

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 240.00: ADJUSTED GROSS SPORTS WAGERING AND ADJUSTED GROSS FANTASY WAGERING RECEIPTS TAX REMITTANCE AND REPORTING

Section

240.01: Description of Tax

240.02: Computation of Adjusted Gross Sports Wagering and Adjusted Gross Fantasy Wagering Receipts

240.03: Remittance

240.04: Examination of Accounts and Records for Verification of Adjusted Gross Sports Wagering and Adjusted Gross Fantasy Wagering Receipts

240.01: Description of Tax

Pursuant to M.G.L. c. 23N, § 14, the following excise taxes relative to sports wagering and fantasy contests shall be calculated daily and remitted to the Commission on a monthly basis:

(1) a monthly tax of 15% of the Operator's Adjusted Gross Sports Wagering Receipts from the operation of in-person sports wagering, computed in accordance with 205 CMR 240.02;

(2) a monthly tax of 20% of the Operator's Adjusted Gross Sports Wagering Receipts from the operation of sports wagering through mobile applications and other digital platforms approved by the Commission, computed in accordance with 205 CMR 240.02; and

(3) a monthly tax of 15% of the Adjusted Gross Fantasy Wagering Receipts of a person or entity that offers fantasy contests pursuant to M.G.L. c. 12, § 11M½ and 940 CMR 34.00: *Daily Fantasy Sports Contest Operators in Massachusetts*, computed in accordance with 205 CMR 240.02. Any person engaged in offering fantasy contests shall register with the Commission on a form approved and prescribed by the Commission. Failure to comply with M.G.L. c. 23N or 205 CMR 240.00 may result in civil consequences.

240.02: Computation of Adjusted Gross Sports Wagering and Adjusted Gross Fantasy Wagering Receipts

(1) Sports Wagering: In accordance with M.G.L. c. 23N, § 3, Adjusted Gross Sports Wagering Receipts shall be the total gross receipts from sports wagering less the sum of:

(i) the total of all winnings paid to participants; and

(ii) all excise taxes paid pursuant to federal law; provided, however, that the total of all winnings paid to participants shall not include the cash equivalent of any merchandise or thing of value awarded as a prize.

(a) Adjusted Gross Sports Wagering Receipts shall be calculated daily and in accordance with the Operator's approved system of internal controls.

(b) Any amount that an Operator is unable to collect pursuant to any credit issued to a patron to take part in sports wagering in accordance with 205 CMR, *et seq.* shall be deemed an amount actually received for purposes of calculating gross sports wagering receipts.

(c) Adjusted Gross Sports Wagering Receipts shall not include any amount received by an Operator from credit extended or collected by the Operator for purposes other than sports wagering.

(d) The accrual method of accounting shall be used for the purposes of calculating the amount of the tax owed.

(2) Fantasy Contests: In accordance with M.G.L. c. 23N, § 3, Adjusted Gross Fantasy Wagering Receipts shall be the total gross receipts from fantasy contests as defined in M.G.L. c. 12, § 11M½, less only the total of all cash prizes paid to participants in the fantasy contests; provided, however, that the total of all cash prizes paid to participants shall not include the cash equivalent of any merchandise or thing of value awarded as a prize.

(a) Adjusted Gross Fantasy Wagering Receipts shall be calculated daily and in accordance with the person or entity offering fantasy contests' approved system of internal controls.

(b) Any amount that a person or entity offering fantasy contests is unable to collect pursuant to any credit issued to a patron to take part in fantasy contests in accordance with 205 CMR, *et seq.* shall be deemed an amount actually received for purposes of calculating gross fantasy wagering receipts.

240.02: continued

(c) Adjusted Gross Fantasy Wagering Receipts shall not include any amount received by a person or entity offering fantasy contests from credit extended or collected by the person or entity for purposes other than fantasy contests.

(d) The accrual method of accounting shall be used for the purposes of calculating the amount of the tax owed.

240.03: Remittance

(1) The excise taxes set out in 205 CMR 240.01 shall be due and payable to the Commission in monthly installments on or before 5:00 P.M. on the fifteenth calendar day following the calendar month in which the Adjusted Gross Sports Wagering Receipts or Adjusted Gross Fantasy Wagering Receipts were received by the Operator or person or entity offering fantasy contests, in accordance with 205 CMR 240.01.

(2) On or before the fifteenth calendar day of each month a monthly remittance report shall be filed with the Commission in a form prescribed by the Commission setting forth the following:

(a) the total gross sports wagering receipts and Adjusted Gross Sports Wagering Receipts from the operation of sports wagering during that month;

(b) the tax amount for which an Operator is liable;

(c) the total gross fantasy wagering receipts and Adjusted Gross Fantasy Wagering Receipts from the offering of fantasy contests, as defined in M.G.L. c. 12, § 11M $\frac{1}{2}$, during that month;

(d) the tax amount for which a person or entity that offers fantasy contests, as defined in M.G.L. c. 12, § 11M $\frac{1}{2}$, is liable; and

(e) any additional information necessary for the computation and collection of the tax on Adjusted Gross Sports Wagering Receipts and Adjusted Gross Fantasy Wagering receipts required by the Commission.

(3) The tax shall be due and remitted by electronic funds transfer simultaneously with the filing of the remittance report.

(4) When a monthly total for Adjusted Gross Sports Wagering or Adjusted Gross Fantasy Wagering Receipts is negative, the Operator or person or entity that offers fantasy contests may carry over the negative amounts to returns filed in subsequent months provided that sufficient documentation, as determined by the Commission, is submitted in support of the offset.

240.04: Examination of Accounts and Records for Verification of Adjusted Gross Sports Wagering and Adjusted Gross Fantasy Wagering Receipts

(1) The Commission or its designee may perform audits of the books and records of an Operator or person or entity offering fantasy contests, at such times and intervals as it deems appropriate, in order to verify the tax amount reported and remitted for Adjusted Gross Sports Wagering and Adjusted Gross Fantasy Wagering Receipts.

(2) The Operator or person or entity offering fantasy contests shall permit duly authorized representatives of the Commission to examine the accounts and records for the purpose of verifying Adjusted Gross Sports Wagering and Adjusted Fantasy Wagering Receipts. In the event that any records or documents deemed pertinent by a Commission examiner are in the possession of another person or entity, the Operator or person or entity offering fantasy contests shall be responsible for making those records or documents available to the Commission examiner within the time period provided by the Commission.

(3) The Adjusted Gross Sports Wagering and Adjusted Gross Fantasy Wagering tax verification process may incorporate audit work performed by an Operator's or person or entity offering fantasy contests' internal audit department or its independent accountant or auditor provided that:

(a) Such audit work is conducted in accordance with minimum standard internal audit procedures which have been submitted to and approved by the Commission including, at a minimum, a detailed description of the audit tests to be performed;

(b) The Operator or person or entity offering fantasy contests submits to the Commission by January 31st of each year an audit plan specifying the scheduled audit dates for verification of Adjusted Gross Sports Wagering and Adjusted Gross Fantasy Wagering Receipts that upcoming calendar year; and

240.04: continued

(c) The Operator or person or entity offering fantasy contests submits to the Commission no later than March 15th of each year, copies of all internal audit reports and any other reports directly relating to the reporting of Adjusted Gross Sports Wagering and Adjusted Gross Fantasy Wagering Receipts for the preceding tax year.

(4) The Commission shall notify the Operator or person or entity offering fantasy contests of any Adjusted Gross Sports Wagering or Adjusted Gross Fantasy Wagering Receipt tax deficiencies disclosed during the verification process. Any additional amounts due by the Operator or person or entity offering fantasy contests shall be remitted within 15 days of completion of the audit, except that in the event the Operator or person or entity offering fantasy contests disagrees with the Commission's audit results, the time for payment shall be extended for an additional 30 days during which time the Operator or person or entity offering fantasy contests shall be provided an opportunity to respond to the Commission's audit results.

REGULATORY AUTHORITY

205 CMR 240: M.G.L. c. 23N, § 14