

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

House Bill 316 (Allegany County Delegation)
 Ways and Means

Taxes - Admissions and Amusement Tax - Exemption

This emergency bill exempts electronic bingo and tip jars in Allegany County from the 20% State admissions and amusement tax.

Fiscal Summary

State Effect: Assuming an April 1, 2008 effective date, general fund revenues could decrease an estimated \$57,460 in FY 2008 and \$243,908 by FY 2012. Expenditures would not be affected.

| (in dollars) | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|--------------|------------|-------------|-------------|-------------|-------------|
| GF Revenue | (\$57,500) | (\$229,800) | (\$234,400) | (\$239,100) | (\$243,900) |
| Expenditure | \$0 | \$0 | \$0 | \$0 | \$0 |
| Net Effect | (\$57,500) | (\$229,800) | (\$234,400) | (\$239,100) | (\$243,900) |

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Allegany County revenues could increase by \$30,000 on an annualized basis. Local expenditures would not be affected

Small Business Effect: Potential revenue increase for small businesses that no longer pay the admissions and amusement tax.

Analysis

Current Law: Chapter 6 of the 2007 special session imposed a 20% State admissions and amusement tax on net receipts from the operation of electronic bingo and tip jars. Net proceeds are defined as the total receipts from the operation of an electronic bingo

machine or electronic tip jar machine less the amount of money winnings or prizes paid out to players.

The Comptroller defined the terms “electronic bingo” and “electronic tip jars,” as a game played in an electronic or electro-mechanical device that contains predetermined winning and losing games and signals the issuance of a winning play. Examples include (but are not limited to):

- electronic devices utilizing paper bingo or tip jar tickets; and
- electronic devices utilizing computer chips that simulate paper bingo or tip jar tickets that, when played by a customer, determine the outcome of winning or losing that is not random or subject to change, but is based on a predetermined set of winning or losing numbers.

Specifically exempt from the State admissions and amusement tax are electronic devices that dispense tip jar tickets and instant bingo tickets but do not alert the customer to a winning or losing ticket.

Background: Allegany County indicates there are 80 electronic machines currently operating in the county with 40 of them in a single location. Legislative Services estimates that the gaming market in Allegany County totals approximately \$21.6 million a year. However, at this time, the industry is largely composed of nonelectronic games run by qualified organizations (*e.g.*, Cumberland Outdoor Club, American Legion). Additionally, the majority of the proceeds (78%) circulate back to winning game participants who win cash prizes. The actual cost of the games supplied to retailers depends upon wholesale market conditions and can vary by the individual wholesale ticket providers who compete in Allegany County to provide operators with paper games. Retail operators purchase tickets in bulk and incur wholesale fees that are approximately 4% of the dollars paid to provide paper games. In addition to paying wholesaler fees, licensed organizations in Allegany County pay county taxes and other county fees before remaining monies are collected.

The Allegany County Gaming Office reports that a total of \$750,153 was collected from taxes, licenses, and stickers in fiscal 2007. Legislative Services notes that these tax revenues are based primarily on traditional paper games. The majority of the revenues (92%) were collected from taxes (**Exhibit 1**):

Exhibit 1
Allegany County Revenues from Gaming Operations
Fiscal 2007

| | | |
|--------------|------------------|-------|
| Taxes | \$640,153 | (92%) |
| Stickers | 48,800 | (7%) |
| Licenses | 6,200 | (1%) |
| Total | \$705,153 | |

On a dollar-for-dollar basis, for-profit organizations, which are taxed by the county at a 40% rate, contributed approximately \$371,100 in county revenues; qualified organizations, which the county taxes at a 10% rate contributed approximately \$279,100 toward the total Allegany County tax revenues (**Exhibit 2**). For-profit organizations comprise taverns, liquor stores, and convenience stores. Qualified organizations, as mentioned above, include American Legion, Eagle, and VFWs.

Exhibit 2
Allegany County Tax Revenues

| | <u>Tax Rate</u> | <u>Tax Revenues</u> |
|-------------------------|-----------------|---------------------|
| For-profit | 40% | \$371,082 |
| Qualified Organizations | 10% | 279,072 |
| County Revenues | | 650,153 |

The taxable base upon which Allegany County imposes local taxes is approximately \$3.7 million dollars on an annual basis. From this \$3.7 million, after county taxes, licensed paper game operators receive payment for providing licensed paper games to customers. Out of 93 operators, 20 locations provide approximately 80% of the county's tax revenues. Eighteen out of the 20 locations, which produce the bulk of county revenues, are qualified organizations taxed at the 10% rate by the county. In terms of market share, qualified organizations serve 75% of the Allegany County market, while smaller for-profit operations serve 25% of the market. In terms of total numbers, the majority of the licensees are smaller for-profit operations (liquor stores, convenience stores).

Definitions

Instant bingo tickets are often referred to as “pull-tab tickets” or “pull tabs.” A customer purchases tickets from a deal. All the tickets in a given deal are identical in their outward appearance; some of the tickets entitle the persons who purchase them to receive prizes of specified value. Winning tickets are those that contain symbols on the inside that match designated winning combinations. The number of winning tickets at each prize level in a deal are determined and known in advance; the winning tickets are randomly placed in the deal at the time the deal is constructed. Thus, the chances of purchasing a winning ticket are precisely calculable from the deal as a whole. Operators purchasing deals therefore know beforehand the winnings that will be distributed to purchasers.

Paper gaming is a game of chance in which prizes are awarded, and the devices used to play the game are constructed of paper. The most common forms of paper gaming are punchboards and tip jars. A punchboard is a square piece of wood or cardboard with dozens or hundreds of holes punched in it, each filled with a piece of paper with numbers or symbols printed on it. The holes are covered with foil or paper, and players pay for the right to punch one or more holes. If the numbers or symbols on their slips of paper match a winning combination, they receive a prize, either cash or another item. Traditional tip jars dispense sealed paper packets with folded paper pieces inside. If the numbers or symbols printed on the folded paper pieces match a winning combination, prize or cash is received.

State Fiscal Effect: General fund revenues could decrease an estimated \$57,500 in fiscal 2008 and \$243,900 by fiscal 2012 due to a reduction in admissions and amusement tax collections. This estimate assumes an April 1, 2008 effective date and is based on the following information and assumptions:

- West Virginia Limited Video Lottery terminals located in taverns and bars collect approximately \$125 in wins-per-day (WPD);
- WPD for Allegany County is estimated to be \$55 and evenly distributed across the two sectors;
- electronic machines are available six days a week;
- the Allegany County tax level is 10% for qualified organizations and 40% for for-profit organizations;
- the 20% State admissions and amusement tax is applied evenly with respect to qualified organizations and for-profits; and
- additional market penetration by electronic paper gaming devices does *not* occur in Allegany County.

Fiscal year revenue losses are annualized and assume a 2% annual inflation.

Local Fiscal Effect: Legislative Services advises that Allegany County indicates that it receives well over \$30,000 in taxes on electronic gaming. The county advises that organizations supplying electronic paper gaming will decide not to provide electronic gaming to the county if the 20% State admissions and amusement tax is not repealed for Allegany County; consequently, neither the county nor the State will receive revenues from this market segment.

Small Business Effect: Potentially minimal; however, Allegany County reports there are 40 machines in operation at a single location. While noting that the specific nature of the establishment with respect to for-profit or qualifying organization status is not known, Legislative Services advises that an establishment of this size may realize a significant increase in revenues under the provisions of the bill.

Comment: Legislative Services notes that after several months of collecting the admissions and amusement taxes, the Comptroller will be provided with relevant electronic gaming revenue data to provide a precise determination of State and local revenue impacts.

Additional Information

Prior Introductions: None.

Cross File: SB 222 (Senator Edwards) – Budget and Taxation.

Information Source(s): Allegany County, State Department of Assessments and Taxation, Comptroller's Office, Department of Legislative Services

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