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Administrative Law & Public Affairs

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Aug. 5, 2015

Shirley Springer, CPA  
Chief - Audit Division  
Nevada Gaming Control Board  
[sspringer@gcb.nv.gov](mailto:sspringer@gcb.nv.gov)

**Re: 2015-06R, Amendments to NAC 368A pursuant to SB 266**

Dear Chief Springer:

On behalf of Boyd Gaming Corporation please accept this letter in response to the proposed amendment to NAC 368A (dated July 20, 2015) promulgated pursuant to the above regulatory proceeding. The following comments are offered for the Board's consideration.

**NAC 368A.400(13) - "Ticket"**

SB 266 provides an exemption to the imposition of the Live Entertainment Tax (LET) with respect to admission charges collected and retained by nonprofit organizations, provided that "...the number of tickets... offered for sale or other distribution... is less than 7500." NRS 368A.200(2)(a) and (4)(d). In cases where a facility hosts a tournament or other multi-event contest or activity that occurs over the course several days, the tickets offered for sale may provide admission to a single event on a single day, a series of events on a single day, multiple events on multiple days, or to all events for the entire tournament or multi-event activity.

In such cases, Boyd Gaming suggests the following language be added to the definition of "ticket" in order to clarify that the number of tickets offered for sale is based upon each individual event, rather than an aggregation of any number of events:

***13. "Ticket" to mean a physical or electronic document that provides a person admission to a facility where live entertainment is provided. For the purposes of NRS 368A.200(2)(a) and (4)(d), where a single ticket provides admission to multiple live entertainment events, such ticket constitutes a ticket for each event in determining the total number of tickets offered for sale or distribution to patrons. If a ticket is required for admission to an***

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*individual event that is part of a multiple event offering, such individual event will constitute a separate event for purposes of determining the total number of tickets offered for sale or distribution to patrons for that individual event.*

## **NAC 368A.490(1) – Responsibilities of persons licensed to conduct gaming**

NRS 368A places responsibility upon the licensed gaming establishment for the collection and payment of the LET. NRS 368A.140 and 160. The proposed amendment to NAC 368A.490 extends this responsibility even where another person is “selling or distributing” the tickets. This responsibility is understandable when the other person selling or distributing the tickets is doing so on behalf of the licensed gaming establishment (i.e., via a ticket service provider whereby the provider does not take title and ownership of the tickets). In such circumstances, the licensed gaming establishment will have or is expected to have knowledge of the sales and required tax collections. However, where a patron or ticket broker purchases tickets and later resells the tickets to a third party, the licensed gaming establishment will have no knowledge or record of the resale transaction. Consequently, the licensed gaming establishment should not be responsible for the collection and payment of LET on the resale transaction. The following language NAC 368A.490(1) is offered to address this situation:

1. ***Except as otherwise provided in this subsection, if ~~(H)~~ live entertainment that is taxable under chapter 368A of NRS is provided at a licensed gaming establishment, the person licensed to conduct gaming at that establishment is responsible for the payment of the tax, even if another person is affording that entertainment **or selling or distributing admissions**. In such a case, the person licensed to conduct gaming at that establishment is responsible for collecting the tax from the person affording that entertainment **or selling or distributing admissions** and for remitting the tax based upon the records of the person affording that entertainment **or selling or distributing admissions**. **Where the person purchasing the tickets takes title and ownership of the tickets and resells the tickets to a third party, the person licensed to conduct gaming is not responsible for the collection and remittance of the tax on the resale transaction.*****

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Thank you for your consideration of the above comments to the proposed amendments to NAC 368A (2015-06R).

Sincerely

RUSSELL M. ROWE, ESQ.

cc: David Krasn, Vice President, Corporate Tax  
Michelle Rasmusson, Director, Regulatory Compliance