagered in that one game;

(3) Winnings shall include the fair market value of a payment in any medium other than cash;

(4) All winnings by the winner from one bingo or keno game shall be aggregated; and

(5) Winnings and losses from any other wagering transaction by the winner shall not be taken into account.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure

under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (88A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of
Internal Revenue.

Approved:

LAURENCE N. WOODWORTH
Assistant Secretary
of the Treasury.

JUNE 25, 1977.

[FR Doc. 77-18778 Filed 6-28-77; 8:45 am]

[T.D. 7494]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Certain Requirements Relating to Ruling Requests in Respect of Certain Exchanges Involving a Foreign Corporation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to ruling requests in respect of certain transfers involving a foreign corporation. It also contains temporary regulations relating to certain exchanges for which a ruling was required but was not obtained. Changes to the applicable tax law were made by the Tax Reform Act of 1976.

DATE: The regulations relating to ruling requests in respect of certain transfers involving a foreign corporation apply to transfers beginning after October 9, 1975. The regulations relating to the special relief provision apply to certain exchanges occurring in any taxable year beginning after December 31, 1962, and before October 4, 1976.

FOR FURTHER INFORMATION CONTACT:

Katherine A. Newell of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3740).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains temporary income tax regulations (26 CFR Part 7) under section 367 of the Internal Revenue Code of 1954, as added by section 1042(a) of the Tax Reform Act of 1976 (the "Act") (90 Stat. 1635) in order to prescribe rules relating to ruling requests in respect of certain transfers involving a foreign corporation. The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

VIA Electronic Submission

July 15, 2021

Internal Revenue Service
Attn: CC:PA: LPD:PR (Notice 2021-28) Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

RE: Notice 2021-28; Recommendations for 2021-2022 Priority Guidance Plan

Dear Sir or Madam:

On behalf of its members, the American Gaming Association (AGA) and the National Indian Gaming Association (NIGA) are pleased to submit the following recommendation for items included in the 2021-2022 Priority Guidance Plan. We appreciate the opportunity to provide input to the Internal Revenue Service (IRS) and Treasury on a matter of continued importance to the gaming industry, and urge you to consider the following as part of the process:

- *Final guidance on corrective actions available to the Treasury Department and its regulatory authority under section 7805 of the Internal Revenue Code to update the dollar threshold for tax information reporting for slot machine jackpots under current Treasury Regulation § 1.6041-10.*

Background:

The current threshold for tax information reporting for slot machine jackpots was set at \$1,200 in 1977 through regulation and has not been updated since then. A \$1,200 jackpot in 1977 would be equivalent to more than \$5,000 today if adjusted for inflation.

As the value of a \$1,200 jackpot has decreased, the number of jackpots hitting that threshold and requiring reporting has increased. The current, outdated threshold imposes significant compliance burdens on both the IRS and the gaming industry – an economic driver in communities across the country that has been significantly impacted during the pandemic due to mandatory closures to protect public health and safety.

Having to take a slot machine temporarily offline to issue a tax reporting form removes a limited asset from production. Modernizing the threshold would promote operational efficiency for gaming operations and customers and enable the IRS to focus its limited enforcement resources on those taxpayers who are most likely to have net slot winnings at the end of the taxable year.

Members of Congress have recognized the negative impact of a static and antiquated reporting threshold, which is why they have previously written to Treasury urging the Department to provide regulatory relief. Most recently, the Consolidated Appropriations Act of 2021, signed



AMERICAN
GAMING
ASSOCIATION*



into law (Public Law No: 116-260) on December 27, 2020, directed Treasury to report to Congress within 90 days of enactment on the feasibility of updating the threshold within the Department's authority.

Treasury Has the Regulatory Authority to Update the Slot Reporting Threshold and Has Exercised Such Authority in the Past.

The history of Treasury's regulations on the slot jackpot reporting threshold underscores that Treasury has regulatory authority to update the threshold. Treasury described this regulatory history in the preamble to the proposed version of Reg. § 1.6041-10:

"Section 6041 generally requires information reporting by every person engaged in a trade or business who, in the course of such trade or business, makes payments of gross income of \$600 or more in any taxable year. The current regulatory reporting thresholds for winnings from bingo, keno, and slot machines deviate from this general rule. Prior to the adoption of the current thresholds in 1977, reporting from bingo, keno, and slot machines, was based on a sliding scale threshold tied to the amount of the wager and required the wager odds to be at least 300 to 1. On January 7, 1977, temporary regulation § 7.6041-1 was published establishing reporting thresholds for payments of winnings from bingo, keno, and slot machine play in the amount of \$600. In Announcement 77-63, 1977-8 IRB 25, the IRS announced that it would not assert penalties for failure to file information returns before May 1, 1977, to allow the casino industry to submit, and the IRS to consider, information regarding the industry's problems in complying with the reporting requirements. After considering the evidence presented by the industry, the IRS announced in a press release that effective May 1, 1977, information reporting to the IRS would be required on payments of winnings of \$1,200 or more from a bingo game or a slot machine play, and \$1,500 or more from a keno game net of wager. On June 30, 1977, § 7.6041-1 was amended to raise the reporting thresholds for winnings from a bingo game and slot machine play to \$1,200, and the reporting threshold for winnings from a keno game to \$1,500."

The amendment to Reg. § 7.6041 raising the slot reporting threshold to \$1,200 in 1977 was "issued under the authority contained in section 7805 of the Internal Revenue Code of 1954." (Treasury Decision 7492, 42 Federal Register 33286 (June 30, 1977). Code section 7805 provides that "the Secretary shall prescribe all needful rules and regulations for the enforcement of this title."

We thank you for working closely with the gaming industry to implement a regulatory change to correct this antiquated policy.

If you have any questions regarding the matters discussed herein, please contact Chris Cylke at ccylke@americangaming.org or Jason Giles at jgiles@indiangaming.org . Thank you for your time and consideration.

Sincerely,



William C. Miller, Jr.
President & CEO
American Gaming Association



Ernest L. Stevens, Jr.
Chairman
National Indian Gaming Association

Enclosures: [AGA Letter to Treasury](#), [Gaming Caucus Letter](#); [FY2021 Omnibus Appropriations bill language \(pg. 30\)](#)

Congress of the United States
Washington, DC 20515

September 24, 2021

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
Washington, DC 20220

Dear Secretary Yellen,

As members of the Congressional Gaming Caucus, we write to you regarding increasing the tax reporting threshold on slot winnings. When a casino patron wins a slot machine jackpot of \$1,200 or more, the machine immediately shuts down. A casino employee then issues that patron the tax reporting form known as a W2-G. The level set in 1977 of \$1,200 was a reasonable one at the time; that amount however, no longer makes sense in 2021. Because the threshold has not kept up with inflation, this outdated policy has produced a dramatic increase in the number of reportable jackpots, which has increased the operational costs and associated burdens for casinos, their patrons, and the Internal Revenue Service.

In the Fiscal Year 2021 (FY21) Omnibus Appropriations Act, Congress directed the Department of the Treasury to review this issue. Specifically, the law states, "The Committee encourages the Treasury Department to examine using its regulatory authority to update the dollar threshold for tax information reporting for slot machine jackpots. The Department is directed to report to Congress within 90 days of enactment of this Act on the feasibility of updating the threshold within such authority."¹ Since this legislation was enacted on December 27, 2020, the 90-day reporting deadline was March 27, 2021.

As we work to complete the FY22 appropriations process, we are still awaiting the report directed in the last omnibus. We ask that the Department prepare this report as expeditiously as possible and deliver it to Congress to address this long-standing and burdensome issue. We appreciate your attention and look forward to working with you on this matter.

Sincerely,

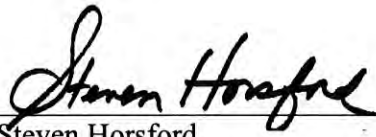


Dina Titus
Member of Congress



Guy Reschenthaler
Member of Congress

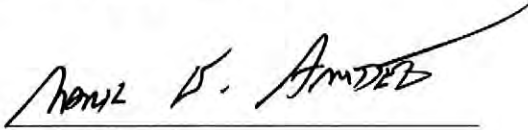
¹ Financial Services and General Government Appropriations Bill, 2021 (Page 30, Lines 22-27)



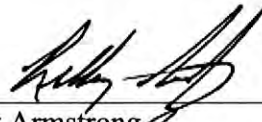
Steven Horsford
Member of Congress



Anthony Brown
Member of Congress



Mark Amodei
Member of Congress



Kelly Armstrong
Member of Congress