Contemporary Tax Issues in the Gaming Industry

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Abstract

The gaming industry is currently experiencing rapid growth. Because of this growth and the perception that gaming companies are highly profitable, some fear that regulators may be targeting the gaming industry as a potential tax revenue source. The purpose of this paper is to provide an update on current tax issues facing the gaming industry and to present the positions of the gaming industry and the IRS with respect to these issues. Specifically, the following topics are discussed: 1) tip compliance, 2) cash transaction reporting, 3) tournament reporting and withholding rules, 4) complimentaries, 5) employee meals and cafeterias, 6) outstanding chips and tokens, 7) marker discounts, and 8) high denomination slot win reporting. **Key Words:** Gaming, Taxes, Regulatory Interest, IRS

The Federal Government has shown an increased interest in the gaming industry over the past several months. At one point the Federal Government even proposed a four percent national excise tax on gaming revenues. While this measure failed, at least for now, there are still several important tax issues currently facing the gaming industry which could have wide-scale implications. The purpose of this paper is to provide an update on tax issues currently facing the gaming industry, as well as to explain the industry and IRS positions with respect to these issues. Mr. Trent Fewkes, Industry Gaming Specialist for the Internal Revenue Service, and Mr. Richard Darnold, Vice President of Tax and Financial Administration for Boyd Gaming Group and Spokesperson for the Nevada Resort Association, were interviewed to obtain IRS and industry positions for each of the tax issues discussed below.

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Tip Compliance Program

Compliance 2000, which began in 1992, is a program developed by the Las Vegas District IRS Office and is intended to encourage voluntary compliance with tip reporting. The program applies exclusively to companies operating in the Las Vegas area. While most Las Vegas gaming properties are currently abiding by the Compliance 2000 arrangement, it is important to note that the arrangement is purely voluntary at this time.

Under Compliance 2000, companies participating in the program are required to develop tip rates for their property by job position and shift. These rates should be representative of tips typically received for similar positions and shifts at comparable gaming properties. Once rates are developed for a particular property, the IRS reviews these rates, and once approved, the rates become effective for that property. Employees at properties participating in Compliance 2000 are given a choice as to whether or not they wish to participate in the program. Employees choosing to participate must report tips in accordance with the rates established for their position for FICA withholding and Federal income tax purposes. One of the benefits of this program is its simplicity. The methods involved in tracking and recording tips are much less cumbersome under Compliance 2000 than under traditional IRS tip reporting rules. An additional benefit is that the IRS agrees not to audit tips reported for employees participating in the program. However, employees choosing not to participate in the program are still subject to IRS audit. The IRS can easily determine which employees are participating in the program, because employers are required to provide the IRS with a listing of all company employees as well as allow the IRS access to payroll records. Likewise, employees who are **not** participating in the program can also easily be identified by the IRS, given the open access to payroll records.

The further that Reg. 6A departs from Title 31, the more likely it may become that the Treasury may eventually revoke the acceptability of 6A as a replacement for Title 31 in Nevada.

This year, the IRS will validate all rates at new properties. Further, as it has done since the inception of the tip compliance program, the IRS will also perform rate reviews for existing properties. Rates are evaluated by job and by shift. In rate reviews, the IRS asks properties to develop rates and then the IRS reviews the calculations for these rates to ensure the calculations and rates are sound. Rate reviews generally do not result in wide-scale rate changes. Rather, changes in rates generally result when a particular rate differs substantially from typical rates associated with the type of property and type of job described. Furthermore, sometimes a casino resort is the instigator of a rate change. For instance, if a casino hotel feels a particular rate is inappropriate, the hotel can ask the IRS to review the rate. Depending upon the result of the rate review, the rate may or may not be changed.

By encouraging voluntary tip reporting compliance, the IRS hopes to reduce the costs associated with "forced or extracted compliance" (Fried et. al, 1994). According to the IRS, Compliance 2000 has been quite successful since its inception. Although the Compliance 2000 contract contains a cancellation clause as of December 31, 1995, if the program is not canceled, the program will run three more years. According to Fewkes, no one has withdrawn from the program thus far, and the program is expected to continue for another three years.

While the IRS has enjoyed success with the Las Vegas Compliance 2000 program, its national counterpart, the Tip Rate Determination Agreement (TRDA) has not fared as well. The provisions of the TRDA require employers to establish a true tipping rate and then compel 75% of their employees to report tips in accordance with that rate. Under TRDA, employers are required to report employees who refuse to comply with this program. Employers who refused to comply were allegedly threatened with six-year audits for back taxes on unreported tips. In response to TRDA, the industry proposed an alternative program called Tip Reporting Alternative Contract (TRAC). This plan would reduce the prospect of audits and place the burden of tip reporting on the employee, not the employer. The principle differences between TRDA and TRAC are shown in Table 1 (Fried and Jones, 1995).

Table 1.
Comparison of the Tip Rate Determination Agreement and the Tip Reporting Alternative Contract

TRDA	TRAC
Requires employee participation	Does not require employee participation
Requires employer to estimate tip rates	Employer not required to estimate tip rates
Requires employees to report tips at certain rates	Does not require employees to report tips at a certain rate
No amnesty for FICA tax on unreported tips	IRS must first determine employee liability before it can come to employer
No employee education program required	Employer must educate new hires, existing employees
Employer not required to keep records	Employer must report charge tips to individual employees at least once a month

It should be noted that not everyone in the gaming industry supports TRAC. Gaming executives point out that TRAC was originally created from the hotel side of the industry and works well when 1) a large percentage of the entity's revenues are charge sales and 2) there is a point of sales system that tracks sales by server. However, in gaming operations, where cash tips are predominant, many in the industry assert that Compliance 2000 works better. Not surprisingly, the gaming industry as a whole tends to support Compliance 2000 rather than TRAC.

Title 31 - Cash Transaction Reporting Regulations

Title 31 was originally passed in the early 1980s. To date, gaming establishments in Nevada have not needed to comply with the provisions of Title 31, because the State of Nevada has its own cash transaction reporting (CTR) regulation, Regulation 6A, which supersedes Title 31. On the other hand, gaming establishments in Atlantic City have had to comply with the provisions of Title 31. Initially, Atlantic City casinos had a very high error rate when preparing cash transaction reports (CTRs) in compliance with Title 31. According to Fewkes, nearly 90% of the early CTRs were erroneous. More recently, however, Fewkes claims the error rate by Atlantic City casinos has been significantly reduced. In fact, Atlantic City now has a 95% completion rate on the correctness of cash transaction reporting, a rate which even exceeds the results for the banking industry. This result is quite impressive given that many argue that the provisions of Title 31 better fit banks and other traditional financial institutions than casinos.

In interpreting the tax law, the IRS is now arguing that complimentaries (comps) are an entertainment expense, and hence are only 50% deductible.

New Title 31 regulations went into effect as of December 31, 1994, but mandatory compliance with these regulations was not required until June 1, 1995. These new regulations represent clarifications to the highly controversial and complicated regulations originally proposed in 1985. Because of the complexity of the 1985 regulations, the regulations were not sent out for comment until 1990. As a result of the feedback comments, certain provisions of the 1985 proposal have been dropped from the final version of the regulations. For instance, the provisions no longer require that 1) an impressed chronological system be maintained at the cage, 2) an identification threshold at $3,000 be utilized, 3) a list of customers known by aliases be maintained, or 4) missing customer information be obtained for multiple transactions which when aggregated exceed $10,000. However, the new regulations do include several important provisions such as: 1) after the fact aggregation (eg. if a marketing person reviewing a player history record discovers that the player had more than $10,000 in reportable transactions, a CTR must be filed), 2) a clarification of cash in and cash out, 3) the requirement that a cash equivalent document must be filled out and retained (not filed), and 4) the requirement that a compliance program be maintained to control money laundering. Furthermore, while not included in the new provisions, the Treasury promises to include some additional requirements in future Title 31 regulations: 1) a required report on suspicious transactions, 2) a revised definition of what constitutes a casino, and 3) a "know your customer" program.

The changes in Title 31 for which mandatory compliance was required as of June, 1995, and the changes proposed for the future are contributing to an ever-widening gap between Title 31 and Regulation 6A. According to Fewkes, the regulations require that any exemptions to Title 31 follow the requirements of Title 31. Hence, the further that Reg. 6A departs from Title 31, the more likely it may become that the Treasury may eventually revoke the acceptability of 6A as a replacement for Title 31 in Nevada. However, Fewkes admits that Reg. 6A does have some "good" provisions, such as an anti-churning provision and a multiple transaction log requirement, that are not currently included in the provisions of Title 31. However, Fewkes insists that the best currency reporting rules would result from merging the best provisions of 6A and Title 31 into a single, required regulation. Fewkes indicated that the IRS is pleased with the way the State of Nevada has enforced Reg. 6A, but that the IRS wishes that Reg. 6A were closer to Title 31.

With respect to the Title 31 versus Reg. 6A debate, the gaming industry feels that the provisions of 6A work well in Nevada and that there is no need to change to new reporting requirements. One of the reasons the industry would prefer to remain under the provisions of Reg. 6A rather than Title 31 is that the Nevada gaming industry asserts that Title 31 is more appropriate for banks and other traditional financial institutions than for casinos. Furthermore, Darnold indicates that the industry has received no notification from the Treasury Department indicating that Reg. 6A must change or else risk revocation. As to why Atlantic City casinos have been able to comply with Title 31 yet Nevada casinos feel that complying with Title 31 would be an undue burden, Darnold stresses that the Nevada gaming industry is much different than the industry in Atlantic City and just because a regulation has worked in one jurisdiction does not mean it would be the best option for another jurisdiction.

Tournament Reporting and Withholding Rules

Binion's Poker Tournament was the impetus for a special arrangement concerning wagering pools that was entered into by the State of Nevada and the Las Vegas District IRS. One year, Jack Binion canceled his world famous poker tournament, the Hall of Fame Tournament, because he refused to comply with the IRS withholding rules governing wagering pools in effect at that time (i.e. that wagering pools be subject to withholding for any amounts over $5,000).

The cancellation of the Hall of Fame Tournament lead to negotiations between Nevada casinos and the IRS concerning tournament reporting and withholding rules. Through these negotiations, an agreement was reached that applies exclusively to Nevada casinos. Under the exclusive Nevada agreement, there is no longer withholding on wagering pools, but W2-Gs must be reported for any payouts exceeding $600 and this amount cannot be offset by the buy-in. The amount of the buy-in can be disclosed on the W2-G, but can not be used to offset reported earnings on the face of the W2-G. The W2-G is more favorable to gamers and to customers than a 1099 (which is the traditional tournament reporting and withholding requirement) because the W2-G clearly shows that the earnings are from gaming.

Hence, if a Nevada casino has a defined tournament, like the Binion's poker tournament, the special Nevada-only rules for tournament reporting apply. However, if no buy-in is required, then the gaming event/tournament would not qualify for the special reporting rules. In states other than Nevada, that are not afforded the special reporting rules, there is an excise tax as well as withholdings on pools over $5,000.

Deductibility of Complimentaries

Prior to 1986, business and entertainment expenses were 100% deductible. The Tax Reform Act of 1986, (TRA 1986) limited business and entertainment expenses to an 80% deduction. In 1994, the rule was changed to a 50% deduction. In interpreting the tax law, the IRS is now arguing that complimentaries (comps) are an entertainment expense, and hence are only 50% deductible. Gaming companies vehemently disagree and argue that these expenses are promotional expenses. The IRS is currently seeking Technical Advice on this matter, before raising the issue in audits.

For comped rooms, the IRS is not attacking the rack rate; instead, the IRS is trying to disallow 50% of the cost of producing the comped room from being deductible. From the industry's standpoint, while this situation is not ideal, it is clearly better than having 50% of the rack rate disallowed.

With respect to food and beverage comps, the situation is much more significant: the IRS is proposing that 50% of the cost of a meal not be deductible if the comp involves a meal for which an employee was present, and 100% of the meal not be deductible if an employee was not present for the meal. These costs can be quite material. For instance, assume that a gaming enterprise has a restaurant in which 51% of all meals are comp meals for which an employee was not present (which is typically the case). According to the IRS's interpretation of the tax law, 51% of the cost of the meals provided in the restaurant (i.e., 51% of the meals would be subject to a 100% disallowance) would then be disallowed for tax purposes in this situation.

The IRS is proposing that show tickets for outside comps[1] be treated in the same manner: 50% of the cost would not be deductible if an employee was present for the show, and 100% would not deductible if an employee was not present for the show. Important to the determination of this issue is whether or not food servers, hosts, bartenders, etc. constitute the presence of an establishment employee at the comped meal or show. The IRS indicates that service employees do not fit the criteria for employee presence at the event.

The position of the gaming industry with respect to comp expenses is that the legislative intent of TRA 1986 does not support the IRS's position. The industry believes that the intent of TRA 1986 was to curb abuses such as benefits generally available only to highly compensated employees and business owners. These abuses are commonly referred to as the "three martini lunch." The industry supports its position in several ways. First, industry representatives refer to a 1986 Senate Committee Report in which the example of a hotel providing complementary rooms and food and beverage to potential customers was cited as an exception to the disallowance. Also, the industry cites Private Letter Ruling 9414949, a telemarketing case in which people invited to evaluate time-share opportunities were given free meals and the IRS did not subject these meals to the 50% rule. The Industry contends that these examples clearly show that the legislative intent of TRA 86 was to "curb abuses" from highly compensated business owners and employees rather than to disallow comps provided for promotional purposes. Further, the industry feels that it is being unduly singled out on this issue, citing the Boy Scouts as an example. The industry wonders why the IRS is challenging meals comped by casinos to bring patrons onto the property, while the IRS is not challenging the deductibility of the free meal when organizations like the Boy Scouts sell buy-one-get-one-free meal tickets for restaurants or other establishments whose intention is also to attract customers. Hence, the industry argues that comps are clearly promotional expenses and believes this will be the conclusion when the issue goes up for review.

The first step in resolving this debate over complimentary expenses is for the IRS National Office to rule whether the proper treatment of comps is as promotional expenses or entertainment expenses. Clearly, the industry desires a promotional expense ruling, while representatives of the Las Vegas District Office of the IRS expect an entertainment expense ruling. Fewkes asserts that the Tax Code clearly and objectively indicates that comps are entertainment expenses, because such expenses fit none of the exceptions provided for exemption from the 50% deduction disallowance. With respect to the industry arguments provided above, Fewkes asserts that each of the examples fit within a specific exception to the rules governing the deductibility of entertainment expenses and do not threaten the IRS's position on gaming comps. For instance, one exception to the 50% disallowance occurs when an item is generally available to the public, as were the free time-share meals. However, Fewkes argues that comps in the gaming industry are not generally available to the public, but rather, are available to only a certain segment of the population. If this interpretation passes, it will apply to tax years ending in 1994 and forward. Fewkes feels strongly that the National Office of the IRS will agree with the Las Vegas District's interpretation of the comp issue. According to Fewkes, the best option for the industry would be to seek legislative relief on this issue, since the tax code appears to so clearly support the contention that comps are business and entertainment expenses.

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The industry also feels it has a strong case and will first deal within the regulatory framework of the IRS. If the National Office of the IRS does not rule in its favor, the industry will then ask the Treasury Department to rule that reducing the deductibility of comps was not the intent of TRA 1986. If neither of these regulatory actions is successful, the industry will then seek legislative relief. The industry has already forewarned the Nevada Congressional Delegation of the issue. To date, no gaming companies are disclosing or accruing a liability for disallowed comp deductions, but they are disclosing that this issue is under review by the IRS.

Employee Meals and Employee Cafeterias

Similar to the case of business and entertainment meals, the IRS asserts that correct interpretation of tax law would include employee meals eaten at employee cafeterias in the category of business expenses subject to the 50% deduction rule. Two taxpayers have challenged this interpretation in court, but no ruling has yet resulted. Once determined, the final ruling on this matter will affect tax years beginning in 1987. The gaming industry has developed a proposal by which employee meals would more clearly fit within the exceptions to the 50% disallowance rule. Under this proposal, the cafeterias would potentially qualify under two exceptions: 1) when the revenue derived from the facility equals or exceeds the direct operating costs of the facility and 2) if properties charge for meals in an amount at least equal to the fair market value (FMV)[2] for that meal. Under scenario 2, the cost of providing employee meals would be excepted, regardless of whether the cafeteria's revenues exceed its costs. The industry argues that this treatment is similar to the deduction for cost of goods sold afforded to other restaurants.

While the IRS and Treasury have not yet formally commented on the proposals set forth by industry representatives, these authorities have agreed with the fixed meal charge arrangement. The Las Vegas District of the IRS, National IRS office and the Treasury have all indicated that by charging for meals, companies can avoid the 50% deduction disallowance. Under this arrangement, the employer would institute a fixed meal charge for each meal. Industry leaders have submitted their proposal for this type of an arrangement to union leaders for approval, and union leaders have indicated support for the fixed meal charge arrangement provided that total cash compensation to employees is not affected. This could be achieved by providing employees with an increase in stated compensation to offset the fixed meal charges. Despite the support of regulators and union leaders for the fixed meal charge arrangement, industry representatives still feel strongly that limiting the deductibility of employee meal expenses as they now exist is incongruent with the original legislative intent of TRA 86. Furthermore, industry representatives feel these meals classify as "deminimis fringes" and should be excepted from the disallowance.

Another important aspect of the IRS's interest in employee meals relates to meals eaten by employees at food service areas not intended primarily for employee purposes. According to IRS interpretation, employee meals are 50% deductible only when they are eaten at a facility provided by the employer that is intended primarily for the use of employees; otherwise, no deduction is permitted. In other words, the meals eaten by employees at the casino restaurant or buffet, which are primarily for patrons rather than employee use, would be 100% nondeductible. The industry does not agree that these meals are 100% nondeductible. However, the industry acknowledges that the 50% disallowance rules may apply.

Outstanding Chips and Tokens

Another area in which the IRS is concentrating its efforts is the taxability of outstanding casino chips and tokens. The IRS maintains that casinos are theoretically in the business of selling chips and tokens. When cash is exchanged for chips and tokens, the IRS views this event as a revenue generating transaction. Further, when the casino actually "wins" from a patron at some later time in a gaming transaction, the IRS views this event as the casino merely winning back its own chips, chips that have already been paid for. In other words, the IRS views the "winning" gaming transaction as a prepaid transaction, and the actual revenue generating and therefore taxable transaction as the exchange of cash for chips. The issue thus becomes a question of how outstanding chips and tokens should be treated. According to the IRS, chips in the customers possession should be deemed income to the casino.

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While there are a number of issues involved in this controversy, the biggest issue is the timing of revenue recognition -- is an exchange of chips for cash revenue or is revenue generated when the chips are kept as souvenirs or when a gaming transaction at a table or slot later occurs? The IRS is currently offering two settlement options: 1) 100% of the outstanding chip liability can be brought into income with no closing agreement or 2) 70% of the outstanding chip liability brought into income with a closing agreement. Casinos are permitted to spread out the recognition of the outstanding chip liability over more than one year, so that all of the impact of this adjustment does not have to affect only one year.

Alternatively, the industry views chips as a means of facilitating gaming transactions, whereas the taxable transaction occurs at the slot machine or table game rather than at the cage. The industry agrees that chips kept by patrons should be recognized as income and hence, a **portion** of the outstanding chip liability should be recognized as income. However, the industry strongly disagrees with the idea that chips are inventory sold to customers, a view that would require the entire outstanding chip liability to be treated as income.

Marker Discounts

A common procedure in the gaming industry, particularly for casinos with a high-roller clientele, is to write down or otherwise discount markers of certain patrons. The IRS contends that such write-downs should not qualify as bad debts, since it contends that the efforts made to collect the entire amount of the marker are suspect. Instead, the IRS contends that the marker is usually discounted for the patron and the patron is afforded forgiveness of debt on the discount amount. Furthermore, the IRS contends that many of these discounts are actually prearranged. For instance, assume a casino grants a $1 million marker to a high-roller, but only requires the patron to repay $900,000 to settle the marker. What is the tax implication of this write-down? The IRS contends that the write-down of a legal debt instrument should be treated as it would be in a financial market, as income relating to the forgiveness of debt. In other words, the IRS maintains that the patron signed a legal debt instrument, so the write-down is taxable income. If this is the case, then the patron would have to be taxed on his/her $100,000 of debt forgiveness.

The industry disagrees with the position of the IRS, and argues that this write-down should be viewed as a promotional expense and should not be taxable income to the patron. Further, the industry argues that appropriate efforts are made to collect the entire amount of markers. However, according to Darnold, this issue only significantly affects four or five gaming companies.

While some may feel that the gaming industry is being unduly targeted by regulators, the interest that regulators have shown in the gaming industry could be in response to the changing nature of the U.S. economy.

High Denomination Slot Machine Win Reporting

Not all IRS involvement in the gaming industry involves additional potential costs. With respect to high denomination slot machines (e.g., machines with a minimum $25 wager), the Las Vegas District of the IRS has tried to decrease the paper burden for information reporting. In the past, the IRS required that a W2-G be issued on each gross jackpot greater than $1,200. Now, however, the IRS will permit casinos to tabulate and aggregate all jackpots in excess of $1,200 by a particular patron in a single session of gaming and issue one W2-G detailing the aggregated jackpots to that patron. This alternative allows the casinos to offer more uninterrupted gaming to its patrons by reducing the number of times that play must be halted to issue W2-Gs. To utilize the new W2-G reporting alternative, companies must first obtain prior approval from the IRS and in doing so, show that appropriate internal control procedures are in place. The reporting alternative applies to non-resident aliens as well as residents.

According to Rick Darnold, the industry appreciates the ability to aggregate wins for W2-G reporting purposes. However, a bigger issue for the industry is that $1,200 is no longer a reasonable reporting threshold. In 1977, $1,200 was reasonable, but $1,200 is worth a lot less today than it was in 1977. According to Darnold, Boyd Gaming issued approximately 20,000 W2-Gs in 1994, most of which (16,000) were under $5,000. The industry is proposing to raise the reporting threshold to $5,000 so that the W2-Gs issued would be more meaningful. (Frequently, wins of less than $5,000 are offset by gambling losses so there is no tax consequence.)

Darnold indicates gaming industry representatives and the Las Vegas District of the IRS have discussed raising the threshold and the consensus appears to be that a $5,000 reporting threshold would be more reasonable than the $1,200 threshold now in effect. In fact, Trent Fewkes actually suggested the change in threshold after he completed a study that found 87 percent of the paperwork relating to slot win reporting could be eliminated if the threshold was increased from $1,200 to $5,000. Despite the support for this reporting threshold change, no word has come from Washington regarding whether the change will truly become reality.

Conclusions

When reviewing the tax issues currently facing the gaming industry, the question arises as to whether there is some underlying intent by regulators to increase tax revenues from what is perceived as a highly profitable industry or whether these issues merely represent an attempt to tax gaming at a rate equitable to other industries. Clearly, the Federal Government showed interest in the gaming industry as a potential revenue source when a 4% excise tax was proposed in 1994. While gaming operators were pleased that this Federal tax did not pass, the possibility exists that this or a similar tax will be proposed again at some future date.

So is the gaming industry being targeted by the IRS, or is it just the status quo to have so many issues facing the industry? When asked this question, Rick Darnold replied that the "IRS has been doing this for years." Darnold commented that the IRS has always been fairly aggressive toward gaming in Las Vegas and that Las Vegas has truly become a pacesetter for the rest of the U.S. According to Darnold, many tax issues seem to start in Las Vegas and then eventually spread to other areas of the country. Hence, he doesn't view the number of gaming issues currently being evaluated by the IRS as unusual. He does, however, have some apprehension as to the magnitude of some of these issues and their potential adverse impact on industry practices. While Darnold acknowledges that certain taxes are inevitable, he argues that gaming already pays out a significant portion of its operating profits in the form of taxes and that additional taxes may be an undue burden on the industry.

While some may feel that the gaming industry is being unduly targeted by regulators, the interest that regulators have shown in the gaming industry could be in response to the changing nature of the U.S. economy. In other words, this interest in gaming taxation could be a function of the growth that the gaming industry has experienced as well as function of the evolution of the U.S. economy from a manufacturing economy to a service economy. With respect to the industry's growth, it is possible that the IRS is making an attempt to more equitably spread the tax burden of the U.S. across industries capable of handling that burden. With respect to the evolution of the U.S. economy, it is possible that the taxation of service organizations is still evolving. Regardless of whether the U.S. gaming industry is being unduly targeted or whether the IRS's interest in the industry is purely in response to an evolving U.S. economy, the industry may want to brace for continued regulatory interest in future years.

References

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Endnotes

[1]Outside comps are comps provided to persons off premises. For instance, if a patron of Hotel A is comped tickets to an entertainment show at Hotel B, the comp would classify as an outside comp. An inside comp would occur if the patron from Hotel A was given comp tickets to the show at Hotel A.
[2]In the gaming industry, the FMV of a meal may be less than its cost, as many properties offer meals to patrons as a loss leader to encourage patrons to visit the property and gamble.