
VIA Electronic Submission

July 19, 2021

Internal Revenue Service
Attn: CC:PA: LPD:PR (Notice 2021-28) Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

RE: Notice 2021-28; Recommendations for 2021-2022 Priority Guidance Plan

Dear Sir or Madam:

On behalf of its members, the American Gaming Association (AGA) and the National Indian Gaming Association (NIGA) are pleased to submit the following recommendation for items included in the 2021-2022 Priority Guidance Plan. We appreciate the opportunity to provide input to the Internal Revenue Service (IRS) and Treasury on a matter of continued importance to the gaming industry, and urge you to consider the following as part of the process:

- *Final guidance on corrective actions available to the Treasury Department and its regulatory authority under section 7805 of the Internal Revenue Code to update the dollar threshold for tax information reporting for slot machine jackpots under current Treasury Regulation § 1.6041-10.*

Background:

The current threshold for tax information reporting for slot machine jackpots was set at \$1,200 in 1977 through regulation and has not been updated since then. A \$1,200 jackpot in 1977 would be equivalent to more than \$5,000 today if adjusted for inflation.

As the value of a \$1,200 jackpot has decreased, the number of jackpots hitting that threshold and requiring reporting has increased. The current, outdated threshold imposes significant compliance burdens on both the IRS and the gaming industry – an economic driver in communities across the country that has been significantly impacted during the pandemic due to mandatory closures to protect public health and safety.

Having to take a slot machine temporarily offline to issue a tax reporting form removes a limited asset from production. Modernizing the threshold would promote operational efficiency for gaming operations and customers and enable the IRS to focus its limited enforcement resources on those taxpayers who are most likely to have net slot winnings at the end of the taxable year.

Members of Congress have recognized the negative impact of a static and antiquated reporting threshold, which is why they have previously written to Treasury urging the Department to provide regulatory relief. Most recently, the Consolidated Appropriations Act of 2021, signed

into law (Public Law No: 116-260) on December 27, 2020, directed Treasury to report to Congress within 90 days of enactment on the feasibility of updating the threshold within the Department's authority.

Treasury Has the Regulatory Authority to Update the Slot Reporting Threshold and Has Exercised Such Authority in the Past.

The history of Treasury's regulations on the slot jackpot reporting threshold underscores that Treasury has regulatory authority to update the threshold. Treasury described this regulatory history in the preamble to the proposed version of Reg. § 1.6041-10:

“Section 6041 generally requires information reporting by every person engaged in a trade or business who, in the course of such trade or business, makes payments of gross income of \$600 or more in any taxable year. The current regulatory reporting thresholds for winnings from bingo, keno, and slot machines deviate from this general rule. Prior to the adoption of the current thresholds in 1977, reporting from bingo, keno, and slot machines, was based on a sliding scale threshold tied to the amount of the wager and required the wager odds to be at least 300 to 1. On January 7, 1977, temporary regulation §7.6041-1 was published establishing reporting thresholds for payments of winnings from bingo, keno, and slot machine play in the amount of \$600. In Announcement 77-63, 1977-8 IRB 25, the IRS announced that it would not assert penalties for failure to file information returns before May 1, 1977, to allow the casino industry to submit, and the IRS to consider, information regarding the industry's problems in complying with the reporting requirements. After considering the evidence presented by the industry, the IRS announced in a press release that effective May 1, 1977, information reporting to the IRS would be required on payments of winnings of \$1,200 or more from a bingo game or a slot machine play, and \$1,500 or more from a keno game net of wager. On June 30, 1977, § 7.6041-1 was amended to raise the reporting thresholds for winnings from a bingo game and slot machine play to \$1,200, and the reporting threshold for winnings from a keno game to \$1,500.”

The amendment to Reg. § 7.6041 raising the slot reporting threshold to \$1,200 in 1977 was “issued under the authority contained in section 7805 of the Internal Revenue Code of 1954.” (Treasury Decision 7492, 42 Federal Register 33286 (June 30, 1977). Code section 7805 provides that “the Secretary shall prescribe all needful rules and regulations for the enforcement of this title.”

We thank you for working closely with the gaming industry to implement a regulatory change to correct this antiquated policy.

If you have any questions regarding the matters discussed herein, please contact Chris Cylke at ccylke@americangaming.org or Jason Giles at jgiles@indiangaming.org . Thank you for your time and consideration.

Sincerely,



William C. Miller, Jr.
President & CEO
American Gaming Association



Ernest L. Stevens, Jr.
Chairman
National Indian Gaming Association

Enclosures: [AGA Letter to Treasury](#), [Gaming Caucus Letter](#); [FY2021 Omnibus Appropriations bill language \(pg. 30\)](#)