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## **TITLE 45 DEPARTMENT OF STATE REVENUE**

### **Proposed Rule** LSA Document #04-292

#### **DIGEST**

Adds 45 IAC 20 concerning the conduct of charity gaming activities by qualified organizations licensed by the department of state revenue. Repeals 45 IAC 18. Effective 30 days after filing with the secretary of state.

#### **45 IAC 20**

SECTION 1. 45 IAC 20 IS ADDED TO READ AS FOLLOWS:

#### **ARTICLE 20. CHARITY GAMING**

##### **Rule 1. Definitions**

##### **45 IAC 20-1-1 Applicability**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-6

**Sec. 1. The definitions in IC 4-32-6 and this rule apply throughout this article.** *(Department of State Revenue; 45 IAC 20-1-1)*

##### **45 IAC 20-1-2 “Affiliate” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-6

**Sec. 2. “Affiliate” means any person or entity directly or indirectly controlling, controlled by, or under common control or ownership as the licensee or shares with the licensee a common board, directors, or officer.** *(Department of State Revenue; 45 IAC 20-1-2)*

##### **45 IAC 20-1-3 “Bingo” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-6

**Sec. 3. “Bingo” means a game conducted in the following manner:**

- (1) Each participant receives at least one (1) bingo card or bingo paper.**
- (2) As the caller of the game announces a letter and number combination, each player covers the square corresponding to the announced number, letter, or combination of numbers and letters.**
- (3) The winner of each game is the player who is the first to properly cover a predetermined and announced pattern of squares upon the card used by the player.**

*(Department of State Revenue; 45 IAC 20-1-3)*

##### **45 IAC 20-1-4 “Bingo card” or “bingo paper” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-6

**Sec. 4. “Bingo card” or “bingo paper” means permeations of letter and number combinations printed on reusable or nonreusable card or paper stock containing five (5) rows of five (5) squares, each imprinted with randomly placed numbers,**

one (1) through seventy-five (75), except for the center square that may be a free space, and a set of designators, similarly numbered, that are contained in a selection device. The letters “B-I-N-G-O” in this order must also be imprinted above each of the five (5) columns. A serial number consisting of at least five (5) alpha characters or numeric characters, or both, must be printed on each item manufactured and sold. *(Department of State Revenue; 45 IAC 20-1-4)*

**45 IAC 20-1-5 “Bingo equipment” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-6

**Sec. 5. “Bingo equipment” means all paraphernalia used to conduct the game, including the following:**

- (1) Random number selection equipment.**
- (2) Designators, such as bingo balls.**
- (3) Designator receptacles.**
- (4) Number display boards.**
- (5) Dispensing devices.**

The term does not include audio or video equipment, which plays no part in the conduct of the game other than communicating the progress of the game, and any computer or other technologic aid. *(Department of State Revenue; 45 IAC 20-1-5)*

**45 IAC 20-1-6 “Bingo supplies” defined**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-9

**Sec. 6. “Bingo supplies” means any of the following:**

- (1) Bingo paper.**
- (2) Bingo cards.**
- (3) Concealed face bingo cards.**
- (4) Daubers.**
- (5) Other devices designed to cover squares on a bingo card or bingo paper.**

*(Department of State Revenue; 45 IAC 20-1-6)*

**45 IAC 20-1-7 “Calendar” defined**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-9

**Sec. 7. “Calendar” means a tabular register of days that:**

- (1) does not cover less than one (1) calendar month or more than twelve (12) calendar months; and**
- (2) is used for a calendar raffle.**

*(Department of State Revenue; 45 IAC 20-1-7)*

**45 IAC 20-1-8 “Calendar raffle” defined**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-9

**Sec. 8. “Calendar raffle” means a raffle in which a drawing is held and a prize awarded on each date specified in a calendar.** *(Department of State Revenue; 45 IAC 20-1-8)*

**45 IAC 20-1-9 “Charity game night” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-6

**Sec. 9. (a) “Charity game night” means an event where wagers are placed upon the following permitted games of chance through the use of imitation money:**

- (1) A card game.**
- (2) A dice game.**

(3) A roulette wheel.

(4) A spindle.

(b) The term does not include an event where wagers are placed on any of the following:

(1) Bookmaking.

(2) A slot machine.

(3) A one-ball machine.

(4) A pinball machine that awards anything other than an immediate and unrecorded right of replay.

(5) A policy or numbers game.

(6) A banking or percentage game played with cards or counters, including the acceptance of a fixed share of the stakes in a game.

*(Department of State Revenue; 45 IAC 20-1-9)*

#### **45 IAC 20-1-10 “Computer or other technologic aid” defined**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-9

**Sec. 10. “Computer or other technologic aid” means either of the following:**

**(1) A device that uses electronic or electromagnetic media to assist a player by:**

**(A) projecting the outcome of the game;**

**(B) keeping track of the number and letter combinations called in bingo;**

**(C) analyzing the probability of the occurrence of an event relating to the bingo; or**

**(D) analyzing the strategy for playing bingo.**

**(2) A device, such as:**

**(A) a computer;**

**(B) a telephone;**

**(C) cable;**

**(D) television;**

**(E) a satellite;**

**(F) the Internet; or**

**(G) any other device;**

**that broadcasts the playing of a game or links gaming events.**

*(Department of State Revenue; 45 IAC 20-1-10)*

#### **45 IAC 20-1-11 “Concealed face bingo card” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-9

**Sec. 11. “Concealed face bingo card” means a nonreusable bingo card constructed to conceal the card face. This type of card is commonly referred to under trade names, such as the following:**

**(1) Tear-Open.**

**(2) Bonanza Bingo.**

**(3) Bull’s-eye.**

**(4) Fortune Cards.**

**A serial number consisting of at least five (5) alpha characters or numeric characters, or both, must be printed on each item manufactured and sold. *(Department of State Revenue; 45 IAC 20-1-11)***

#### **45 IAC 20-1-12 “Conduct prejudicial to the public confidence in the department” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-1; IC 4-32-9; IC 35-45-5

**Sec. 12. “Conduct prejudicial to the public confidence in the department” means conduct that gives the appearance of impropriety, including any of the following:**

**(1) Failure to file tax returns.**

**(2) Conducting a gaming event without a license.**

- (3) Sports betting.
- (4) Operating a gambling device.
- (5) Operating or displaying for use an illegal gambling device, such as a “Cherry Master”, video poker machine, or video slot machine, in any area of a building in which the licensee’s premises is located and to which charity gaming participants have access regardless of whether the licensee or another entity owns the illegal device.
- (6) Any other activity illegal under IC 35-45-5.

*(Department of State Revenue; 45 IAC 20-1-12)*

**45 IAC 20-1-13 “Deal” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-9

**Sec. 13. “Deal” means each separate package, or series of packages, consisting of one (1) game of pull-tabs or tip boards with the same serial number.** *(Department of State Revenue; 45 IAC 20-1-13)*

**45 IAC 20-1-14 “Door prize” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-9

**Sec. 14. “Door prize” means a prize awarded to a person based solely upon the person’s attendance at an event or the purchase of a ticket to attend an event and is not premised in whole or in part on the placing of a wager. No organization shall award a door prize when the award of a prize is determined, in whole or in part, on a sporting event.** *(Department of State Revenue; 45 IAC 20-1-14)*

**45 IAC 20-1-15 “Existence” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-9; IC 6-2.1-3; IC 6-3-2

**Sec. 15. “Existence” means the organization’s active demonstrable support of its stated purpose or mission in addition to any actual corporate existence, including the following:**

- (1) Maintaining its gross income tax exemption under IC 6-2.1-3.
- (2) Maintaining its adjusted gross income tax exemption under IC 6-3-2.
- (3) Being current in all tax filings.

*(Department of State Revenue; 45 IAC 20-1-15)*

**45 IAC 20-1-16 “Festival” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-9

**Sec. 16. “Festival” means an event where a qualified organization is authorized to conduct:**

- (1) bingo events;
- (2) charity game nights;
- (3) one (1) raffle event; or
- (4) door prize events;

**and sell pull-tabs, punchboards, and tip boards.** *(Department of State Revenue; 45 IAC 20-1-16)*

**45 IAC 20-1-17 “Flare” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-9

**Sec. 17. (a) “Flare” means the card enclosed with each deal of pull-tabs that has the following information:**

- (1) The name of the game.
- (2) The manufacturer’s name or distinctive logo.
- (3) The game form number.
- (4) The prize structure for the game, which includes:

- (A) the number of winning pull-tabs by denomination; and
- (B) their respective winning symbol or symbols or number or numbers combination.
- (5) The cost per ticket.
- (6) The serial number of the game.
- (7) The winning number or symbol for at least the top three (3) winning tiers set out in a manner that each prize may be marked off as the prize is won and awarded.

(b) Subsection (a)(7) does not apply to games that include the use of a seal card.

(c) All pull-tabs manufactured or distributed for sale in Indiana must meet the “Standards on Pull-Tabs” adopted by the North American Gaming Regulators Association, October 12, 1991, as amended October 20, 1998, which is incorporated by reference. Copies are available from the North American Gaming Regulators Association, 26 East Exchange Street, Suite 500, St. Paul, MN 55101 or <http://www.nagra.org>. (*Department of State Revenue; 45 IAC 20-1-17*)

**45 IAC 20-1-18 “In existence for at least twenty-five (25) years” defined**

Authority: IC 4-32-7-3

Affected: IC 4-32-9

Sec. 18. “In existence for at least twenty-five (25) years” means that the nationally recognized charitable organization must have been continuously incorporated or legally authorized to do business for at least twenty-five (25) years as a charitable organization in each of at least three (3) states, including Indiana. (*Department of State Revenue; 45 IAC 20-1-18*)

**45 IAC 20-1-19 “In good standing with the department” defined**

Authority: IC 4-32-7-3

Affected: IC 4-32-9

Sec. 19. “In good standing with the department” means an individual or organization that has:

- (1) made all required tax filings or any other required filings with the department; and
- (2) no outstanding liabilities with the department.

(*Department of State Revenue; 45 IAC 20-1-19*)

**45 IAC 20-1-20 “Location” defined**

Authority: IC 4-32-7-3

Affected: IC 4-32-9

Sec. 20. “Location” means the street address and mailing address and cannot include a post office box. A location shall not be connected by a common roof or wall with another structure where gaming activities occur. (*Department of State Revenue; 45 IAC 20-1-20*)

**45 IAC 20-1-21 “Member” defined**

Authority: IC 4-32-7-3; IC 4-32-8-3

Affected: IC 4-32-9

Sec. 21. (a) “Member” means an individual who is:

- (1) qualified for membership in an organization under its:
  - (A) bylaws;
  - (B) articles of incorporation;
  - (C) charter; or
  - (D) rules;
- (2) entitled to vote in the election of the organization’s officers or board members, or both; and
- (3) eligible to be elected as an officer or board member, or both, and to participate in the determination of the policies of the organization.

The individual must be able to show continuous active participation in the organization’s stated purpose or mission, including, but not limited to, the contribution of time, money, or talent to the organization and must attend regular meetings of the organization.

(b) An auxiliary member may also be considered a member of an organization for the conduct of an allowable event if the following requirements are met:

(1) The auxiliary is:

(A) part of a nationally recognized charitable organization; and

(B) created in the organization's bylaws adopted before the effective date of this section.

(2) The auxiliary member is:

(A) entitled to vote in the election of the auxiliary organization's officers or board members, or both; and

(B) eligible to be elected as an officer or board member, or both, and to participate in the determination of the policies of the auxiliary organization.

(3) The individual must be able to show continuous active participation in the auxiliary organization's stated purpose or mission, including, but not limited to, the contribution of time, money, or talent to the auxiliary organization and must attend regular meetings of the auxiliary organization.

*(Department of State Revenue; 45 IAC 20-1-21)*

#### **45 IAC 20-1-22 "Nationally recognized charitable organization" defined**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-9

**Sec. 22. "Nationally recognized charitable organization" means an organization that:**

(1) possesses a determination letter or a ruling from the Internal Revenue Service stating that the organization is:

(A) currently exempt from taxation under 26 U.S.C. 501; or

(B) listed in Internal Revenue Service Publication 78 (Cumulative List of Organizations);

(2) has current exempt status with the department;

(3) is organized primarily for charitable purposes;

(4) is incorporated or legally authorized to do business in at least three (3) states, including Indiana; and

(5) has a national membership of at least five thousand (5,000) people.

*(Department of State Revenue; 45 IAC 20-1-22)*

#### **45 IAC 20-1-23 "Operator" defined**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-9

**Sec. 23. (a) "Operator" means the member of a qualified organization responsible for conducting an allowable event and who is:**

(1) an Indiana resident; and

(2) in good standing with the department.

**(b) The following individuals are also operators:**

(1) A bartender licensed with the alcohol and tobacco commission if the bartender sells only pull-tabs, tip boards, or punchboards.

(2) Any person who:

(A) accounts for money received at the charity gaming event;

(B) keeps records of the charity gaming event; or

(C) announces the letter-number combination at a bingo event.

(3) Any person responsible for disbursement of proceeds from an allowable event.

*(Department of State Revenue; 45 IAC 20-1-23)*

#### **45 IAC 20-1-24 "Premises" defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-9

**Sec. 24. "Premises" means a building or a distinct portion of a building where charity gaming is conducted. A portion of a building is considered distinct if it has a separate mailing address and is not connected by a common roof or wall with another structure where gaming activities occur.** *(Department of State Revenue; 45 IAC 20-1-24)*

#### **45 IAC 20-1-25 "Pull-tab" defined**

**Authority:** IC 4-32-7-3; IC 4-32-8-3  
**Affected:** IC 4-32-9

**Sec. 25. “Pull-tab” means a game conducted in the following manner:**

(1) A single folded or banded ticket or a two-ply card with perforated break-open tabs is bought by a player.

(2) The face of each card is initially covered or otherwise hidden from view, concealing a:

(A) number;

(B) letter;

(C) symbol; or

(D) set of letters or symbols.

(3) In each set of tickets or cards, a designated number of tickets or cards have been randomly designated in advance as winners.

(4) Winners or potential winners, if the game includes the use of a seal, are determined by revealing the faces of tickets or cards. The player may be required to sign the player’s name on numbered lines provided if a seal is used.

(5) The player with a winning pull-tab ticket or numbered line receives the prize stated on the flare from the qualified organization.

(6) A serial number consisting of at least five (5) alpha characters or numeric characters, or both, must be printed on each item manufactured and sold.

(7) A pull-tab may not be electronically generated.

*(Department of State Revenue; 45 IAC 20-1-25)*

**45 IAC 20-1-26 “Punchboard” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-9

**Sec. 26. “Punchboard” means a card or board that contains a grid or section that hides the random opportunity to win a prize based on the results of punching a single hole to reveal a symbol or prize amount. A serial number consisting of at least five (5) characters must be printed on each item manufactured and sold. A punchboard may not be electronically generated.** *(Department of State Revenue; 45 IAC 20-1-26)*

**45 IAC 20-1-27 “Raffle” defined**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-9

**Sec. 27. “Raffle” means a game in which one (1) or more persons who have purchased a raffle ticket win the prize or prizes. The winner or winners of the raffle are determined by drawing a ticket stub from a receptacle holding ticket stubs corresponding to all tickets sold for the raffle. The winning of a prize in a raffle cannot be premised in whole or in part on a sporting event.** *(Department of State Revenue; 45 IAC 20-1-27)*

**45 IAC 20-1-28 “Revoke” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-9

**Sec. 28. “Revoke” means that a qualified organization cannot conduct any gaming events or hold a license for gaming events. The revocation begins:**

(1) at the time the organization receives notice from the department; or

(2) when the organization exhausts all administrative remedies;

**whichever is later.** *(Department of State Revenue; 45 IAC 20-1-28)*

**45 IAC 20-1-29 “Seal card” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-9

**Sec. 29. “Seal card” means a board or placard used with pull-tabs that contains a seal or seals, which when removed or opened reveal predesignated winning numbers, letters, symbols, or monetary denominations. The seal card serves as the game**

flare and must contain the information required in section 17 of this rule unless the manufacturer provides an additional flare containing the required information. A seal card may not be electronically generated. *(Department of State Revenue; 45 IAC 20-1-29)*

**45 IAC 20-1-30 “Serves a majority of counties in Indiana” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-9

**Sec. 30. “Serves a majority of counties in Indiana” means that a nationally recognized charitable organization must do the following:**

**(1) Maintain an office with a mailing address, which is open for business during posted business hours.**

**(2) Directly assist selected individuals or conduct other charitable activity.**

**Both services must be continuously available and ongoing in at least forty-seven (47) Indiana counties. *(Department of State Revenue; 45 IAC 20-1-30)***

**45 IAC 20-1-31 “Suspend” defined**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-9

**Sec. 31. “Suspend” means that the qualified organization cannot conduct any gaming events or hold a license for a period of time specified by the department. The period of suspension begins:**

**(1) at the time the organization receives notice from the department; or**

**(2) when the organization exhausts all administrative remedies;**

**whichever is later. *(Department of State Revenue; 45 IAC 20-1-31)***

**45 IAC 20-1-32 “Tip board” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-9

**Sec. 32. “Tip board” means a board, placard, or other device containing a seal that:**

**(1) is marked off in a grid or columns, with each section containing a hidden number or other symbol that determines a winner;**

**(2) describes the prize and price of each tip;**

**(3) conceals the winning number or symbol; and**

**(4) serves as the game flare for a tip board game.**

***(Department of State Revenue; 45 IAC 20-1-32)***

**45 IAC 20-1-33 “Tip board ticket” defined**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-9

**Sec. 33. “Tip board ticket” is a single folded or banded ticket, or multi-ply card, the face of which is initially covered or otherwise hidden from view to conceal a number, symbol, or set of symbols, some of which have been designated in advance and at random as prize winners. A tip board ticket may not be electronically generated. *(Department of State Revenue; 45 IAC 20-1-33)***

**45 IAC 20-1-34 “Value” defined**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-6

**Sec. 34. “Value”, when used in connection with the word “prize”, means the retail price of the property given as the prize when the prize is other than money. This definition applies whether the property given as the prize is purchased or donated for the event. If the prize given is money, then the value of the prize is the sum of money regardless of any losses by the player. *(Department of State Revenue; 45 IAC 20-1-34)***



**45 IAC 20-1-35 “Wager” defined**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-9

**Sec. 35. “Wager”** means risking money or other property for gain, contingent in whole or in part upon chance, but the term does not include participating in a bona fide contest of skill, speed, strength, or endurance in which awards are made only to entrants. *(Department of State Revenue; 45 IAC 20-1-35)*

**45 IAC 20-1-36 “Worker” defined**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-9; IC 4-32-6-24

**Sec. 36. (a) “Worker”** means a member of a qualified organization who helps or participates in any manner in preparing for, conducting, assisting in conducting, cleaning up after, or taking any other action in connection with an allowable event under this article and who is:

- (1) an Indiana resident; or
- (2) if an individual is not a resident of Indiana, he or she may be a worker only if the qualified organization ensures that the individual:
  - (A) is in good standing with:
    - (i) the department; and
    - (ii) the taxing authority of the state in which the individual resides; and
  - (B) will provide the department with his or her state tax returns upon request. Failure to provide such returns will result in the worker being precluded from associating with charity gaming in Indiana for a period of not less than one (1) year.

(b) Nothing in this section shall be construed to preclude a qualified organization from employing up to three (3) Indiana law enforcement officers or private detectives properly licensed in Indiana to perform security services during an allowable event. *(Department of State Revenue; 45 IAC 20-1-36)*

**Rule 2. Application Procedures for Licensee**

**45 IAC 20-2-1 Application by qualified organization**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-9-18

**Sec. 1. (a)** To obtain a license to operate an allowable event, a qualified organization must submit a written application on a form prescribed by the department.

(b) The application shall include the following information:

- (1) The name and location of the organization.
- (2) The name, address, and Social Security number of each officer of the organization.
- (3) The type of event the organization proposes to conduct.
- (4) The location at which the organization will conduct the event.
- (5) The dates and time for the proposed event.
- (6) Sufficient facts for the department to determine that the organization is a qualified organization, including, but not limited to, the following:
  - (A) The organization’s Indiana taxpayer identification number.
  - (B) A letter from the Internal Revenue Service stating that the organization is exempt from taxation under Section 501 of the Internal Revenue Code.
  - (C) Proof that the organization has been in continuous existence for five (5) or more years consisting of no fewer than:
    - (i) three (3) documents per year received from a source outside of the organization, including, but not limited to, banking statements or utility bills; and
    - (ii) two (2) documents per year originating from within the organization, including, but not limited to, minutes of meetings. Each document must contain the date in which the document was generated.
  - (D) A copy of the organization’s bylaws or articles of incorporation.
  - (E) The name of each proposed operator and sufficient facts to determine that person is qualified to be an operator,

including, but not limited to, the proposed operator's:

- (i) address;
- (ii) date of birth;
- (iii) length of membership; and
- (iv) Social Security number.

(F) A sworn statement by the presiding officer and secretary of the organization attesting to the eligibility of the organization, including the nonprofit character of the organization.

(G) A bona fide civic organization applying for an additional charity game night or festival night under IC 4-32-9-18(c) must have a 501(c)(4) determination by the Internal Revenue Service and be registered as a civic organization with the department by providing copies of the appropriate documents to the department. An organization holding an annual convention and exceeding the two hundred dollar (\$200) rent limitation must submit the following to the department:

- (i) A convention brochure.
- (ii) A newsletter distributed to its membership announcing the annual meeting.
- (iii) Any registration forms for the convention.
- (iv) Minutes of the meetings showing the discussion and planning of the convention.

(H) Proof that the organization is in good standing with the department.

(I) A current copy of the organization's membership roster or other proof of membership of each proposed operator or worker.

(J) A copy of the lease if the organization is renting the premises at which the gaming activity occurs. The lease must be between the organization and the owner of the premises, as determined by the property owner of record on the property tax rolls of the county in which the property is located.

(K) Any other information that the department may require.

(c) A license is not required if the following conditions are met:

- (1) A fee is not charged for the event.
- (2) The value of all prizes awarded does not exceed one thousand dollars (\$1,000) for a single event and no more than three thousand dollars (\$3,000) in a calendar year.

(d) Although a license is not required under subsection (c), a qualified organization is required to obtain an exemption letter from the department before holding such an event. The department may issue the exemption letter on an annual basis if the qualified organization shows that it holds such an event on a continuous basis throughout the year.

(e) If an event meets the conditions required by subsection (c) and an exemption letter is issued under subsection (d), 45 IAC 20-3-2 shall not apply to the conducting of that event. (*Department of State Revenue; 45 IAC 20-2-1*)

#### **45 IAC 20-2-2 Application by a manufacturer or distributor**

Authority: IC 4-32-7-3; IC 4-32-8-3

Affected: IC 4-32

Sec. 2. (a) An entity is required to be licensed to manufacture, distribute, or sell supplies, devices, or equipment to be used in charity gaming in Indiana. To obtain an annual license, a manufacturer or distributor must submit a written application on a form prescribed by the department.

(b) The manufacturer's application shall include the following information:

(1) The name and address of:

- (A) the applicant; and
- (B) each of its separate locations where items are manufactured.

(2) The name and home address of all the owners of the applicant's business if it is not a corporation and, if it is a corporation, the name and address of:

- (A) the officers of the corporation; and
- (B) each person owning at least ten percent (10%) of any class of stock of the corporation.

(3) The name, business address, and home address of the registered agent for service in Indiana if the applicant is a corporation not domiciled in Indiana.

(4) Whether the applicant or any person required to be named in the application is an owner, officer, director, or employee of any other entity that would be licensed under this rule.

- (5) A full description of the type of gaming supplies or related equipment that will be manufactured.
- (6) The name of each state where the applicant has been licensed to manufacture, supply, or distribute gaming supplies or related equipment, the license numbers, the period of time licensed, and whether or not a license has ever been suspended, revoked, or voluntarily forfeited, and the reason for that action.

(c) A distributor must purchase all supplies and equipment to be used in charity gaming in Indiana from a licensed manufacturer or another licensed distributor. The distributor's application shall include the following information:

- (1) The full name and address of the applicant.
- (2) The name and address of:
  - (A) each location operated by the distributor from which bingo supplies are stored;
  - (B) each owner, if the applicant is not a corporate distributor;
  - (C) shareholder who owns ten percent (10%) or more of any class of stock; and
  - (D) the registered agent for service in Indiana, if it is a corporation not domiciled in Indiana.
- (3) A full description of the type of gaming supplies that will be distributed.
- (4) The name of each state where the applicant has been a licensed distributor, the license number, the period of time licensed, and whether or not a license has ever been suspended or revoked, and the reason for that action.
- (5) The name and address of every manufacturer from which purchases are made to be distributed in Indiana.

(d) An entity that both manufactures and distributes supplies, devices, or equipment to be used in charity gaming in Indiana must possess a manufacturer's license and a distributor's license.

(e) A qualified organization that holds a current charity gaming license may sell surplus bingo equipment if it meets the following conditions:

- (1) The organization has prior written approval from the department.
- (2) The bingo equipment was used by the organization in gaming events.
- (3) The organization has not sold any equipment under this exception in the prior twelve (12) calendar months.

*(Department of State Revenue; 45 IAC 20-2-2)*

#### **45 IAC 20-2-3 License fees**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-9; IC 4-32-11-1

**Sec. 3. (a)** Except for the renewal fee for an annual bingo license, all license fees must be paid at the time the application is submitted to the department. The renewal fee for an annual bingo license must be paid by the tenth day of the month in which the license expires.

- (b) The annual license fee for a:
  - (1) manufacturer is three thousand dollars (\$3,000); and
  - (2) distributor is two thousand dollars (\$2,000).

(c) The initial fee on each separate license held by a qualified organization is twenty-five dollars (\$25).

(d) The renewal fee on each separate license held by a qualified organization is based on the total gross receipts from allowable events and related activities in the preceding year or, if the qualified organization held a license under IC 4-32-9-6 through IC 4-32-9-10, the total gross receipts from the preceding event and related activities, according to the following schedule:

Gross Receipts		
At Least	But Less Than	Renewal Fee
\$0	\$15,000	\$25
\$15,000	\$25,000	\$75
\$25,000	\$50,000	\$200
\$50,000	\$75,000	\$350
\$75,000	\$100,000	\$600
\$100,000	\$150,000	\$900

\$150,000	\$200,000	\$1,200
\$200,000	\$250,000	\$1,500
\$250,000	\$300,000	\$1,800
\$300,000	\$400,000	\$2,500
\$400,000	\$500,000	\$3,250
\$500,000	\$750,000	\$5,000
\$750,000	\$1,000,000	\$6,750
\$1,000,000	\$1,250,000	\$8,500
\$1,250,000	\$1,500,000	\$10,000
\$1,500,000	\$1,750,000	\$12,000
\$1,750,000	\$2,000,000	\$14,000
\$2,000,000	\$2,250,000	\$16,250
\$2,250,000	\$2,500,000	\$18,500
\$2,500,000	\$3,000,000	\$22,500
\$3,000,000		\$25,000

(e) If an organization does not renew its license, but an auxiliary or affiliated group applies for a license, the application shall be considered a renewal and subject to the fees stated in subsection (d).

(f) If an organization held a special license for a single event, the license fee for a subsequent similar event is based on the gross receipts from the preceding allowable event and related activities, even if the subsequent event is held during the same year of operation.

(g) The gross receipts from the sale of pull-tabs, punchboards, and tip boards are included in total gross receipts for purposes of the renewal fee. Sales of other tangible personal property sold specifically at the event will be included in gross receipts as a related activity, for example, the qualified organization sells key chains, hot dogs, and drinks in the same area as the event being held. This would be considered a related activity because the sale took place as a result of the allowable event.

(h) The department may not issue a proposed assessment under IC 4-32-11-1 more than three (3) years after the date the application was filed. However, the department may issue a proposed assessment up to six (6) years after the date the application was filed if the:

- (1) applicant fails to pay the entire license fee; and
- (2) omission was greater than or equal to twenty-five percent (25%) of the required fee.

*(Department of State Revenue; 45 IAC 20-2-3)*

#### **45 IAC 20-2-4 Charity gaming licenses**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32

**Sec. 4. (a)** A readable photocopy of a license is required to be prominently displayed at the facility where the event is being held. The original license must be available for inspection upon request at all times. In addition to the photocopy, a legible sign of adequate dimension of at least eight and one-half (8½) inches by eleven (11) inches must be prominently posted on each wall in such a manner that it can be clearly read by all the players during an event giving:

- (1) the name of the qualified organization;
- (2) its license number; and
- (3) the expiration date of the license.

**(b)** Application for the following licenses may be made by a qualified organization:

**(1)** A bingo license that permits the licensee to conduct up to three (3) bingo events per calendar week. This license permits the licensee to conduct door prize drawings and sell:

- (A)** pull-tabs;
- (B)** punchboards; and

(C) tip boards;

at the bingo event. An organization cannot have more than one (1) allowable event per day. The bingo license is in effect for one (1) year from the date of issuance.

(2) A special bingo license that permits the licensee to conduct one (1) bingo event at only one (1) time and location. This license can be renewed at the discretion of the department upon reapplication and payment of the license fee based on the preceding event.

(3) A charity game night license that permits the licensee to conduct one (1) charity game night at one (1) location. This license permits the licensee to conduct a:

(A) card game;

(B) dice game;

(C) roulette wheel; and

(D) spindle.

This license also permits door prize drawings and the sale of pull-tabs, punchboards, and tip boards. An organization is limited to four (4) charity game nights per calendar year.

(4) A raffle license that permits the licensee to conduct a raffle at only one (1) time and location. This license also permits the licensee to conduct door prize drawings and to sell:

(A) pull-tabs;

(B) punchboards; and

(C) tip boards.

However, a license is not required if the total market value of the prizes awarded at the raffle event does not exceed one thousand dollars (\$1,000).

(5) A door prize license that permits the licensee to conduct one (1) door prize event and to sell:

(A) pull-tabs;

(B) punchboards; and

(C) tip boards.

However, a license is not required if the total market value of the prizes awarded at the door prize event does not exceed one thousand dollars (\$1,000).

(6) A festival license that permits the licensee to:

(A) conduct:

(i) bingo events;

(ii) charity game nights;

(iii) one (1) raffle event; and

(iv) door prize events; and

(B) sell:

(i) pull-tabs;

(ii) punchboards; and

(iii) tip boards;

at the festival. The festival can only be held once a calendar year and cannot exceed four (4) consecutive days. The raffle event conducted at a festival is not subject to any prize limitations. If the organization has a festival, the organization is precluded from conducting any further charity game nights during the year, unless the festival license is issued for less than four (4) days. Also, a festival license will be issued for less than four (4) days if an organization has previously been granted one (1) or more charity game night licenses.

(c) A qualified organization may hold more than one (1) license at the same time. However, an organization cannot have a bingo event and a raffle at the same event without permission from the department. A bingo event and raffle event may only be held together once a calendar year. (*Department of State Revenue; 45 IAC 20-2-4*)

### **Rule 3. Charity Gaming**

#### **45 IAC 20-3-1 Allowable events**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32

**Sec. 1. (a)** A qualified organization must hold an allowable event in the county where its principal office is located.

(b) The following events are allowed:

- (1) A bingo event.
- (2) A charity game night.
- (3) A door prize drawing.
- (4) A festival.
- (5) A sale of pull-tabs.
- (6) A sale of punchboards.
- (7) A raffle event.
- (8) A sale of tip boards.

(c) A sale of pull-tabs, punchboards, or tip boards may be conducted by a qualified organization at any allowable event. Also, a qualified organization may sell pull-tabs, punchboards, or tip boards at any time on the premises owned or leased by the organization and regularly used by the organization as long as the organization possesses a valid bingo license. Seal card winners must provide their signature and form of identification, such as driver's license, state identification card, or Social Security number.

(d) No organization shall conduct any allowable event in which the winner of a prize is determined, in whole or in part, on a sporting event. (*Department of State Revenue; 45 IAC 20-3-1*)

#### **45 IAC 20-3-2 Conducting an allowable event**

Authority: IC 4-32-7-3; IC 4-32-8-3

Affected: IC 4-32-8-1; IC 35-45-5-1

Sec. 2. (a) The qualified organization must obtain all bingo supplies, devices, and equipment from an entity licensed by the department to sell, distribute, or manufacture the supplies. Pull-tabs, punchboards, and tip boards must be obtained from a licensed entity, except for those obtained from the Hoosier Lottery.

(b) The purchase of Hoosier Lottery pull-tabs by the qualified organization is permitted, if the qualified organization is licensed by the Hoosier Lottery to sell the items. The provisions of IC 4-32 do not apply to the purchase and sale of Hoosier Lottery pull-tabs by a qualified organization.

(c) An organization cannot enter into an agreement with another person or entity to conduct the event for the organization.

(d) Only one (1) organization can conduct an event on the same day at the same location. An organization is limited to three (3) allowable events in a calendar week. An organization cannot lease its premises to another qualified organization if this would result in more than three (3) events being held on such premises during a calendar week. Unless otherwise authorized by the department, an organization is limited to one (1) allowable event each day. An event or events must not be held on more than two (2) consecutive days, except for a festival. An event that starts before midnight and continues after midnight is the same event for purposes of applying this article. Except for a festival, an event cannot be scheduled for more than eight (8) consecutive hours. There shall be a six (6) hour break between events, except for the sale of pull-tabs, punchboards, or tip boards. A charity game night cannot be held more than four (4) times in a calendar year.

(e) Rent paid by any entity for leased facilities for a qualified event cannot exceed two hundred dollars (\$200) per day and cannot be based on the revenue generated by the event. Additional moneys shall not be paid for utilities, janitorial expenses, security, setup and tear down expenses, or any other expenses. These expenses must be included in the two hundred dollar (\$200) rent limitation per day. The facility cannot be leased for more than three (3) days in a calendar week. A facility is owned when an organization holds a fee simple estate in the facility. A facility is leased when an organization enters into a written agreement to occupy the facility for a specific period that gives rise to the relationship of lessor/lessee, regardless of the terms of the agreement. The lease of a facility for an allowable event:

(1) must be:

(A) in writing; and

(B) between the owner of the facility and the qualified organization; and

(2) may not be a sublease.

(f) If an organization leases a facility by the year for the express purpose of holding the organization's meetings, conducting

the organization's business, and carrying on all of the organization's other functions in addition to any charity gaming events, then the rent limitation of two hundred dollars (\$200) per day is applied to every day in which the organization is housed at the leased facility. The maximum amount of rent an organization can pay when it is housed in a facility where gaming is conducted is seventy-three thousand dollars (\$73,000) per year. An organization must be able to prove that the leased facility is used for multi-functions by producing sufficient evidence. The necessary evidence to prove multi-functions can include, but is not limited to, the following:

- (1) Photographs of the interior and exterior of the facility.
- (2) A blueprint or copy of the facility's floor plan.
- (3) Calendars of events scheduled in the facility that are not gaming related.
- (4) Videotaped activities, such as parties, receptions, and meetings being held in the facility.
- (5) One (1) complete year of all incidental charges, if any, associated with the use of the facility in addition to the base rent, such as the following:
  - (A) Utility bills.
  - (B) Insurance premiums.
  - (C) Property taxes.
  - (D) Maintenance and repairs.
  - (E) Any other expenses associated with the organization's use of the facility.

(g) Except for a festival, an organization must not pay more than fifty dollars (\$50) in total for personal property that may be used by the organization to conduct the event. This includes the rental of tables, chairs, and related equipment owned and leased by the lessor who is leasing the facility to the qualified organization for an allowable event. The rental of tangible personal property cannot be based on the revenue generated by the event. For a festival event, the fifty dollar (\$50) limitation only applies to the rental of gambling-related equipment and supplies.

(h) A qualified organization may advertise an allowable event. An advertisement in printed media must contain the name and license number, in bold print, of the organization conducting the event. An advertisement in broadcast media must announce, at the end of the advertisement, the name of the organization conducting the event and that qualified organization's license number is on file. A television announcement of the name and license number of the organization conducting the event may be in the form of an audio or a visual, or both. Advertising is the only activity a qualified organization may conduct on the Internet and that activity is limited to the organization's own Internet page.

(i) An organization cannot sell a pull-tab, punchboard, or tip board ticket for more than one dollar (\$1). Pull-tabs cannot be sold in this state unless a flare accompanies the deal.

(j) An organization may not permit a person under eighteen (18) years of age to play or participate in an allowable event. However, a person under eighteen (18) years of age may play or participate in nongambling activities (such as ring toss, fishing, or ball throws) associated with an allowable event. A qualified organization is prohibited from allowing an individual under eighteen (18) years of age to serve food or drinks to participants in the area where the gaming is occurring. Also, an organization cannot pay the operator or workers of an allowable event, including tips from the players. A sign of at least eleven (11) inches by thirteen (13) inches printed with font size legible from a distance of at least ten (10) feet must be prominently posted on each wall during an event stating that the operator and workers are not allowed to accept tips. An operator is the person responsible for conducting an allowable event for the qualified organization. A worker is a person who helps or participates in any manner in conducting an allowable event.

(k) The organization must use operators and workers who are qualified members of the organization. An operator has to have been a member in good standing for at least one (1) year, and a worker has to have been a member in good standing for at least thirty (30) days. If the qualified organization has an auxiliary or affiliated group, and the auxiliary or affiliated group is not a licensed qualified organization, then members of the auxiliary or affiliated group will be considered members of the qualified organization for purposes of operating or working an allowable event.

(l) An organization may employ no more than three (3) nonmember Indiana law enforcement officers or private detectives properly licensed in Indiana to perform security services during the allowable event. An organization may not use more than three (3) security personnel unless the organization has prior written departmental approval.

(m) A person cannot be an operator or a worker if that person has been convicted of a felony in the last ten (10) years. An

employee of the department or anyone living in the same household of such employee may not be an operator or a worker. Although the operator and the workers may not receive any payment for conducting or assisting at an allowable event, the organization is permitted to provide meals or a recognition dinner for the operator and the workers. Neither the operator nor a worker is permitted to participate in the allowable event that is being held. An operator is prohibited from being an operator for more than one (1) qualified organization in a calendar month.

(n) The prize limit for:

- (1) one (1) bingo game is one thousand dollars (\$1,000); and
- (2) a bingo event is six thousand dollars (\$6,000).

However, the department may permit a qualified organization to conduct two (2) bingo events a year where the prize limit for the event is ten thousand dollars (\$10,000). The value of all door prizes awarded at a bingo event may not exceed one thousand five hundred dollars (\$1,500).

(o) A raffle event that is not conducted at another allowable event is not subject to any prize limitations concerning the raffle. Generally, if the raffle event is conducted at another allowable event, the total prize for the raffle event may not exceed five thousand dollars (\$5,000). However, the department may allow a qualified organization to conduct a raffle event at another allowable event where the total prize for the raffle event may not exceed twenty-five thousand dollars (\$25,000). If the raffle is conducted at a festival, it is not subject to any prize limitations concerning the raffle. The value of all door prizes awarded at a raffle event may not exceed one thousand five hundred dollars (\$1,500).

(p) The total prizes awarded for one (1) pull-tab, punchboard, or tip board game may not exceed five thousand dollars (\$5,000). The total prize, including the prize value of a seal if one is used, for one (1) ticket for a pull-tab, punchboard, or tip board may not exceed five hundred and ninety-nine dollars (\$599).

(q) The value of all door prizes awarded at a door prize event may not exceed five thousand dollars (\$5,000). However, the department may permit a qualified organization to conduct one (1) door prize event a year where the total prize awarded may not exceed twenty thousand dollars (\$20,000).

(r) For the exemptions from normal prize limits provided by subsection (n), (o), or (q), a qualified organization must submit a written application on a form prescribed by the department stating the date, time, and location of the event at least forty-five (45) days prior to the date of the event. The authorization to exceed the normal prize limits must be prominently displayed at the time and location of the event.

(s) All net proceeds from an allowable event must be used for the lawful purpose of the qualified organization.

(t) An organization may only accept United States currency and coin from players when conducting an allowable event and may not extend credit to any player.

(u) An organization may dispose of any unused bingo supplies, punchboards, pull-tabs, or tip boards by shredding or burning them. The organization must then notify the department that items were destroyed and must provide the following information:

- (1) The date the items were destroyed.
- (2) The manner of destruction.
- (3) A description of the items destroyed.
- (4) The quantity of items destroyed.
- (5) The serial numbers of the items destroyed.
- (6) The trade name of the items.

(v) If an organization has lost bingo supplies, through theft, fire, flood, or other disaster, the organization must immediately notify the department in writing of such loss and provide the following information:

- (1) The date the items were lost.
- (2) The manner of loss and a description of the items lost.
- (3) The serial numbers of the items lost.
- (4) The trade name of the items.
- (5) Copies of all insurance forms submitted for the loss.



(6) Any police department or fire department reports created in connection to the loss.

(w) The department may seize any of the following:

- (1) Bingo supplies.
- (2) Bingo equipment.
- (3) Equipment used for a charity game night.
- (4) Computer or other technologic aid.
- (5) Pull-tabs.
- (6) Punchboards.
- (7) Tip boards.
- (8) Any device under IC 35-45-5-1.
- (9) Any other device, equipment, or implement used in making a wager.

(x) The department may destroy or otherwise dispose of the items in subsection (v) forty-five (45) days after the later of the following:

- (1) The department sends notice to the operators of the gaming event where the items were seized.
- (2) The owner of the items exhausts all administrative appeals under IC 4-32-8-1.

*(Department of State Revenue; 45 IAC 20-3-2)*

#### **45 IAC 20-3-3 Calendar raffle; sale of tickets, calendars, and drawings for prizes**

**Authority: IC 4-32-7-3**

**Affected: IC 4-32**

**Sec. 3. (a) This section and sections 5 and 6 of this rule apply to calendar raffles.**

**(b) All calendars should be identical in form and include the following:**

- (1) The number of the license issued by the department.**
- (2) The name and address of the sponsoring organization.**
- (3) The price of the calendar and the discounted price, if any, of multiple calendar purchases.**
- (4) Places for the purchaser to enter his or her name and address.**
- (5) The dates, time, and place of the drawings.**

**(c) Each calendar sold by an organization shall include a separate identification number, printed on both the purchaser's and the organization's portion of the calendar, numbered consecutively in relation to the other calendars for the same drawing.**

**(d) No calendar may exceed ten dollars (\$10) in cost for each month covered by the calendar.**

**(e) No person may sell a calendar unless authorized by a licensed organization.**

**(f) Tickets for a calendar raffle may not be offered for sale more than one hundred eighty (180) days before the raffle drawing.**

**(g) A calendar relating to a specific calendar raffle may not be sold after a drawing has taken place for any date on the calendar.**

**(h) The calendar shall be printed with the prize amount for each date on which a prize will be awarded.**

**(i) A calendar may be sold that either designates a prize amount for:**

- (1) every day; or**
  - (2) a smaller number of specifically designated days;**
- in a calendar period.**

**(j) The calendars sold for a specific calendar raffle shall have identical prize dates printed on all calendars sold.**

(k) A licensed organization may not change:  
(1) any date on which a prize will be awarded; or  
(2) the amount of the designated prize;  
after the organization has begun the sale of calendars.

(l) A licensed organization shall conduct drawings for all designated prize dates and award the prize amount that is printed on the calendar for each date.

(m) The purchaser of a calendar need not be present at the drawing to win a prize.

(n) If a calendar raffle drawing is canceled, the organization shall refund the receipts to the calendar purchasers.

(o) The organization that holds a calendar raffle drawing shall furnish a list of prize winners to each calendar holder who provides the organization with a self-addressed stamped envelope and requests the list.

(p) Organizations conducting daily draws, 50-50's, and game ball raffles, but which do not use a published calendar raffle, will still apply for a calendar raffle license. Unpublished calendar raffles are not required to adhere to the regulations for a calendar raffle. (*Department of State Revenue; 45 IAC 20-3-3*)

#### **45 IAC 20-3-4 Replacement of tickets in the drawing container**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32

**Sec. 4.** A licensed organization shall place a ticket or stub that has been drawn for a specific date back into the container so that the purchaser of that ticket or stub will have a chance to win again on all subsequent drawing dates. (*Department of State Revenue; 45 IAC 20-3-4*)

#### **45 IAC 20-3-5 Refunds**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32

**Sec. 5. (a)** A licensed organization, which has sold a calendar for a specific calendar raffle and subsequently decides not to conduct one (1) or more drawings printed on the calendar, shall refund the complete purchase price to each purchaser.

**(b)** A licensed organization may not deduct from a refund to a purchaser a handling charge or other amount relating to the expense incurred by the organization in the sale of a calendar. (*Department of State Revenue; 45 IAC 20-3-5*)

#### **45 IAC 20-3-6 Use of proceeds**

**Authority:** IC 4-32-7-3

**Affected:** IC 4-32-9-16

**Sec. 6. (a)** In accordance with IC 4-32-9-16, as a condition of receiving a charity gaming license or nonlicense letter issued on or after May 1, 2003, the following minimum percentage of charitable gaming gross receipts shall be used for those lawful religious, charitable, community, or educational purposes for which the organization is specifically chartered or organized, or those expenses relating to the acquisition, construction, maintenance, or repair of any interest in real property involved in the operation of the organization and used for lawful religious, charitable, community, or educational purposes:

(1) Five percent (5%) for organizations with annual gross receipts less than one hundred fifty thousand dollars (\$150,000).

(2) Eight percent (8%) for organizations with annual gross receipts between and including one hundred fifty thousand dollars (\$150,000) and five hundred thousand dollars (\$500,000).

(3) Ten percent (10%) for organizations with annual gross receipts over five hundred thousand dollars (\$500,000).

Unless an organization has derived no gross receipts in the previous fiscal year, the gross receipts of the most recently completed fiscal year shall be used to determine the applicable percentage for the use of proceeds requirement. An organization with no previous charitable gaming activity shall be subject to a five percent (5%) minimum use of proceeds requirement.

**(b) If an organization fails to meet the minimum use of proceeds requirement:**

- (1) its license shall be suspended or revoked; and**
- (2) no further licensed or unlicensed events may be held.**

**(c) Except as provided in subsection (b), if an organization is within less than one (1) percentage point of the minimum use of proceeds requirement for a given fiscal year, it may request a one-time approval to make up the deficiency (in dollars) in the following fiscal year. If such approval is granted, the deficiency will be added to the percentage requirement for the following year and the permit shall not be suspended.**

**(d) Failure to meet the required percentage in the year following such approval shall result in a one (1) year suspension.**  
*(Department of State Revenue; 45 IAC 20-3-6)*

#### **45 IAC 20-3-7 Specific uses of proceeds**

**Authority: IC 4-32-7-3**

**Affected: IC 4-32**

**Sec. 7. (a) All payments by a qualified organization as use of proceeds must be made by check written from the organization's charitable gaming account.**

**(b) Use of proceeds payments may be made for scholarship funds or the future acquisition, construction, remodeling, or improvement of real property or the acquisition of other equipment or vehicles to be used for religious, charitable, educational, or community purposes. An organization may obtain department approval to establish a special fund account or an irrevocable trust fund for special circumstances. Transfers from a charitable gaming account to a special account or an irrevocable trust fund may be included as a use of proceeds if the payment is authorized by an organization's board of directors.**

**(c) No payments made to a special fund account shall be withdrawn for any purpose other than the specified purpose unless prior notification is made to the department.**

**(d) Expenditures of charitable gaming funds for:**

- (1) social or recreational activities; or**
  - (2) events, activities, or programs that are open primarily to an organization's members and their families;**
- shall not qualify as use of proceeds unless substantial benefit to the community is demonstrated.**

**(e) Expenditures of charitable gaming funds for salaries or honoraria to:**

- (1) officers;**
  - (2) directors;**
  - (3) members; or**
  - (4) employees;**
- of the qualified organization shall not qualify as use of proceeds.**

**(f) Payments made to or on behalf of indigent, sick, or deceased members or their immediate families shall be allowed as use of proceeds up to one percent (1%) of an organization's previous year gross receipts provided they are approved by the board of directors and the specific need is documented. Organizations may obtain prior department approval to exceed the one percent (1%) limit in special cases.**

**(g) Payments made directly for the benefit of:**

- (1) an individual member;**
  - (2) a member of his or her family; or**
  - (3) a person residing in his or her household;**
- shall not be allowed as a use of proceeds unless authorized by law.**

**(h) Use of proceeds payments by an organization shall not be made for any activity that:**

- (1) is prohibited by federal, state, or local laws; or**
- (2) attempts to influence or finance directly or indirectly political parties or committees or the election or reelection of any**

person who is or has been a candidate for public office.  
This subsection does not apply to bona fide political organizations.

(i) Organizations shall provide details of use of proceeds with the annual financial report.

(j) The department may disallow a use of proceeds payment to be counted against the minimum percentage referred to in section 6 of this rule.

(k) If any payment claimed as use of proceeds is subsequently disallowed, an organization may be allowed additional time as specified by the department to meet minimum use of proceeds requirements. (*Department of State Revenue; 45 IAC 20-3-7*)

#### **Rule 4. Record Keeping Requirements**

##### **45 IAC 20-4-1 Records of qualified organization**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32

**Sec. 1. (a)** A qualified organization must maintain adequate records of all financial aspects of a qualified event and report such information to the department on forms prescribed by the department. The organization must set up a separate account to account for all proceeds and expenditures of the qualified event. The records that must be kept include the:

- (1) gross receipts from each type of activity conducted at the allowable event;
- (2) prize payout; and
- (3) net receipts to the organization.

Accountable are any rental costs associated with conducting the allowable event, including, but not limited to, a facility lease and the lease of tangible personal property.

(b) The reports are due:

- (1) thirty (30) days after the expiration date listed on the annual bingo license; or
- (2) in the case of a special event license, ten (10) days after the special event is concluded.

(c) A qualified organization shall use Schedule CG-NSR (Charity Gaming Nightly Summary Report).

(d) The department will be granted unrestricted access to all records, including, but not limited to, the following:

- (1) Membership information.
- (2) Financial records.
- (3) Receipts for the purchase of:
  - (A) bingo supplies;
  - (B) punchboards;
  - (C) pull-tabs; and
  - (D) tip boards.

(e) An individual, or an employee, officer, or member of a corporate or partnership licensed entity who has a duty to remit gaming card excise tax to the department:

- (1) holds the tax in trust for the state; and
- (2) is personally liable for the payment of the tax plus any penalties and interest attributable to the tax.

(*Department of State Revenue; 45 IAC 20-4-1*)

##### **45 IAC 20-4-2 Records of manufacturer or distributor**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-7-4

**Sec. 2. (a)** An entity licensed as a manufacturer or distributor must keep records satisfactory to the department. The records must include the following:

- (1) A general sales invoice that:
  - (A) is:

- (i) numbered consecutively; and
  - (ii) prepared in at least two (2) parts, one being issued to the customer and the other retained in an invoice file; and
- (B) sets out:

- (i) the date of sale;
- (ii) the customer name and business address;
- (iii) a full description of each item sold, including the serial numbers of the products sold;
- (iv) the quantity and sales price of each item;
- (v) the manufacturer's or distributor's license number;
- (vi) the customer's license number; and
- (vii) the gaming card excise tax due on the sale.

(2) Credit memoranda prepared in the same detail as sales invoices.

(3) A sales journal containing at least the following, by calendar month:

- (A) The date of sale.
- (B) The invoice number of the sale.
- (C) The customer name or account number.
- (D) The total amount of the invoice.
- (E) The total amount of the gaming card excise tax due on the sale.

(4) A complete list of the persons representing the licensee.

(5) Purchase records documenting that all:

- (A) bingo supplies;
- (B) equipment;
- (C) pull-tabs;
- (D) punchboards; and
- (E) tip boards;

were purchased from either a licensed manufacturer or another licensed distributor.

(b) A serial number printed on an item sold must be identifiable with the sales invoice reflecting the sale of the specific item.

(c) Records are required to be maintained until the later of the following:

- (1) Six (6) years after the year in which they are created.
- (2) The end of the audit if such records are under audit.

(d) Marketing sheets that show the expected gross income, payout, net income, and number of deals in the pull-tab game that have been sold to the qualified organization. "Payout" does not include the cost of the game itself.

(e) If a licensed manufacturer or distributor destroys, discontinues, or otherwise tenders unusable bingo supplies, punchboards, pull-tabs, or tip boards sold in Indiana, then the manufacturer or distributor must provide the department with a written list of the items destroyed, including:

- (1) quantity;
- (2) a description of the items;
- (3) serial numbers; and
- (4) the date on which the items were destroyed.

(f) A licensed manufacturer or distributor must keep the department informed of:

- (1) its location; and
- (2) where the records will be stored if the manufacturer ceases business.

(g) The records referenced in subsections (a) through (f) must be produced upon request by the department or its representative.

(h) Manufacturers or distributors of supplies, devices, or equipment, as described in IC 4-32-7-4(a), to be used in charity gaming in Indiana must submit monthly reports, as prescribed by the department, detailing their sales of punchboards, pull-tabs, and tip boards to Indiana not-for-profit organizations. (*Department of State Revenue; 45 IAC 20-4-2*)

## **Rule 5. Taxation**

#### **45 IAC 20-5-1 Income and sales taxes**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32; IC 6-2.1; IC 6-2.5; IC 6-3; IC 6-3.5

**Sec. 1. (a)** Unless otherwise taxable by federal or state law, the income from an allowable event that is used for the lawful purpose of the qualified organization will be considered related income and therefore exempt from the adjusted gross income tax and supplemental net income tax.

**(b)** Unless otherwise provided by IC 6-2.1, the taxation of receipts from charity gaming activities for gross income tax purposes will depend upon the exempt status of the qualified organization. Generally, a wholly exempt organization would not be taxable on such receipts, and a partially exempt organization would be taxable on such receipts for gross income tax purposes.

**(c)** If an organization conducts any kind of illegal activity, such as a poker machine, slot machine, or numbers game, the income will be considered unrelated income and subject to the:

- (1)** gross income tax;
- (2)** adjusted gross income tax; and
- (3)** supplemental net income tax;

unless otherwise not taxable under federal or state law.

**(d)** The fees charged for participating in an allowable event are consideration paid for a chance to win and not a sale of tangible personal property. Therefore, such fees will not be subject to the Indiana sales and use tax.

**(e)** Local taxes, regardless of type, may not be imposed on the operations or sales authorized by this article. (*Department of State Revenue; 45 IAC 20-5-1*)

#### **45 IAC 20-5-2 Gaming card excise tax**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-15

**Sec. 2. (a)** An excise tax is imposed on a licensed distributor or manufacturer in the amount of ten percent (10%) of the price paid by the qualified organization that purchases pull-tabs, punchboards, or tip boards.

**(b)** Sales of bingo supplies and bingo equipment by manufacturers or distributors are not subject to the gaming card excise tax.

**(c)** The gaming card excise tax:

- (1)** is due twenty (20) days after the end of the calendar month in which the tax is imposed; and
- (2)** shall be remitted with the forms prescribed by the department.

**(d)** All payments must be in the form of a check, a draft, or another financial instrument approved by the department prior to payment.

**(e)** The department may, at any time, perform an audit of the books of a licensed entity to ensure compliance with IC 4-32-15. (*Department of State Revenue; 45 IAC 20-5-2*)

#### **Rule 6. Penalties**

#### **45 IAC 20-6-1 License revocation**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32; IC 6-8.1

**Sec. 1. (a)** The proposed action of the department to impose a civil penalty under this article is subject to review under IC 6-8.1. However, the licensee has only seventy-two (72) hours from its receipt of the decision, intended decision, or other action to file a written protest. Except as provided in subsection (b), as long as the matter is under protest, the licensee can continue

to operate until all administrative appeals have been exhausted.

(b) The department may determine at any time that an emergency exists that requires the immediate termination of a license. Effective with the receipt of the department's decision to terminate its license, a licensee must cease all operations that were previously authorized under the license.

(c) An emergency requiring the immediate termination of a license will be deemed to exist under any of the following circumstances:

- (1) The information provided on the application for license is found to be false or misleading.
- (2) The appropriate fees are not paid.
- (3) An entity other than the qualified organization is conducting the allowable event.
- (4) The qualified organization is exceeding:
  - (A) its allowable expenditures with respect to an allowable event; or
  - (B) the number of days that it can conduct an allowable event.
- (5) The organization has conducted an allowable event at the same place and on the same day as another qualified organization.
- (6) Net proceeds are being used for purposes other than the lawful purposes of the organization.
- (7) Accurate reports are not being filed with the department in a timely manner.
- (8) Receipts and expenditures from an allowable event are not being kept in a separate and segregated account set up for that purpose.
- (9) An allowable event is being held in a county other than where the qualified organization's principal office is located.
- (10) An operator or worker does not meet the requirements of IC 4-32.
- (11) Prizes awarded are exceeding the limitations imposed by IC 4-32.
- (12) The qualified organization fails or refuses to:
  - (A) comply with the record keeping requirement of IC 4-32; or
  - (B) allow inspection of records kept under IC 4-32.
- (13) Any other violation of IC 4-32 or this article considered to be of a serious nature by the department.

(d) If a licensee does not file a formal protest of the department's proposed termination of its license within the time limit imposed by subsection (a), then such inaction may be deemed an admission of the alleged violation and the department may issue an immediate termination of the license.

(e) The license of a manufacturer or distributor shall be terminated if there is a change in ownership and the department determines that an undesirable party is assuming the privileges of the license held by the manufacturer or distributor.  
(*Department of State Revenue; 45 IAC 20-6-1*)

## **Rule 7. Restrictions**

### **45 IAC 20-7-1 Restrictions**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32-7-4; IC 4-32-9; IC 6-8.1

**Sec. 1. (a)** A qualified organization shall not enter into any formal or informal agreement, including, but not limited to:

- (1) hiring or contracting operators and workers; or
- (2) leasing real or tangible personal property;

with a person affiliated with that organization. Such affiliations include, but are not limited to, members, officers, directors, or members of their family.

(b) A manufacturer, distributor, or their officers, employees, or agents shall not affiliate with the gaming operation of a qualified organization in any manner other than the sale or lease of gaming supplies.

(c) An applicant for a charity gaming license may not use a post office box instead of an actual street address on any part of its application, including the listing of addresses for workers and operators.

(d) Any holder of:

(1) an Indiana charity gaming license;  
(2) a distributor's license; or  
(3) a manufacturer's license;  
shall not prohibit the department's employees from entering the licensed premises for inspection of all books and records.

(e) If an organization makes an application for a charity gaming license and has been found to have violated:

- (1) IC 4-32-9-15;
- (2) IC 4-32-9-23;
- (3) IC 4-32-9-25;
- (4) IC 4-32-9-26;
- (5) IC 4-32-9-28; or
- (6) IC 4-32-9-29;

the organization may not reapply for any charity gaming license for a period of one (1) year after the date of the denial by the department, the exhaustion of administrative remedies, or the conclusion of any resulting legal action, whichever is later in time. (*Department of State Revenue; 45 IAC 20-7-1*)

## **Rule 8. Administrative Procedures**

### **45 IAC 20-8-1 Representation of a qualified organization before the department**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32

**Sec. 1. (a)** There are no formal qualifications for individuals to represent a qualified organization before the department. Prior to the department releasing any information to any person representing a qualified organization or licensee, or otherwise appearing or communicating with the department on a qualified organization or licensee's behalf, the representative must present a properly executed power of attorney, or, if the person is an attorney at law, then an appearance must be filed. No information will be released to anyone other than an officer or director of the qualified organization, unless a properly executed power of attorney or appearance has been presented. Power of attorney and appearance forms are available from the department.

(b) Casual conversations with a qualified organization or licensee's representative who does not have an appearance on file are permitted. However, specific information will not be disclosed.

(c) The appearance must contain the following information:

- (1) The name, address, and taxpayer identification number of the qualified organization.
- (2) The name, address, and telephone number of the qualified organization's representative or representatives. A corporation, law firm, or accounting firm must name at least one (1) individual as the representative.
- (3) Any restrictions or limitations placed upon the representative when acting on behalf of the qualified organization.
- (4) The appearance must be signed by an officer of the qualified organization or an individual authorized to execute a power of attorney. The department may require that the signature be notarized if the representative is not a licensed attorney or certified public accountant.

(d) If the qualified organization executes an appearance, the department will communicate primarily with the organization's representative. (*Department of State Revenue; 45 IAC 20-8-1*)

### **45 IAC 20-8-2 Notice**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32

**Sec. 2.** If the department believes that a qualified organization or licensee has improperly reported a listed tax liability, the department may, within the prescribed statute of limitations period, issue to such qualified organization or licensee a formal notice that the department proposes to assess additional tax. The formal notice shall be based on the best information available to the department. Any written advisement, which informs the qualified organization or licensee of the amount of the proposed assessment for a particular tax period, shall constitute a formal notice. A formal notice shall be sent through the United States mail. (*Department of State Revenue; 45 IAC 20-8-2*)



#### **45 IAC 20-8-3 Protests**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32

**Sec. 3. (a)** An entity has seventy-two (72) hours, as calculated in section 9 of this rule, from the date the notice of violation or department order is received to protest the department's findings under IC 4-32. The calculation of the seventy-two (72) hours begins at 8 a.m. the day following the receipt of the department's notice.

**(b)** All protests must be in writing and include the organization's:

- (1)** name;
- (2)** taxpayer identification number;
- (3)** address; and
- (4)** basis for objections to the department's findings.

**(c)** If the organization desires a hearing before the department, the protest shall so state. If an application or reapplication has been denied, the organization may, instead of a hearing, refile its application or pay the civil fines. Protests should be submitted to the charity gaming hearing officer.

**(d)** The department may correspond with the entity before the hearing, either in writing or orally, in order to gather information and clarify issues presented in the protest letter. (*Department of State Revenue; 45 IAC 20-8-3*)

#### **45 IAC 20-8-4 Hearings**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32

**Sec. 4. (a)** A qualified organization receiving a notice from the department shall have a right to protest and have a hearing of the facts and issues before the department makes a final determination.

**(b)** The department's hearing procedures are as follows:

- (1)** Upon receipt of a timely protest requesting a hearing with the department, the organization's protest will be forwarded to the charity gaming hearing officer.
- (2)** The charity gaming hearing officer shall set a date for a hearing of the protest, and the qualified organization will be notified of the time and place thereof.
- (3)** Once a hearing date has been set, extensions of time, continuances, and adjournments may be granted at the discretion of the department upon a showing of good cause.
- (4)** If the qualified organization or its duly authorized representative wishes to file legal memoranda with the department concerning the facts, issues, and arguments of its protest, that material must be submitted at least five (5) days before the date of the hearing.
- (5)** If an organization or its representative fails to appear at a hearing without securing a continuance, a default judgment will be issued in favor of the department.
- (6)** The hearing will be conducted in an informal manner. The purpose of the hearing is to establish the qualified organization's specific objections and the reason for those objections.
- (7)** The burden of proving that the department's findings are incorrect rests with the organization against which the department's findings are made. The department's investigation establishes a prima facie presumption of the validity of the department's findings.
- (8)** If an organization fails to appear for a scheduled hearing, the petitioner will be assessed the costs of holding the hearing in their absence. An organization will no longer be in good standing with the department if they fail to pay the costs of conducting the hearing within thirty (30) days.

(*Department of State Revenue; 45 IAC 20-8-4*)

#### **45 IAC 20-8-5 Department's findings**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32

**Sec. 5.** The protest will not be resolved at the hearing. The department will consider all facts and arguments presented,

and a decision will be rendered in writing described as a departmental order. (*Department of State Revenue; 45 IAC 20-8-5*)

#### **45 IAC 20-8-6 Rehearing**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32

**Sec. 6. (a)** After receipt of the departmental order, the taxpayer may petition for a rehearing. The petition for rehearing must be timely filed according to section 3 of this rule. A rehearing will be granted by the department only under unusual circumstances. The taxpayer must allege that certain material facts or circumstances were not presented or considered in the original proceedings. A rehearing is granted at the discretion of the department.

**(b)** If a rehearing is granted, the rehearing will not be held de novo unless abuse of discretion is alleged. When such abuse is alleged, the evidence will not be reweighed. Instead, the department will only consider evidence most favorable to the department's position and reverse only if the decision is clearly against the logic and effect of the facts and circumstances. However, if the taxpayer presents new and relevant evidence as grounds for reversal, the new evidence will be weighed in light of all relevant facts and circumstances. (*Department of State Revenue; 45 IAC 20-8-6*)

#### **45 IAC 20-8-7 Statute of limitations and retention of records**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32; IC 6-8.1-5-2

**Sec. 7.** Except as otherwise provided in IC 6-8.1-5-2, the statute of limitations for the assessment of a listed tax is governed by 45 IAC 15-5-7. There is no statute of limitations imposed upon the department investigating a violation of IC 4-32. A qualified organization must retain its business records in accordance with the following schedule:

**(1)** The following must be retained for ten (10) years:

**(A)** IT-35AR & NP-20.

**(B)** ST-103.

**(C)** Nightly game sheets.

**(D)** Federal Form 990.

**(2)** The following must be retained for three (3) years:

**(A)** Seal cards.

**(B)** Flare cards.

**(C)** Schedule CG-NSR.

**(D)** All other documents kept in the regular course of conducting charity gaming events.

(*Department of State Revenue; 45 IAC 20-8-7*)

#### **45 IAC 20-8-8 Holidays**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 1-1-9-1; IC 4-32

**Sec. 8.** Any act that is required to be performed under IC 4-32 may be performed on the succeeding business day if the due date falls on:

**(1)** any state holiday listed in IC 1-1-9-1;

**(2)** any other national legal holiday;

**(3)** a Saturday; or

**(4)** a Sunday.

(*Department of State Revenue; 45 IAC 20-8-8*)

#### **45 IAC 20-8-9 Date of filing**

**Authority:** IC 4-32-7-3; IC 4-32-8-3

**Affected:** IC 4-32

**Sec. 9. (a)** If a document that is required to be filed with the department by a prescribed date is mailed through the United States mail, the date displayed on the post office cancellation mark establishes an irrebuttable presumption that the displayed date was the date on which the document was filed. If a document is delivered to the department in any manner other than

the United States mail, the department shall stamp the document in such a fashion as to display the date the document is received. This date stamped by the department shall establish an irrebuttable presumption as to the date the document is received.

(b) If a document is sent through the United States mail by registered mail, certified mail, or certificate of mailing, then the date of registration, certification, or certificate shall be conclusive as to the date of filing. The date as authenticated by the United States post office records shall be conclusive even in the case of a conflicting postmark date.

(c) If a document mailed through the United States mail is physically received after the due date without a legibly correct postmark, the person who mailed the document may show the document was mailed on or before the due date by reasonable evidence. Examples of such evidence include, but are not limited to, the following:

- (1) Testimony of the party.
- (2) Testimony of disinterested third parties.
- (3) Evidence or testimony, or both, from the United States post office.
- (4) Any other evidence that tends to establish the date of filing.

(d) If a document is mailed to but never received by the department, the person sending the document may produce reasonable evidence to show that the document was mailed on or before the due date. Such evidence as used to show the correct postmark date in 45 IAC 15-6-3(c) might also be used to establish the mailing of a document. In addition to showing that the document was deposited in the United States mail on or before the due date, the person must file a duplicate document with the department within thirty (30) days from the date the department sends the person notice that the prescribed documents were not received. (*Department of State Revenue; 45 IAC 20-8-9*)

SECTION 2. 45 IAC 18 IS REPEALED.

#### ***Notice of Public Hearing***

*Under IC 4-22-2-24, notice is hereby given that on February 23, 2005 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Training Center Room 5, Indianapolis, Indiana the Department of State Revenue will hold a public hearing on proposed rules concerning charity gaming conducted by qualified organizations. Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room N248 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Thomas F. Obsitnik  
Commissioner  
Department of State Revenue