

Taxes

Proposed Readoption: N.J.A.C. 19:54

Authority: N.J.S.A. 5:12-63c, 70e, 144a and f and 144.1c

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Submit written comments by February 19, 2010 to:

Claire Frank, Program Supervisor

Casino Control Commission

Tennessee and Boardwalk

Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

N.J.A.C. 19:54 (Taxes), is scheduled to expire on December 16, 2009, pursuant to N.J.S.A. 52:14B-5.1. By filing this notice of proposed readoption prior to December 16, 2009, the chapter expiration date has been extended for 180 days to June 14, 2010. See N.J.S.A. 52:14B-5.1c.

This notice of proposed readoption is not required to be referenced in a rulemaking calendar since a public comment period of 60 days is being provided. See N.J.A.C. 1:30-3.3(a)5.

N.J.A.C. 19:54-1 was originally promulgated by the Casino Control Commission (Commission) in 1978. 10 N.J.R. 210(c), 10 N.J.R. 305 (f). The rules implement provisions of the Casino Control Act (the Act), N.J.S.A. 5:12-1 et seq., imposing an eight percent tax upon the gross revenue of operating casinos. N.J.S.A. 5:12-144. The proceeds of the tax are deposited into the Casino Revenue Fund, and are used to fund various programs that benefit senior citizens and disabled persons in New Jersey. The rules enable the Commission to assure that the gross revenue tax is computed, collected, verified and enforced in an efficient and reliable manner. N.J.A.C. 19:54-1 was readopted without amendment in 1983.

Rules regarding casino licensees' investment alternative tax obligations (see N.J.S.A. 5:12-144b-i) were adopted as N.J.A.C. 19:54-2 in 1984. These rules were repealed in 1993, when the responsibility for implementing such provisions was transferred to the Casino Reinvestment Development Authority.

N.J.A.C. 19:54-3, adopted in 1986 and recodified as N.J.A.C. 19:54-2 in 1993, implements the Commission's obligation to provide a standard upon which a casino licensee may petition the CRDA for a deferral of an investment obligation under a claim of "extreme financial hardship." See N.J.S.A. 5:12-144.1c.

N.J.A.C. 19:54 was readopted without amendment in 1988. The 1993 readoption included rule amendments to conform to amendments to the Act. 25 N.J.R. 280 (a); 25 N.J.R. 1524(a). Among other things, N.J.A.C. 19:54-1 was amended to reflect the transfer of tax enforcement responsibilities from the State Treasurer to the Commission. The readoption set an early expiration date of December 15, 1994, and the Commission again readopted the chapter without amendment in that year.

1995 amendments to N.J.A.C. 19:54-1.8 recognized the authority of the Director of the Commission's Division of Financial Evaluation to determine the standards and practices followed by the Commission's Audit Unit in performing its annual gross revenue tax examination. The amendments also provided that such examination may incorporate audit work done by the casino operator's internal audit department, subject to certain prerequisites. See 27 N.J.R. 3309 (b), 27 N.J.R. 4913 (a). N.J.A.C. 19:54-1.7 was amended in 1998 to permit casino operators to estimate slot machine drop for purposes of the monthly gross revenue report required by N.J.A.C. 19:54-1.7(b), subject to compliance with the standards therein. 29 N.J.R. 5057(a), 30 N.J.R. 863(c). N.J.A.C. 19:54-1.6, which addresses the calculation of gross revenue, was amended in 1998 to include documents evidencing credit and debit card chip transactions pursuant to N.J.A.C. 19:45-1.18A. 30 N.J.R. 1002(a), 30 N.J.R. 2639(a).

The 1999 adoption of N.J.A.C. 19:54 included an amendment to N.J.A.C. 19:54-1.10(a) that clarified the rules for the calculation of interest on a delinquent tax payment. See 31 N.J.R. 3060(a), 32 N.J.R. 312(a).

In 2002, N.J.A.C. 19:54-1.6 was amended to include the value of electronic credits withdrawn from patron accounts and gaming vouchers in the computation of the gross revenue tax. See 34 N.J.R. 2012(a), 35 N.J.R. 259(a).

In 2004, the chapter was readopted without amendment. See 36 N.J.R. 4436(a), 37 N.J.R. 294(b).

In January 2009, amendments and a new rule became effective which entitled casino licensees to take a deduction from gross revenue for the value of promotional gaming credits wagered by patrons in slot machines. See 40 N.J.R. 5570(a), 41 N.J.R. 640(a). The changes implemented amendments to the Act effective April 11, 2008 and operative August 14, 2008. P.L. 2008, c. 12. The amendments involved an agreement to pay \$90 million to the New Jersey Sports and Exposition Authority for the benefit of the New Jersey horse racing industry.

The Commission has reviewed N.J.A.C. 19:54 and has determined that the rules have provided an efficient and effective mechanism for the enforcement of the tax obligations imposed by the Act. Therefore, the chapter is proposed for re-adoption at this time without amendment.

Full text of the proposed re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:54.