

**PART IX. PENNSYLVANIA GAMING CASH FLOW  
MANAGEMENT**

<b>Chap.</b>	<b>Sec.</b>
<b>1001. PENNSYLVANIA GAMING CASH FLOW MANAGEMENT . . . . .</b>	<b>1001.1</b>

**Authority**

The provisions of this Chapter 1001 issued under the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. §§ 1101—1904 and 1501(c), unless otherwise noted.

**Source**

The provisions of this Chapter 1001 adopted June 30, 2006, effective July 1, 2006, 36 Pa.B. 3450; corrected at 36 Pa.B. 3789 (July 15, 2006); amended July 20, 2007, effective July 21, 2007, 37 Pa.B. 3410, unless otherwise noted. Immediately preceding text appears at serial pages (320475) to (320483).

**CHAPTER 1001. PENNSYLVANIA GAMING CASH FLOW  
MANAGEMENT**

**GENERAL PROVISIONS**

- Sec.
- 1001.1. Scope.
- 1001.2. Purpose.
- 1001.3. Definitions.
- 1001.4. Calculations of credit against tax and Race Horse Improvement Daily Assessment.
- 1001.5. Administration and distribution of moneys held by licensed gaming entities and the Commonwealth.
- 1001.6. Administration of amounts deposited by licensed gaming entities with Treasury to pay Commonwealth gaming related costs and expenses (\$5 million).
- 1001.7. Deposits of license, permit and other fees.
- 1001.8. State Gaming Fund transfers.
- 1001.9. State Gaming Economic Development Tourism Fund transfers.
- 1001.10. Pennsylvania Race Horse Development Fund transfers.
- 1001.11. Property Tax Relief Fund transfers.

**GENERAL PROVISIONS**

**§ 1001.1. Scope.**

This chapter establishes procedures for the administration and distribution of all net slot machine revenue, collection of tax and collection of other assessments under the act. In addition, this chapter clarifies the administrative procedures for transferring the statutorily established amounts of funding as prescribed in the act.

**§ 1001.2. Purpose.**

The purpose of this chapter is to notify prospective licensed entities, as well as the general public, of the procedures and requirements for distributing net slot machine revenue, collection of tax and collection of other assessments.

**§ 1001.3. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

*Act*—The Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S. §§ 1101—1904).

*Annual minimum distribution*—Other than for a Category 3 licensee, 2% of the gross terminal revenue of the licensed gaming entity or \$10 million, whichever is greater.

*Banking day*—The part of any day that the Federal Reserve has established for a bank to be opened to the public for carrying on substantially all of its banking functions.

*Board*—The Pennsylvania Gaming Control Board of the Commonwealth.

*CCS*—The central control computer system controlled by the Department and accessible by the Board, to which all slot machines communicate for the purpose of recording, reviewing, reporting and auditing real-time information regarding the events that occur during the operation of a slot machine. This includes distinguishing between daily deposits made by licensed gaming entities of taxes due on play of slot machines and all other transfers of moneys to Commonwealth accounts not considered a daily deposit under this chapter.

*Collection Account*—A Department bank account authorized by the Treasury for the collection of taxes and other payments received from licensed gaming entities and which is maintained and reconciled by the Department.

*Concentration Account*—A Treasury bank account used for the deposit and disbursement of all recognized Commonwealth moneys and which is maintained and reconciled by the Treasury Department.

*Credit against tax*—Credit as specified in section 1209(c) of the act (relating to slot machine license fee) and established if the tax rate imposed by section 1403 of the act (relating to establishment of State Gaming Fund and net slot machine revenue distribution) upon slot machine daily gross terminal revenue is increased at any time during the term of 10 years following the initial issuance of the slot machine license.

*Department*—The Department of Revenue of the Commonwealth.

*EFT*—Electronic funds transfer.

*Fund*—A fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances and the changes therein, that are segregated

for the purpose of carrying on specific activities or attaining certain objectives established for the receipt of gross terminal revenue distributions under the act.

*Gross terminal revenue*—As defined in section 1103 of the act (relating to definitions).

*Licensed gaming entity*—As defined in section 1103 of the act.

*Manufacturers*—As defined in section 1103 of the act.

*Office of the Budget*—An administrative agency as authorized by section 609 of The Administrative Code of 1929 (71 P. S. § 229) under the direct supervision of the Secretary of the Budget.

*Pennsylvania Gaming Economic Development and Tourism Fund*—The fund established under section 1407 of the act (relating to Pennsylvania Gaming Economic Development and Tourism Fund).

*Pennsylvania Race Horse Development Fund*—The fund established under section 1405 of the act (relating to Pennsylvania Race Horse Development Fund).

*Property Tax Relief Fund*—The fund established under section 1409 of the act (relating to Property Tax Relief Fund).

*Race Horse Improvement Daily Assessment*—The amount each operating licensed gaming entity shall pay daily to the Department, according to Department calculations.

*State Gaming Fund*—The fund established under section 1403 of the act.

*Suppliers*—As defined in section 1103 of the act.

*Treasury*—The Treasury Department of the Commonwealth.

**§ 1001.4. Calculations of credit against tax and Race Horse Improvement Daily Assessment.**

(a) *Credit against tax.* The amount of the credit must be equal to the difference between the tax calculated at the rate in effect when a license was issued to the licensed gaming entity and the tax calculated at the increased rate. The credit shall be applied on a dollar-for-dollar basis but may not extend beyond the 10-year period following the initial issuance of the license.

(b) *Race Horse Improvement Daily Assessment.* The amount of this assessment shall be calculated in accordance with section 1405(b) of the act (relating to Pennsylvania Race Horse Development Fund). This assessment shall be multiplied by 18% of daily gross terminal revenue for all active and operating Category 1 licensed gaming entities that are conducting live racing. The amount may not exceed 12% of that day's gross terminal revenue for that licensed gaming entity, and shall be subject to the daily assessment cap established under section 1405(c) of the act.

**§ 1001.5. Administration and distribution of moneys held by licensed gaming entities and the Commonwealth.**

(a) *Application of section.* This section applies to the collection of tax, the collection of other assessments and all transfers of moneys to and from the State Gaming Fund, Pennsylvania Gaming Economic Development and Tourism Fund, Pennsylvania Race Horse Development Fund and any other fund as specified in this chapter.

(b) *Deposits and transfers to Treasury by licensed gaming entities.*

(1) The Department will notify each licensed gaming entity, Treasury and Office of the Budget of the actual amount each licensed gaming entity shall be required to deposit with Treasury as calculated by the CCS in accordance with sections 1323, 1403 and 1405—1407 of the act. A licensed gaming entity shall make deposits with Treasury on the same banking day as the date of the Department's notice to the licensed gaming entity and by the times specified by the Department.

(2) Payments shall be electronically transferred by the licensed gaming entities and available to the Commonwealth by the deadline established by the Department. Moneys shall be deposited in the Department's Collection Account.

(3) System problems or failures, such as power outages and states of emergency, will not excuse the licensed gaming entity from making the required deposits in a timely manner. The licensed gaming entity shall immediately notify the Department and the Board of any of these problems.

(4) The Department will maintain records of deposits to the Department's Collection Account under this chapter and will share information, as practicable, to assist Treasury in its reconciliation of deposits into its Concentration Account.

(5) The administration of assessments will be as follows:

(i) *Proration of assessment.* Upon imposition of the annual minimum distribution amount, as specified in section 1403(c)(3) of the act (relating to establishment of State Gaming Fund and net slot machine revenue distribution), regardless of whether the minimum is subject to the budgetary limitations of section 1403 of the act, the required minimum shall be prorated for that portion of the municipality's fiscal year that the Board determines that the licensed gaming entity was actually in operation.

(ii) *Limitation of assessment.* Upon imposition of the minimum distribution upon the licensed gaming entity, the required minimum shall be paid in accordance with the administrative procedures of this section.

(6) The Department reserves the right, upon notice served upon the licensed gaming entity and the Board, to temporarily disable the licensed gaming entity's slot machines through the CCS until the Department receives verification that the required deposit has been made.

(c) *Distributions of local share assessments.*

(1) *Distributions of local share assessments to municipalities.* If a licensed gaming entity fails to reach the requisite annual minimum distribution as required under the act within 15 days following the end of the municipality's fiscal year, the Department will notify the licensed gaming entity of the shortfall and the amount to be remitted. A licensed gaming entity shall remit the difference required to meet the requisite annual minimum distribution as required under the act within 15 days following the end of the municipality's fiscal year. The licensed gaming entity shall remit the required payment to the Department for distribution in accordance with the act. Distributions specified in this chapter shall be made by the licensed gaming entity to the Department, no later than 15 days from the Department's notice of the shortfall.

(2) *Distributions of local share assessments to counties.* The Department will make distributions in accordance with section 1403(c)(2) of the act. If the minimum distribution exceeds the applicable annual municipal allocation cap in section 1403(c)(3) of the act, the amount in excess of the municipal allocation cap shall be distributed by the Department in accordance with section 1403(c)(2) of the act.

**Source**

The provisions of this § 1001.5 corrected July 14, 2006, effective July 1, 2006, 36 Pa.B. 3450; amended July 20, 2007, effective July 21, 2007, 37 Pa.B. 3410. Immediately preceding text appears at serial pages (320477) to (320479).

**Notes of Decision**

*Pre-enforcement Challenge*

Commonwealth court lacked original jurisdiction to consider pre-enforcement challenge to tax assessment and there was adequate administrative remedy to consider assessment regulations. *Sands Bethworks Gaming v. Dep't of Revenue*, 958 A.2d 125, 131-132 (Pa. Cmwlth. 2008)

**Cross References**

This section cited in 61 Pa. Code § 1001.6 (relating to administration of amounts deposited by licensed gaming entities with Treasury to pay Commonwealth gaming related costs and expenses (\$5 million)); and 61 Pa. Code § 1001.8 (relating to State Gaming Fund transfer).

**§ 1001.6. Administration of amounts deposited by licensed gaming entities with Treasury to pay Commonwealth gaming related costs and expenses (\$5 million).**

(a) No later than 2 business days prior to the commencement of slot machine operations, the licensed gaming entity shall deposit \$5 million in the Department's Collection Account. Upon transfer of the \$5 million deposit into Treasury's Concentration Account, the deposit shall be credited to an account established in Treasury for the licensed gaming entity. The account established shall also be used to recognize and account for all future deposits required from the

licensed gaming entity by the Department for administrative costs and all future withdrawals made by the Department for reimbursement of administrative costs.

(b) Each licensed gaming entity shall maintain a minimum account balance with Treasury of \$5 million.

(c) Moneys related to this account shall be transferred to the Department's Collection Account and from Treasury by EFT or other methods of funds transfer in accordance with § 1001.5(b) (relating to administration and distribution of moneys held by licensed gaming entities and the Commonwealth).

(d) Reimbursement of Commonwealth expenses will be as follows:

(1) The Department will issue to the licensed gaming entity, periodic assessments of expenses incurred by the Board, Department, Office of Attorney General and the Pennsylvania State Police, regarding expenses directly related to the licensed gaming entity, under budgets approved by the Board and upon appropriation by the General Assembly as required in section 1402.1 of the act (relating to itemized budget reporting). Expenses not included in budgets approved by the Board may not be assessed against the licensed entity under this section.

(2) Expenses incurred by the Commonwealth and assessed to the licensed gaming entity shall be charged back to the licensed gaming entity and deducted from the licensed gaming entity's account, as specified in section 1401 of the act (relating to slot machine licensee deposits) and this section.

(3) General administrative costs of the Commonwealth not specifically assessed to a licensed gaming entity under paragraph (1), shall be borne by each licensed gaming entity on a prorata basis, at the discretion of the Secretary of Revenue until all Category 1 and Category 2 licensed gaming entities are operating as permitted under the act.

#### Notes of Decision

##### *Pre-enforcement Challenge*

Commonwealth court lacked original jurisdiction to consider pre-enforcement challenge to tax assessment and there was adequate administrative remedy to consider assessment regulations. *Sands Bethworks Gaming v. Dep't of Revenue*, 958 A.2d 125, 131-132 (Pa. Cmwlth. 2008)

#### **§ 1001.7. Deposits of license, permit and other fees.**

The fees for manufacturers' and suppliers' licenses, employment permits and other licenses and permits as the Board may require, excluding license fees paid for Categories 1, 2 and 3 licenses under sections 1209 and 1305 of the act (relating to slot machine license fee; and Category 3 slot machine license), shall be deposited with Treasury into a restricted receipt account within the State Gaming Fund. The fees deposited will be transferred from a restricted receipt account into a restricted revenue account of the State Gaming Fund to be used by the Board to pay its operating expenses. License fees paid for Categories 1, 2 and 3 licenses

under sections 1209 and 1305 of the act shall be paid into the State Gaming Fund in accordance with sections 1209(d) and 1305 of the act.

**§ 1001.8. State Gaming Fund transfers.**

(a) *Application of section.* This section applies to the transfers of moneys to and from the State Gaming Fund.

(b) *Quarterly distributions.* Quarterly distributions from the State Gaming Fund to counties or municipalities in which a licensed facility is located, as determined by the Board, and as specified in Chapter 14 of the act (relating to revenues), shall be performed in accordance with the Governor's Management Directive 305.4 (relating to payments to counties), § 1001.5 (relating to administration and distribution of moneys held by licensed gaming entities and the Commonwealth) and the following provisions:



(1) The Department will submit payment requisitions, accompanied by documentation, to the Office of the Budget for payment through Treasury.

(2) The Department will determine the annual inflation adjustment and will publish notice of the inflation adjustment in the *Pennsylvania Bulletin* by January 1 of each year.

(3) The Department will make distributions quarterly, no later than 30 days following the end of each calendar quarter.

(c) *Tax, assessments and credit against tax.*

(1) Determinations of gross terminal revenue and the calculations of taxes and other assessments due will be determined by the Department based on the actual calculations by the CCS.

(2) The Department will notify each licensed gaming entity and Treasury of the amount of tax and other assessments due to the Commonwealth.

(3) Each licensed gaming entity shall deposit the amount specified in paragraph (2) into the Department's Collection Account, in the manner prescribed by § 1001.5(b).

(4) The Department will enter into an agreement with each licensed gaming entity setting forth the terms and conditions of any credit against tax as claimed by the licensed gaming entity.

(5) Taxes and other assessments due as determined by the Department shall remain payable by the licensed gaming entity to the Department in accordance with section 1501(a) of the act (relating to responsibility and authority of department) regardless of any discrepancies between the licensed gaming entity's calculation and that of the Department's or amounts contested by any party concerning the credit against taxes due. Resolution of disputed payments due will be addressed by the Department through adjustments it makes to its calculation of future payment amounts due. The Department may make adjustments to its calculation of future payment amounts due after resolution of any dispute regarding the amount of taxes due. The Department will provide notice to the Board of the final calculations of taxes due under this subsection.

(6) Any remittance due that is caused by the imposition of the tax or other assessments on nonbanking days as well as holidays shall be remitted by the licensed gaming entity on the next banking day. For example, any tax that has accrued on Independence Day shall be transferred on the following banking day.

(d) *Imposition of a penalty.* Failure to comply with this section that results in the failure to transmit the requisite amounts to the Department's Collection Account shall result in the imposition of a penalty of 5% per month up to a maximum of 25% of the amounts due and unpaid by the licensed gaming entity. Payments made by a licensed gaming entity toward delinquent amounts, including penalties, shall be allocated to the licensed gaming entity's delinquency in accordance with the priority of payments as specified under section 209 of the Taxpayers' Bill of Rights (72 P. S. § 3310-209).

**§ 1001.9. State Gaming Economic Development Tourism Fund transfers.**

(a) Department personnel will notify the respective licensed gaming entity and Treasury of the amounts the licensed gaming entity shall be required to deposit in the Department's Collection Account. Deposits shall be made on the same banking day as the date of the notice by the Department.

(b) Moneys shall be transferred by the licensed gaming entity by EFT or other method the Department may require and shall be deposited in the Department's Collection Account prior to being transferred to Treasury's Concentration Account.

(c) System problems or failures, such as power outages and states of emergency, will not excuse the licensed gaming entity from making the required deposits in a timely manner. The licensed gaming entity shall immediately notify the Department and the Board of the problems.

(d) The Department will maintain records of the Department's Collection Account under this chapter and will share information as practicable, to assist Treasury in its reconciliation of deposits into its Concentration Account.

**§ 1001.10. Pennsylvania Race Horse Development Fund transfers.**

(a) Prior to making each Race Horse Improvement Daily Assessment against a licensed gaming entity, the Department will determine the amount of each licensed gaming entity's gross terminal revenue.

(b) Eighteen percent of the gross terminal revenue of each Category 1 licensed gaming entity shall be returned to each active and operating Category 1 licensed gaming entity that conducts live racing subject to the assessment cap in section 1405(c) of the act (relating to Pennsylvania Race Horse Development Fund), and subject to the allocations specified in section 1406(a)(1)(i)—(iii) of the act (relating to distributions from Pennsylvania Race Horse Development Fund).

(c) Procedures concerning Pennsylvania Race Horse Development transfers are as follows:

(1) Department personnel will notify the respective licensed gaming entity and Treasury of the actual amount each licensed gaming entity shall be required to deposit in the Department's Collection Account as determined by the CCS. Deposits shall be made on the same banking day as the date of the notice by the Department.

(2) Moneys shall be transferred by the licensed gaming entity by EFT or other method as the Department may require and shall be deposited in the Department's Collection Account prior to being transferred to Treasury's Concentration Account.

(3) System problems or failures, such as power outages and states of emergency, will not excuse the licensed gaming entity from making the required

deposits in a timely manner. The licensed gaming entity shall immediately notify the Department and the Board of any of these problems.

(4) The Department will maintain records of the Department's Collection Account under this chapter and will share information as practicable, to assist Treasury in its reconciliation of deposits to its Concentration Account.

(d) The Department will notify each active and operating Category 1 licensee conducting live racing, Treasury and Office of the Budget of the amounts each active and operating Category 1 licensee conducting live racing will receive. An eligible Category 1 licensee will receive from Treasury a weekly payment from the Pennsylvania Race Horse Development Fund in accordance with the act. The deposits required under section 1406(a)(1)(ii) of the act will be deducted by the Department before making the payment to each active and operating licensee and transferred to the appropriate State fund, under section 1406 of the act.

(1) Payments will be electronically transferred by the Commonwealth and will be available to the licensee by the deadline established by the Department.

(2) Both Treasury and the Department will maintain records of distributions under this chapter and will share information, as practicable, to assist each agency in its reconciliation process.

(e) For purposes of the calculations and distributions of section 1406(a) of the act, live racing will be determined annually, and as a Category 1 licensed gaming entity commences live racing in accordance with section 1303(b) of the act (relating to additional Category 1 slot machine license requirements).

**§ 1001.11. Property Tax Relief Fund transfers.**

The Department will determine the appropriate amount of moneys to be transferred into the Property Tax Relief Fund. The moneys will be transferred only after all amounts of funding have been met concerning the transfers of money to the other funds specified in section 1408 of the act (relating to transfers from State Gaming Fund) and other applicable laws.

