

GAMBLING/GAMING IN NEW YORK STATE

Various games of chance, bingo, and Las Vegas nights are not promoted by the Diocese. It is only tolerated when other forms of support to the church or school are insufficient to provide for essential needs. This area of fundraising is fraught with requirements, and an organization may feel that the benefits associated with sponsoring the event or program do not justify the onus of compliance. However, if you parish wishes to conduct these activities, ***compliance is mandatory***. Laws are ever-changing, and the guidance provided herein is not meant to be all inclusive. We also recommend you consult the websites provided for any updated information that may apply to your specific fundraiser.

IRS Reporting Requirements:

- If you pay the winner(s) of a game more than a certain amount, you must report the amount and information about the winners to the IRS (Form W2-G). Form W2-G is provided to the IRS and to the person receiving the winnings.
 1. Unless the winnings are from poker, keno, bingo, or slot machines, you must report a payment of winnings when the amount paid is \$600 or more and at least 300 times the amount of the wager. Note: you may reduce the amount of the wager from the winnings when determining the reporting threshold. This type of fundraising (raffles, drawings) is common in many of our parishes.
 2. You must report winnings from bingo games or slot machines that are \$1,200 or more *before* deducting the amount of the wager.
 3. You must withhold income tax from a payment of winnings when the proceeds are more than \$5,000 (or any wagering transaction when the proceeds are at least 300 times the amount wagered). The withholding rate is 25%. This withholding requirement is NOT necessary in bingo, keno, or slot machines no matter what the amount of winnings.
 4. If there is a group of two or more people sharing the winnings on a single winning ticket, the total amount of the winnings, minus the amount wagered, will determine the amount of the proceeds for purposes of reporting and withholding. (IRS Form 5754).
- Taxes withheld from gambling winnings are non-payroll withheld taxes. You must report this information to the IRS annually on Form 945. This must be filed by January 31st following the close of the reporting year.
- Once you have withheld these funds from a prize winner, it must be promptly remitted to the IRS. The transmittal of those funds should be done electronically if your non-payroll tax liability (funds withheld from wagering) is \$2,500 or greater for the year. (If electronic remittance is required, information on enrollment and processing can be found from the IRS at www.eftps.gov).

- If your non-payroll tax liability is less than \$2,500, you can remit the withholding when the church files Form 945.
- If the church's gaming workers are employees, you are responsible for withholding and paying employment tax. Do NOT use employees or compensate volunteers for staffing or working in gaming endeavors. Thanking or recognizing volunteers with anything more than non-cash items of nominal value will subject your church to reporting requirements and may jeopardize the tax-exempt status of the activity. Substantially all the work should be done by volunteers (i.e.: at least 85% of the work should be done by volunteers).
- If substantially all the work is done by volunteers, but your church pays an independent contractor for some incidental services related to the fundraiser (e.g.: you hire a cleaner to clean the facility post event), you will have to issue the worker a 1099 if the payment exceeds \$599. If you use your own facilities staff and pay them hourly for this service, that would be included in their income. Please consult our Human Resources Department if you have any questions regarding what constitutes an employee versus an independent contractor.

NYS Requirements:

The New York State Gaming Commission regulates gaming in the form of bingo, bell jar sales, the conduct of Las Vegas nights, and the operation of raffles. If you are conducting any of these fundraising activities, you should consult their website for the appropriate reporting forms (<http://gaming.ny.gov/charitablegaming>). Review the requirements well in advance of any planned event, since time constraints often apply (e.g.: registrations, etc.). Only those games approved by the Commission are lawful. At this time, the following games of chance may be conducted:

Craps	Roulette
Black Jack	Big Six
Money Wheel	Chuck-A-Luck
Hazard	Under and Over Seven
Beat the Dealer	Merchandise Wheels
Big Nine	Color Wheel
Bang	Joker Seven
Horse Race Wheels	Best Poker Hand
Bell Jar	Fruit wheel
Card wheel	Raffles

All other games of chance may be lawfully conducted only if it has been approved in writing by the Commission. Please note that "Night at the Races" and "Texas Holdem" games **do not** fall within the definition of approved games of chance. The Gaming Commission may modify requirements, so please consult their website.

Other Considerations:

Registrations: You must register with the NYS Gaming Commission to obtain an identification number. The required form (1A) can be obtained from their website. If there is no activity within a 12-month period, the identification number must be updated with Form GC-1A. Additionally, you will need to apply to your local municipality for a Game of Chance license. Contact your municipal clerk for their local requirements.

Some specific requirements and considerations as they relate to two popular games of chance – raffles and bingo – are outlined below:

Raffles generally refer to a method for the distribution of prizes among persons who have paid for a chance to win such prizes.

- Licensing fees and form requirements for raffles are dependent upon projected profits. Raffles with low projected profits may not require forms or fees
- Raffles may be sold in your municipality as well as other municipalities within your county and contiguous counties, after filing Form GC – RCF – Raffle Consent Form, with that municipality (Form obtained at <http://gaming.ny.gov>)
- Persons under the age of 18 may neither sell nor buy raffles
- Raffles may not be sold prior to 180 days before the drawing
- Drawings must be on your premises or wherever you are licensed to conduct a raffle
- Raffle awards may not exceed \$100,000 per calendar year
- Any single prize exceeding \$50,000 must be indicated on the license application and/or Form GCVS-1
- Raffle Tickets, excluding 50/50s, must state a number of items including name and state ID number of organization, location, date, and time of drawing, consecutively printed serial number of the ticket, price of ticket, list of prizes offered, “Ticket holder need not be present to win.”
- The ticket stub or receipt should include name, address, and telephone number of purchaser, and a consecutively printed serial number of ticket

Bingo is defined as a game of chance played with cards that are typically printed with five rows of five squares each. For the game to meet the legal definition of bingo, wagers must be placed, winners must be determined, and prizes or other property must be distributed in the presence of all persons placing wagers in that game. It is recommended that each applicant attend a Board of Charitable Gaming Training Session following the filing of its registration. Dates of the seminars can be obtained by contacting the NYS Gaming Commission (info@gaming.ny.gov) or consulting their website (<http://gaming.ny.gov/charitablegaming>).

Some of the rules for bingo include the following:

- A sufficient number of members in charge must be designated to ensure at least one person will be present for the entire bingo occasion
- Each bingo worker must wear an ID badge with the name of the licensee, the member's name, address, signature, and photograph. A second form of ID must be available upon request
- Bingo workers cannot play bingo during the occasion they assist in, nor purchase raffle tickets if such are sold during the bingo occasion
- No fewer than two members must be responsible for counting bingo proceeds
- No player may be permitted into a room where bingo is being conducted without purchasing an admission card, which price cannot exceed five dollars
- No regular bingo cards or special game cards may be sold after the half-way point in a bingo occasion except with respect to Supercards, pre-drawn games, and jackpot games.
- Bingo "House Rules" must be adopted, announced and listed in the bingo program and prominently posted. These rules should include the seat reservation policy.

A licensing fee is required for each bingo occasion, which license period may not exceed one year. The license requires filing a Financial Statement Form BC-7 and BC-7B within seven days of each occasion. There is an additional license fee based on three percent of the net profits.

Bingo profits must be deposited in a special bingo checking account the next business day after each occasion.

Recordkeeping: Adhering to the various laws and filing requirements necessitates accurate recordkeeping. Make sure you have competent people charged with compiling data, filing reports, and maintaining records.

The profits from games of chance are regulated as follows:

- Profits may be used for expenditures directly related to operating the game of chance and for charitable, religious, youth, and education activities.
- No profits can be used for the exclusive benefit of organization members, expenses connected to alcohol, or salaries connected to other fundraising activities.
- The following uses of profits require approval, as well as the filing of Form GC-317: (i) payment of mortgages; (ii) payment of rents; (iii) purchase of new buildings, additions, renovations, or repairs in excess of \$10,000 per calendar year; (iv) payment of salaries (excluding clerical and janitorial/custodian salaries); repair, maintenance, and acquisition of parking lots; (v) purchase of air conditioning units, furniture, furnishings, office and kitchen equipment, and motor vehicles; (vi) payment for legal, accounting, or other professional services exceeding \$5,000 per calendar year.

Unrelated Business Income Tax: As a 501 (c) (3) organization we benefit from tax-exempt status. Ordinarily we will not jeopardize that status by conducting an occasional fundraiser or game of chance; however, the activity may subject your church to a tax on unrelated business income (UBIT). For an activity to be UBIT (and therefore subject to tax), it must: (i) be considered a trade or business; (ii) be regularly carried on; and (iii) not be substantially related to your tax-exempt purpose. For example, if your parish/school regularly sells SCRIP, and relies on compensated individuals to administer the SCRIP program, you are subject to UBIT. Conversely, if the SCRIP program is administered substantially all by volunteers, then the proceeds will not be taxable (no UBIT concerns). However, the IRS's definition of "compensated individuals" would include a school parent who is given a tuition reduction for working on the program. As you can see, the laws related to UBIT can be complicated and subject to interpretation. Please consult the Office of General Counsel at the Diocese if you have any questions or concerns in this regard.

3rd Party Organizations:

The parish may decide to employ the services of a third-party organization to run their fundraising event. While this may take some of the administrative load off your offices, it does not mitigate your fiduciary responsibility to safely monitor the resources of your parish. Some suggestions before contracting with a third-party organization:

- ✓ Obtain competitive bids from several organizations
- ✓ Check their references – speak to other churches and schools that have used their services in the past
- ✓ Make sure they are familiar with New York State fundraising requirements (requirements differ from state to state)

- ✓ Explore other means of fundraising that may produce more revenue for the efforts involved.

Recommended websites: Requirements may be updated since this guidance was issued. It is recommended that you consult the current guidance on the various websites:

IRS web address: <http://www.irs.gov/Charities-&-Non-Profits/Churches-&-Religious-Organizations>

NYS Gaming Commission: <http://gaming.ny.gov/charitablegaming>

NYS Office of the Attorney General: <http://www.charitiesnys.com>

June 2015