

Part 5315
Accounting Controls

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§ 5315.1. Gross gaming revenue.

(a) For slot machines, gross gaming revenue is total wagers minus promotional gaming credits and total payouts.

(b) In the event of a slot machine system malfunction, gross gaming revenue shall be calculated as total drop minus vouchers and coupons out, promotional gaming credits out and hand-pay payouts. Drop equals the total amount of cash, vouchers and the dollar amount of promotional gaming credits as set forth in section 5315.2 of this Part.

(c) For table games, gross gaming revenue is total drop plus ending table inventory and credit slips, minus promotional gaming credits, fills and beginning table inventory. Drop equals the total amount of cash, chips, markers and the dollar amount of promotional gaming credits as set forth in section 5315.2 of this Part. Table inventory is total coins and chips.

(d) For player-banked poker games, gross gaming revenue is the total amount of rake, which is a commission charged by the house from each pot for maintaining or dealing a game.

(e) For progressive jackpots, the gaming facility licensee shall submit for commission approval the calculation of gross gaming revenue and any offsetting factors.

(f) For all tournaments, gross gaming revenue shall include any entry fees and buy-ins exceeding the amount of prizes paid out per event. If the value of all prizes paid out

exceeds the amount received in tournament fee revenue, a gaming facility licensee may not declare a loss against the gross gaming revenue.

(g) A gaming facility licensee shall not exclude from gross gaming revenue money paid out on wagers that are knowingly accepted by the licensee in violation of Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law or this Subchapter.

(h) Any check cashed, transferred, conveyed or given in violation of Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law shall be invalid and unenforceable for the purposes of collection, but all sums received from gaming operations less the total of all sums paid out as winnings shall be included in the calculation of gross gaming revenue.

§ 5315.2. Promotional gaming credits.

(a) Promotional gaming credit is a specified dollar amount that may be used by a player to play without paying any other consideration and is considered, without limitation, the following:

(1) Slot coupons are allowed to be redeemed for slot credits. Such coupon must have printed on it the name of the issuing gaming facility, the city or town in which the gaming facility is located, the value of such coupon and an expiration date or, alternatively, the dates such coupon is valid for redemption.

(2) Table game coupons are allowed to be redeemed for play. Such coupon must have printed on it the name of the issuing gaming facility, the city or town in which the gaming facility is located, the value of such coupon and an expiration date or, alternatively, the dates such coupon is valid for redemption.

(3) Match play coupons are allowed for wagering at table games. A patron's matching wager must equal or exceed the dollar value of the match play coupon. A match play coupon must have printed on it the name of the issuing gaming facility, the city or town in which the gaming facility is located, the value of the coupon and an explanation of such coupon's use. Match play coupons are a wager and shall be paid the specified odds payout for the wager being made. Each coupon shall have an expiration date printed on such coupon.

(4) Notwithstanding the foregoing in this subdivision, electronic representations of coupons may be used provided that the records of issuance and redemption of such coupons are documented, retained and audited according to this Part.

(b) The annual deductible value of promotional gaming credits on slots authorized for use by the gaming facility licensee in any State fiscal year shall not exceed 15 percent of slot gross gaming revenue and the annual deductible value of promotional gaming credits on table games authorized for use by the gaming facility licensee in any State fiscal year shall not exceed five percent of table game gross gaming revenue. The

commission may, at the commission's discretion, authorize deviations from these limitations upon satisfactory illustration of benefit to the state.

(c) A gaming facility licensee found to be in violation of subdivision (b) of this section shall be subject to a fine of no more than \$25,000.00.

(d) Credits paid for by a gaming facility licensee and provided to a patron shall not be considered promotional gaming credits.

§ 5315.3. Gross gaming revenue tax.

(a) The tax, as prescribed in section 1351 of the Racing, Pari-Mutuel Wagering and Breeding Law, including any applicable interest and penalties, shall be transmitted weekly by electronic funds transfer to the commission. All gross gaming taxes are the responsibility of, and shall be paid by, the gaming facility licensee.

(b) All weekly gross gaming revenue tax reports filed with the commission shall reflect all gross gaming revenue received by the gaming facility licensee for the period of the return.

(c) When the commission finds that the gaming facility licensee is required to pay additional taxes or finds that the gaming facility licensee is entitled to a refund of taxes, it shall report its findings, and the legal basis upon which the findings are made.

§ 5315.4. Minimum bankroll.

A gaming facility licensee shall assure the financial integrity of gaming operations by the maintenance of a gaming bankroll, or equivalent provisions, adequate to pay prizes to gaming patrons when due by maintaining, on a daily basis, a gaming bankroll, or equivalent provisions, in an amount at least equal to such facility's immediate cash requirement exposure for player prizes. To demonstrate such financial integrity, a gaming facility licensee shall maintain a minimum bankroll established through the use of the minimum bankroll verification worksheet provided by the commission to calculate and determine the minimum bankroll. Thirty days prior to the issuance of an operation certificate, each gaming facility licensee shall submit to the commission for review and, in the discretion of the commission, approval the minimum bankroll verification worksheet. Each gaming facility licensee shall continually review and evaluate daily bankroll requirements and notify the commission in writing if such licensee requests to change the amount of the minimum bankroll. Such notification shall be provided to the commission at least 10 days prior to the implementation of a new funding level. Maintenance of a minimum bankroll is subject to audit or review by the commission.

§ 5315.5. [Reserved].

§ 5315.6. [Reserved].

§ 5315.7. [Reserved].

§ 5315.8. Unclaimed funds.

A gaming facility licensee shall retain unclaimed funds, cash and prizes for the period prescribed by Racing, Pari-Mutuel Wagering and Breeding Law section 1354. Unclaimed funds, cash and prizes shall be reported to the commission on the gross gaming revenue report during the week in which the funds, cash and prizes expire and shall be remitted to the commission with the gross gaming revenue for that week.

§ 5315.9. Internal audit requirements.

(a) A gaming facility licensee shall establish an internal audit department, which shall be supervised by a person referred to in this section as an *audit department executive*. The internal audit department shall be independent, as defined by the International Standards for the Professional Practice of Internal Auditing. The audit department executive shall be responsible for, without limitation, the following:

- (1) review and appraisal of the adequacy of internal control;
- (2) compliance with internal control procedures;
- (3) reporting to the commission of instances of noncompliance with the system of internal controls;
- (4) reporting to the commission of any material weaknesses in the system of internal controls; and
- (5) recommendation of procedures to eliminate any material weaknesses in the system of internal control.

(b) An internal audit department shall audit, at least annually, a gaming facility licensee's compliance with laws, rules, regulations and internal controls relating to:

- (1) the operation of table games and gaming devices;
- (2) cage and count-room operations;
- (3) the calculation of gross gaming revenue and taxes paid thereon;
- (4) the operation of the gaming facility's licensing program;
- (5) the operation of the gaming facility's player rewards program;
- (6) 31 CFR Part 1021; and
- (7) other requirements as specified by the commission.

(c) All audits conducted pursuant to subdivision (b) of this section shall be conducted according to professional internal auditing standards promulgated by the Institute of Internal Auditors.

(d) Notwithstanding subdivisions (a) through (c) of this section, a gaming facility licensee may, with written approval from the commission, engage an independent certified public accountant to provide internal audit services. Such independent certified public accountant may not provide both internal audit services and audit the gaming facility licensee's financial statements. The gaming facility licensee shall be responsible for the oversight and conduct of internal audit.

(e) The audit department executive, upon request by the commission, shall submit to the commission any report, work paper or other documents maintained by the internal audit department no later than 48 hours after such request.

(f) No later than 30 days after the start of a gaming licensee's fiscal year, the audit department executive shall file a report with the commission summarizing all audits performed by the audit department, including findings and management responses.

(g) No later than 15 days preceding the start of the gaming facility licensee's fiscal year, the audit department executive shall file such gaming facility's audit plan with the commission for the upcoming year.

§ 5315.10. Audited financial statements.

(a) A gaming facility licensee, unless specifically exempted by the commission in writing, shall, at its own expense, cause the annual financial statements of such licensee to be audited in accordance with generally accepted auditing standards by an independent certified public accountant licensed to practice in the State.

(b) The annual financial statements required by subdivision (a) of this Part shall be prepared on a comparative basis for a gaming facility licensee's current and prior standard financial year, and shall present financial position and results of operations in conformity with generally accepted accounting principles.

(c) The commission may require other financial information in a format prescribed by the commission to be included as supplementary information in relation to the audited financial statements as a whole. Such information shall be subjected to auditing procedures as required by generally accepted auditing standards and include the independent auditors' report on such supplementary information.

(d) Two copies of the audited financial statements, together with the report thereon of a gaming facility licensee's independent certified public accountant, shall be filed with the commission no later than 120 days following the end of a gaming facility licensee's fiscal year.

(e) In addition to a gaming facility licensee's audited financial statements, each gaming facility licensee shall submit a copy of the management letter prepared by the independent certified public accountant that lists any internal control or operational weaknesses noted during the financial statement audit and recommendations for improvement. The gaming facility licensee shall prepare a response to the issues outlined in the management letter that describes any corrective actions taken or planned to be taken and include a copy of this response with its submission to the commission as required in subdivision (d) of this section.

(f) In addition to the management letter, the commission may require a gaming facility licensee to engage an independent certified public accountant approved by the commission to perform an additional review of internal controls, cause such licensee's business and managerial practices to be audited and review specified expenditures that conform to specifications the commission prescribes. The commission shall notify a gaming facility licensee of the type of report required, the scope of such report and the frequency with which such report should be performed. This review shall be performed at the expense of the gaming facility licensee unless the commission determines otherwise. A gaming facility licensee shall respond to recommendations in such report noting any corrective actions taken or planned to be taken. A gaming facility licensee shall submit to the commission two copies of such report, including the required response to the commission, within 120 days following the end of the period covered by such report, unless the commission instructs otherwise.

(g) If a gaming facility licensee or any of its affiliates is publicly held, such gaming facility licensee or the affiliate shall make available and provide written notice to the commission any report, including, without limitation, forms S-1, 8-K, 10-Q, 10-K, proxy or information statements and all registration statements, required to be filed by such licensee or affiliates with the United States Securities and Exchange Commission or other domestic or foreign securities regulatory agency, at the time of filing with the such agency.

(h) If an independent certified public accountant who was previously engaged as the principal accountant to audit a gaming facility licensee's financial statements resigns or is dismissed as such gaming facility licensee's principal accountant, or another independent certified public accountant is engaged as principal accountant, a gaming facility licensee shall file a report with the commission within 10 days following the end of the month in which such event occurs, setting forth the following:

(1) the date of such resignation, dismissal or engagement;

(2) whether in connection with the audits of the two most recent years preceding such resignation, dismissal or engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements if not resolved to the satisfaction of the former accountant would have caused such accountant to make reference in connection with such accountant's report to the

subject matter of disagreement, including a description of each such disagreement. The disagreements to be reported shall include those resolved and those not resolved;

(3) whether the principal accountant's report on the financial statements for any of the past two years contained an adverse opinion or disclaimer of opinion or was qualified. The nature of such adverse opinion, disclaimer of opinion or qualification shall be described; and

(4) the gaming facility licensee shall request the former accountant to furnish to the gaming facility licensee a letter addressed to the commission stating whether that accountant agrees with the statements made by the gaming facility licensee in response to subdivision (h) of this section. Such letter shall be filed with the commission as an exhibit to the report required by subdivision (h) of this section.

(i) The commission has the authority to conduct, or have conducted, an audit or review of any of a gaming facility licensee's financial controls and records.

§ 5315.11. Accounting and financial records.

(a) A gaming facility licensee shall maintain complete, accurate, legible and permanent records of all transactions pertaining to such licensee's revenues, expenses, assets, liabilities and equity in conformance with generally accepted accounting principles. The failure of a gaming facility licensee to maintain records according to such principles shall be a violation of this section.

(b) The accounting records maintained by the gaming facility licensee shall be maintained using a double entry system of accounting with transactions recorded on the accrual basis and supported by detailed subsidiary records. Such subsidiary records shall include, at a minimum, each of the following:

(1) detailed general ledger accounts identifying all revenue, expenses, assets, liabilities and equity for such gaming facility licensee;

(2) a record of all investments, advances, loans and accounts receivable balances due to such gaming facility licensee;

(3) a record of all loans and other accounts payable by such gaming facility licensee;

(4) a record of all accounts receivable written off as uncollectible by such gaming facility licensee;

(5) journal entries prepared by such gaming facility licensee;

- (6) records that identify drop and win for each gaming device and table game and records accumulated for each by shift or by another accounting period pre-approved in writing by the commission;
- (7) records supporting the accumulation of the costs for complimentary services and items, including records required to comply fully with all the Federal financial recordkeeping requirements set forth in 31 CFR Part 1021;
- (8) records required by such gaming facility licensee's system of internal controls;
- (9) work papers supporting the daily reconciliation of cash accountability; and
- (10) other records that the commission has required, in writing, to be maintained.

(c) Notwithstanding anything in this section to the contrary, each accounting records shall be kept for a period of not less than seven years from date of creation of such record.

§ 5315.12. Submission of standard financial and statistical reports.

A gaming facility licensee shall maintain, at such gaming facility or such location approved in writing by the commission, accurate and complete accounting records pertaining to gaming operations. Such records shall be maintained in accordance with generally accepted accounting principles. In connection with such records:

- (1) gaming facility licensees, unless specifically exempted by the commission, may be required to file interim reports of financial, statistical and informational data. The commission shall prescribe a set of standard reporting forms and instructions to be used by each gaming facility licensee in filing such reports;
- (2) each report required to be submitted to the commission by this Part shall be received by the filing date in electronic format or postmarked no later than the required filing date unless a gaming facility licensee requests an extension. Requests for an extension shall be submitted to the commission in writing prior to the required filing date; and
- (3) copies of all financial statements and statistical reports required to be filed by this Part shall be furnished by a gaming facility licensee with attestation from an authorized financial officer of such licensee.

§ 5315.13. Retention, storage of records

(a) In addition to other records and information required by this Part, each gaming facility licensee shall maintain and keep current the following records in regard to the equity structure and owners of such licensee:

- (1) If a corporation:

- (i) a certified copy of articles of incorporation and any amendments thereto;
- (ii) a copy of by-laws and amendments thereto;
- (iii) an incumbency list of officers and directors;
- (iv) minutes of all meetings of stockholders and directors;
- (v) a current list of all stockholders and stockholders of affiliates, including the names of beneficial owners of shares held in street or other name where any beneficial owner has a beneficial interest in two percent or more of the outstanding shares of any class, addresses and the number of shares held by each and the date acquired;
- (vi) a complete record of all transfers of stock;
- (vii) a record of amounts paid to the corporation for issuance of stock and other capital contributions and dates thereof;
- (viii) a record, by stockholder, of all dividends distributed by the corporation; and
- (ix) a record of all salaries, wages, and other remuneration (including prerequisites), direct and indirect, paid during the calendar or fiscal year, by the corporation, to all officers, directors, and stockholders with an ownership interest at any time during the calendar or fiscal year, equal to or greater than five percent of the outstanding capital stock of any class of stock.

(2) If a partnership:

- (i) a schedule showing the amounts and dates of capital contributions, the names and addresses of the contributors and percentage of interest in net assets, profits, and losses held by each;
- (ii) a record of the withdrawal of partnership funds or assets;
- (iii) a record of salaries, wages and other remuneration (including prerequisites), direct and indirect, paid to each partner during the calendar or fiscal year; and
- (iv) a copy of the partnership agreement and certificate of limited partnership, if applicable.

(3) If a sole proprietorship:

- (i) a schedule showing the name and address of the proprietor and the amount and date of such proprietor's original investment;
- (ii) a record of dates and amounts of subsequent additions to the original investment and withdrawals therefrom; and

(iii) a record of salaries, wages and other remuneration (including prerequisites), direct or indirect, paid to the proprietor during the calendar or fiscal year.

(4) If a limited liability company:

- (i) a certified copy of the articles of organization;
- (ii) a certified copy of the operating agreement;
- (iii) a list of all current and former managers, including names and addresses;
- (iv) a list of the members, including names, addresses, the percentage of interest in net assets, profits and distributions of cash held or attributable to each, the amount and date of each capital contribution of each member, the date the interest was acquired and the method of determining a member's interest;
- (v) a schedule of all withdrawals of company funds or assets by members;
- (vi) a schedule of direct or indirect salaries, wages and other remuneration, including prerequisites, paid to each member during the calendar or fiscal year;
- (vii) a copy of the membership ledger or its electronic equivalent;
- (viii) a complete record of all transfers of membership interests; and
- (ix) a schedule of amounts paid to the company for the issuance of membership interests and other capital contributions and the dates the amounts were paid.

(b) All records in regard to ownership shall be located on the premises of a gaming facility, unless the commission allows a specific exemption to such gaming facility licensee.

(c) A gaming facility licensee or applicant shall, upon request by the commission, provide a list of all record holders of any or all classes of publicly traded securities issued by any holding company or by any other affiliated entity that is required to qualify as a financial source.

(d) A gaming facility licensee shall provide the commission, upon request, with the records required to be maintained as set forth in Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law or this Subchapter. Each gaming facility licensee is responsible for the acts and omissions of its agents, employees and contractors in complying with all obligations imposed by law, this Subchapter and internal control minimum procedures. Each gaming facility licensee shall retain all such records within the State of New York for at least seven years after such records are made and the related gaming tax return is filed. Records include, without limitation, formats as hard-copy documents, revenue system database, tables and fields structures of the database, meter files and electronic reports.

(e) Failure to keep and provide such records is an unsuitable method of operation and subject to a fine, penalty or revocation of license.

§ 5315.14. Review, examination of records.

The commission or the commission's designee may:

- (1) conduct periodic examinations of the accounting and financial records of gaming facility licensees;
- (2) review the accounting principles and procedures used by gaming facility licensees;
- (3) review and observe methods and procedures used by gaming facility licensees to count and handle cash, chips, tokens, gaming coupons, tickets, gaming wagers, gaming payments and negotiable instruments;
- (4) examine accounting and financial records of the gaming facility licensee or a person controlling, controlled by or under common control with the gaming facility licensee, within a gaming facility licensee's establishment or gaming facility licensee's other establishments located in New York, or other locations as agreed to with the gaming facility licensee;
- (5) request the gaming facility licensee to file copies of tax returns, tax records and tax adjustments with the commission; and
- (6) obtain copies from the gaming facility licensee of outstanding deposited check instruments, checks returned and held, collection activities taken and settlement of disputed items.

§ 5315.15. Online monitoring and control system.

A gaming facility licensee shall have an online monitoring and control system connected to each slot machine in such gaming facility to record and monitor such slot machine's activities. The system shall be accessible by the commission or the commission's designee.

§ 5315.16. Altering or falsifying gaming documents.

Any person who alters or falsifies information recorded on gaming documents, at the time of the transaction or after the fact, for the purpose of concealment, deception or circumvention of internal control minimum procedures, or for any other purpose, may be subject to a fine, penalty or revocation of license by the commission.

§ 5315.17. Anti-money laundering program.

(a) Consistent with the requirements of the Federal Bank Secrecy Act, (31 U.S.C. 5311, et seq) and 31 CFR Part 1021, a gaming facility licensee is defined as a *financial institution* and shall comply with Federal law pertaining to reportable currency transactions and transactions that are believed to be suspicious. To accomplish these objectives, a gaming facility licensee shall, at a minimum:

- (1) establish a system of internal policies, procedures and controls tailored to assure ongoing compliance;
- (2) employ an anti-money laundering compliance officer and file the name of such officer with the commission;
- (3) conduct an internal and/or external independent audit to test for compliance and provide copies to the commission;
- (4) train licensed personnel in reportable currency transactions and identifying unusual or suspicious transactions;
- (5) assign an individual or group of individuals to be responsible for day-to-day compliance; and
- (6) employ the use of automated programs to aid in assuring compliance when automated processing systems are in use.

(b) A gaming facility licensee also shall comply with the requirements set forth in section 504.3 of Title 3 of these Codes, Rules and Regulations as if such licensee were a regulated institution within the meaning of such section.

(c) In connection with implementing subdivision (a) of this section, a gaming facility licensee shall:

- (1) assess anti-money-laundering-related risks present within its business, considering, among other things, gaming volume and character, range of financial services offered, characteristics of certain games, patron behaviors and patron characteristics;
- (2) vest the individual or group of individuals responsible for anti-money-laundering compliance with appropriate authority and resources to implement the program and assist the gaming facility in managing risk;
- (3) extend training to employees who have direct interaction with patrons or who handle or review patron transactions subject to the Bank Secrecy Act, including
 - (i) those engaged in the operation of gaming facility games (at least beginning with supervisors and above);

(ii) gaming facility marketing employees (including domestic and international hosts, branch office employees and special events employees);

(iii) cage employees;

(iv) surveillance employees;

(v) audit employees; and

(vi) senior management;

(4) identify customers and customer play that potentially possess the greatest risk of money laundering, including, among other things, requiring patrons to provide full name, permanent address, social security number and a valid, current government-issued photo identification. For a high-volume patron whose activity exceeds a certain level, undertaking a review of such patron's identity and source of funds against public records and third-party databases;

(5) file currency transaction reports with the appropriate Federal agency when a patron either provides to such gaming facility or takes away from such gaming facility, more than \$10,000 in currency during such gaming facility's 24-hour gaming day.

(6) file suspicious activity reports with the appropriate Federal agency when a gaming facility knows, suspects or has reason to suspect that a transaction aggregating at least \$5,000

(i) involves funds derived from illegal activity;

(ii) is intended to disguise funds or assets derived from illegal activity;

(iii) is designed to avoid Bank Secrecy Act reporting or recordkeeping requirements;

(iv) uses the gaming facility to facilitate criminal activity;

(v) has no business or apparent lawful purpose; or

(vi) is not the sort of transaction in which the particular patron would be expected to engage and such gaming facility knows of no reasonable explanation for the transaction after examining the available facts; and

(7) adopt a recordkeeping system to preserve for each patron, subject to due diligence procedures,

(i) a record of those specific procedures performed to analyze a patron's gaming patterns and financial transactions;

(ii) any due diligence report created;

(iii) any risk determination; and

(iv) any action taken as a result, including monitoring of patron, reports to law enforcement agencies or changes in gaming facility services available to such patron.

Such records shall be maintained for at least five years after the relationship is terminated.

(d) To ensure compliance with this section, each gaming facility licensee shall submit to the commission by April 15 of each year a compliance finding statement on a form issued by the commission and duly executed by the gaming facility's designated anti-money laundering compliance officer.