

Games, gambling and similar income

How does tax apply to games and gambling?

Many businesses and organizations offer entertainment in the form of games. The business or organization may own the games or receive commission for allowing the games to be placed on their property.

Commissions: Income for allowing the placement of vending machines or games is subject to B&O tax under the Service and Other Activities classification.

Air hockey/pool/foosball/darts/shuffleboard: These activities are retail sales. Gross receipts are subject to retail sales tax and the Retailing classification of the B&O tax. Gamer operators may factor out retail sales tax from the amount received by the payment-operated (including coin-operated) games to determine gross receipts. (See our online information on Recreational Services for more information on other activities.)

Note: Effective January 1, 2016, amounts paid to play all forms of dart games (i.e., steel tip darts, soft tip darts, and electronic dart games) are subject to retail sales tax and the Retailing B&O tax. Prior to this date steel and soft tip darts were subject to retail sales tax and the Retailing B&O tax. Electronic dart games were subject to B&O tax under the Service and Other Activities classification and retail sales tax did not apply.

Video games/Amusement devices: These items include slots, pinball, and other machines or devices that permit the patron to play a game. Gross receipts are subject to B&O tax under the Service and Other Activities classification.

Sales or use tax applies to the purchase of the machines.

Internet access: Gross receipts for allowing customers internet access is subject to B&O tax under the Service and Other Activities classification.

References: WAC 458-20-187

Definitions

“Contests of chance” means any contests, games, gaming schemes, or gaming devices, other than the state lottery (RCW 67.70.010) in which the outcome depends upon an element of chance. The skill of the contestants may also be a factor in the outcome. “Contests of chance” include:

- social card games
- dice games
- bingo
- raffles
- punchboard games
- pull-tabs

(“Contests of chance” does not include race meets for which a license must be obtained from the Washington Horse Racing Commission or “amusement games,” RCW 9.46.0201.)

B&O tax classifications

There are two B&O tax classifications that apply to income received from operating contests of chance:

- Gambling Contests of Chance (less than \$50,000 a year) – rate 1.5%.
- Gambling Contests of Chance (\$50,000 a year or greater) – rate 1.7% through June 30, 2024, and 1.76% thereafter.

The lower rate classification shares the line with the *Service and Other Activities* classification on the excise tax return. The higher rate classification has its own line on the return.

How is income calculated to determine a B&O Tax classification?

You can calculate the gross amount of gaming income by taking the total revenue from gaming activities and deducting the amount of payouts to the customers.

Payouts include:

- Monetary value or actual cost of any awarded prizes
- Amounts paid to players for winning wagers
- Accrual of prizes for progressive jackpot contests

- Repayment of amounts used to seed guaranteed progressive jackpot prizes
- Fair-market value of the merchandise (in the case of donated merchandise)

Payouts do *not* include:

- Labor costs associated with operating a game
- Amounts paid for equipment and supplies to operate game
- Amounts paid for the purchase of the actual game (e.g., punchboards, pull tabs, etc)
- Other business expenses
- Lottery payouts

The business will report under the new Gaming Contests of Chance (\$50,000 a year or more) B&O tax classification if – after this calculation – the income is or will be \$50,000 or more per calendar year. The business reports under the *Gambling Contests of Chance* (less than \$50,000 a year) classification if income is less than \$50,000.

Income from “amusement games” should not be combined with income from contests of chance for purposes of determining if the “less than fifty thousand dollar” threshold is met.

Annual filers: The appropriate B&O tax classification may be determined when you file your annual excise tax return.

Quarterly and monthly filers: You will need to estimate whether you will meet the \$50,000 annual threshold when you complete excise tax returns that are due before the end of the year. If your estimate is determined to be inaccurate before you reach the end of the year, you need to:

- complete the final return(s) of the year using the appropriate classification and
- file amended returns for the past returns to correctly report under the appropriate classification.

Businesses that use e-file may amend multiple periods using My DOR.

How do I amend multiple periods online?

1. Log into My DOR and access the tax account
2. Click the **More Options** tab.

3. Click on **Send a Message**.
4. Select the tax account and click **Next**.
5. Select the Filing Period or the **This message doesn't concern a specific period option** and click **Next**.
6. Select the topic **Amended Tax Returns**.
7. Enter a subject, such as "Multiple Periods, Gambling B&O tax".
8. In the Message, provide an explanation for the changes such as "Over/under \$50,000 threshold for gambling B&O tax".
9. Complete one of the following spreadsheets and save it to your computer:
 - Quarterly filer:
 - Underpaid gambling B&O tax
 - Overpaid gambling B&O tax
 - Monthly filer:
 - Underpaid gambling B&O tax
 - Overpaid gambling B&O tax
10. Click **Add** in the Attachments section to attach the saved spreadsheet
11. Select and save to attach the file
12. Click **Submit**

Games of chance operators need to report the total receipts from gaming income under the *gross amount* on the excise tax return. Record the amount of payouts on the deduction detail. To find the taxable amount, use this equation:

Column 1 (*gross amount*) – Column 2 (*deduction amount*) = Column 3 (*the taxable amount*).

Examples

The following examples identify a number of facts and then state a conclusion. These examples should be used as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

Example 1 - Sam's Place has total gaming income of \$70,000 per calendar year and \$25,000 in payouts for the same period. Sam's would report all of its gaming income under the *Service and Other* B&O classification because its "gross income" for threshold purposes is \$45,000 (\$70,000 minus \$25,000).

Example 2 - J&M Grill has total gaming income of \$120,000 in 2006 and \$40,000 in payouts during the same period. J&M will be taxable on all of its income from contests of chance under the *Gambling Contests of Chance* (\$50,000 a year or greater) B&O tax classification because its “gross income” for threshold purposes is greater than \$50,000 (\$120,000 minus \$40,000 = \$80,000).

Example 3 - Doug’s Cafe is a new business that opened in March. The business estimated that the “gross income” for threshold purposes would be less than \$50,000 per year. At the end of July of the same year the total gaming income was \$75,000 for March through July and total payouts for the same period of time was \$22,000. Doug’s must report the taxable income for July under the *Gambling Contest of Chance* (\$50,000 a year or greater) B&O tax classification because its “gross income” for threshold purposes \$53,000 (\$75,000 minus \$22,000). Additionally, Doug’s must also reclassify, by filing amended excise tax returns for March, April, May and June, all gaming income reported for this period under the *Gambling Contests of Chance* (less than \$50,000 a year classification to *Gambling Contests of Chance* (\$50,000 a year or greater) B&O tax classification. (Businesses that e-file: see the **“How do I amend multiple periods online?” section above**).

Lottery commissions

Lottery or scratch ticket purchases by a consumer are not subject to retail sales tax. The organization reports commissions received from such sales on the excise tax return under the *Service & Other Activities* B&O tax classification. Lottery payouts do not qualify for the payouts deduction.

Nonprofit Organizations – Fundraising

Gross income received by nonprofit organizations from operating contests of chance may qualify for the fundraising B&O tax exemption. If such activities are not held frequently, the resulting income would generally qualify for the B&O tax exemption. However, if such activities are held on an ongoing basis at a regular place of business, the resulting income would not qualify for the fundraising exemption and would be subject to tax.

For more information on the fundraising exemptions:

WAC 458-20-169 – Nonprofit Organizations

- Nonprofit Organizations Guide

Reference: WAC 458-20-131



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