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TO: ALL NONRESTRICTED LICENSEES AND INTERESTED PERSONS

SUBJECT: SENATE BILL 8 – CREATION OF LIVE ENTERTAINMENT TAX AND AMENDMENT TO THE CASINO ENTERTAINMENT TAX

On July 22, 2003, the Nevada Legislature adopted Senate Bill 8 (SB 8) and Governor Guinn signed this bill into law on July 23. The purpose of this letter is to provide an overview of the changes to the taxation of entertainment revenues generated by gaming licensees, including information on the transition to the provisions of the new law. This information is based upon a preliminary review of SB 8 by the State Gaming Control Board. The Board and the Department of Taxation will be drafting regulations as necessary to govern the administration of the Live Entertainment Tax (LET). Information contained in this letter and the attachments thereto is subject to revision. Licensees are strongly urged to read the law to fully understand its applicability to circumstances relevant to their operations.

SB 8 may be obtained from the Nevada Legislature's website at <http://www.leg.state.nv.us>. The portions of the bill related to taxation of entertainment are as follows:

Sections 64 through 100 – New LET statutes
Sections 171 through 173 – Amendments to existing Casino Entertainment Tax (CET) statutes (NRS 463.401 through NRS 463.4055)
Section 186 – Repeal provisions of CET statutes
Sections 193 – Effective dates

Objectives of Live Entertainment Sections of SB 8

In order to raise additional tax revenue, two primary measures were adopted related to the taxation of live entertainment in gaming establishments:

1. Effective 9/1/03 through 12/31/03, the existing CET statutes (see references above) are amended to tax more of the entertainment revenues generated by gaming establishments licensed for at least 51 machines or at least 6 tables. These amendments incorporate the "live entertainment" concept, and remove many of the exemptions that previously limited the dollar amount of revenue subject to the tax.

During this transitional period, taxation at the larger casinos has been expanded, but casinos with fewer than 51 slot machines and 6 machines (or a combination within these respective limits) continue to be exempt.

2. On January 1, 2004, the existing CET tax laws will be repealed and replaced with LET laws (which will be a new chapter in Title 32 of the Nevada Revised Statutes). These LET laws are applicable to licensed gaming establishments of all sizes, though some of the live entertainment revenue generated at smaller licensed gaming establishments will be exempt. The live entertainment laws will also apply to other types of nongaming businesses.

What is "live entertainment"?

SB 8 contains the following definition of "live entertainment":

"Live entertainment' means any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person or persons who are physically present when providing that activity to a patron or group of patrons who are physically present."

SB 8 also indicates that the Department of Taxation is to adopt regulations that further define live entertainment. Therefore, a conclusive determination of the types of entertainment subject to the tax cannot be made by the Board at this time, though we anticipate that only a few types of entertainment typical of Nevada casinos would fall outside this definition.

What is subject to the tax and what are the tax rates?

1. Generally, licensed gaming establishments will pay a 10% tax on the amounts they receive for admission charges¹, food, refreshments and merchandise sold within a live entertainment facility that has a maximum seating capacity of less than 7,500.
2. For live entertainment facilities with a maximum seating capacity of at least 7,500, licensed gaming establishments will pay a 5% tax on admission charges only. Revenue from the sale of food, refreshments and merchandise sold at these larger facilities will not be subject to the tax.

¹ "Admission charge" is defined in SB 8 as "the total amount, expressed in terms of money, of consideration paid for the right or privilege to have access to a facility where live entertainment is provided."

Attachment A is a chart that provides the Board's preliminary conclusions on the applicability of the tax to the state's larger gaming operations. In order to interpret the applicability to a given scenario, the reader must address four different issues. First, determine whether the type of entertainment offered is one that is subject to the tax. Next, determine whether the type of facility in which the entertainment is offered is of a type that is subject to taxation. Then analyze the size of the facility to determine what amounts, if any, are subject to the tax based upon the seating capacity of the event or facility (See Attachment A, footnote 2 for further discussion). Finally, check to see if any of the exemptions or exclusions applies. A "no" answer encountered at any point in this analysis would lead to the conclusion that the revenue, or some portion of the revenue, is not subject to the CET or LET tax.

LET Regulations

Regulation 13 currently governs the administration of the Casino Entertainment Tax and will continue to be the regulation that addresses taxation of live entertainment revenues. It is the Board's intent that any provisions contained therein that do not conflict with SB 8 will remain in effect. Where a conflict exists, the Board will attempt to reconcile the provisions of SB 8 with the provisions of Regulation 13. Many of the provisions in this regulation (e.g., package programs, intervals between entertainment periods, etc.) will still be applicable to the live entertainment tax. This regulation will be amended as soon as practicable to address any issues unique to the live entertainment tax, to update the descriptions of taxable facilities, and to change any references to "casino entertainment tax" to "live entertainment tax." Amendments may also be made to address emergent issues as necessary.

Additionally, the Senate Journal for July 22, 2003 contains a statement by Senator Randolph Townsend that the intent of SB 8 is to increase the amount of taxes to be generated. It expressly stated that everything that is subject to the existing CET will continue to be subject to the revised CET and the new LET. The regulations will be drafted to reflect the intent of the Legislature expressed by Senator Townsend.

The Board and the Department of Taxation will be working together to ensure consistent taxation among gaming and nongaming businesses. The industry will have an opportunity to provide comments and review regulation drafts as is customary with the adoption of any other regulations affecting the gaming industry. We anticipate holding regulation workshops in the near future as a means of facilitating industry input.

The Minimum Internal Control Standards and the Internal Control Procedures will apply to the amended CET and LET as applicable. The MICS and ICPs will also be amended, as necessary, to reflect the transition to the LET.

Who must pay the LET?

Attachment B is a decision chart that addresses in simplified form the issue of whether a licensed gaming establishment is subject to LET. The following is a summary of the applicability of this tax to gaming establishments:

Number of Slot machines and Games	Maximum seating capacity of entertainment facility	Admission Charge?	Subject to the Tax?
51 or more slot machines, or 6 or more games	Less than 7,500	Yes or no	Yes
	7,500 or more	No	No
		Yes	5% on admission charges only
Less than 51 machines <u>and</u> less than 6 games	Less than 300	Yes or no	No
	At least 300	Yes	Yes
		No	No

Licensees with less than 51 slot machines and less than 6 games who must pay the live entertainment tax should refer to Attachment A and the column entitled "LET 1/1/04 and after" to determine the applicability of the LET tax to their operations.

Tax Forms

The amended CET laws will apply to reporting periods between September 1, 2003 and December 31, 2003, and the current NGC-11 form will be used for these four months. The new LET laws will apply to reporting periods beginning January 1, 2004 and thereafter. Tax returns must include the appropriate revenue and apply the appropriate tax rates in effect for the reporting period.

Advance Ticket Sales

Many Nevada licensees sell tickets in advance for performances that will take place at a later date. The Board has concluded that the licensee should collect taxes based upon the laws in effect when the sale was made. The licensee may elect to include any taxable revenue in the reporting period during which the sale was made or may include the revenue in the reporting period during which the performance took place.

For example, if a licensee sells a ticket on August 18 for a performance that will take place on October 15 in a facility that has 4,000 seats, the licensee should not collect CET taxes on this sale since the law in effect on August 18 would exempt the sale.

If a licensee sells this same ticket on September 15, the revised CET laws will be in effect, and the licensee should collect the 10% tax. The licensee may choose to include the revenue in either its September or October NGC-11.

As previously stated, this letter contains preliminary conclusions based upon the Board's reading of SB 8. Many issues, especially those that involve the cooperative efforts of both the Board and the Department of Taxation, have not been resolved conclusively. Therefore, any information contained in this letter and the attachments is subject to revision. Questions about the revised CET or the LET should be directed to Chief Deputy Auditor Lynda Hartzell via email at lhartzell@gcb.state.nv.us or at (702) 486-2060. Group II licensees should direct questions to Tax and License Division Chief Steve Hixon at (775) 684-7770.

Sincerely,

Dennis Neilander
Chairman

DKN/GG

cc: Bobby L. Siller, Member
Scott Scherer, Member
Records and Research Services