

Internet Gaming Promotional Gaming Credit Guidance

The following guidance is provided by the Division of Gaming Enforcement (Division) to casino licensees and Internet platform providers regarding the specific requirements that must be met in order for an Internet gaming bonus program to qualify as a Promotional Gaming Credit (PGC). This correspondence also provides information regarding the Gross Revenue Tax treatment of Internet PGCs and the monthly financial reporting requirements for Internet PGCs.

Internet Gaming Promotional Gaming Credits

The definition of a PGC was amended in the Casino Control Act in 2013 to add Internet PGCs. N.J.S.A. 5:12-38(a) defines a PGC as a "slot machine credit or other item approved by the Division that is issued by a licensee to a patron for the purpose of enabling the placement of a wager at a slot machine in the licensee's casino or through the licensee's Internet gaming system. No such credit shall be reported as a promotional gaming credit unless the licensee can establish that the credit was issued by the licensee and received from the patron as a wager at a slot machine in the licensee's casino or Internet gaming system."

Given the above statutory language, the Division treats Internet PGCs the same way as PGCs have been implemented and handled in connection with Atlantic City brick and mortar casinos. Specifically, in order for a bonus program to be approved by the Division as an Internet PGC, the bonus must be: (1) issued to a patron for the purpose of wagering at an Internet slot machine game, (2) received from the patron as a wager at an Internet slot machine game, and (3) any winnings can be cashed out after the bonus is wagered one time.

Any casino licensee that believes one or more of their proposed bonus programs meets the preceding definition must submit a narrative description of the program(s) to the Office of Financial Investigations e-mail address (OFI@nidge.org). The submission should, at a minimum: (1) comprehensively describe each bonus program, (2) explain how it meets the preceding definition of an Internet PGC, and (3) contain samples of proposed reports that can accurately track the bonus program and can be audited by the Division.

A Division determination as to whether a proposed bonus program qualifies as a PGC is limited solely to tax deductibility purposes. Division approval will not address any consumer protection matters implicated by the bonus programs offered through Internet gaming, or the fairness or viability of such programs. The casino licensee, as the Internet gaming permit holder, is responsible for the programs offered, their legality and the protection of consumers as required by law.

Gross Revenue Tax Treatment of Internet PGCs

As noted above, the definition of PGCs was changed to allow for Internet PGCs. The statute that addresses the Gross Revenue Tax deduction for PGCs, however, was not changed.

Pursuant to N.J.S.A. 5:12-144.2 and proposed N.J.A.C. 13:69L-1.6 and 1.11, each casino licensee shall be entitled to a deduction from gross revenue (casino Gross Revenue, not Internet Gross Revenue) for its pro-rata share of PGCs above the \$7.5 million monthly deduction threshold (\$90 million annually). Based on the foregoing, Internet PGCs will be added to the PGCs of brick and mortar casinos and the total PGCs wagered will be deducted against the 8% Gross Revenue Tax which applies to casinos.

Monthly Financial Reporting Process for PGCs

Other than the addition of Internet PGCs, the financial reporting process for PGCs will not change. Under DGE regulations at N.J.A.C. 13:69L-1.11, each casino licensee shall separately report to the DGE, on or before the 3rd calendar day of the succeeding month, the amount of PGCs wagered for the previous month at its: (1) casino slot machines and (2) Internet slot machines through the licensee's Internet gaming system. These amounts shall be summarized on each licensee's DGE-170, which will be updated to include Internet PGCs.

On or before the 7th calendar day of each month, the DGE shall report to all casino licensees the amount of Eligible PGCs deductible by each licensee from the previous month's gross revenue. Each licensee shall report the deductible amount on its next weekly tax transfer and Monthly Gross Revenue Tax Return filed with the New Jersey Division of Taxation by the 10th of the month.

Please forward this information as necessary within your organization. If there are any questions or concerns, do not hesitate to contact the Division at OFI@njdge.org.