

## **IC 4-33-13**

### Chapter 13. Wagering Taxes

#### **IC 4-33-13-0.1**

##### **Application of certain amendments to chapter**

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made to section 1 of this chapter by P.L.192-2002(ss) apply to admissions occurring and receipts received after June 30, 2002.

(2) The addition of section 1.5 of this chapter by P.L.192-2002(ss) applies to admissions occurring and receipts received after June 30, 2002.

(3) The amendments made to section 5 of this chapter by P.L.234-2007 apply to riverboat wagering taxes remitted by an operating agent after June 30, 2007.

*As added by P.L.220-2011, SEC.55.*

#### **IC 4-33-13-0.2**

##### **Calculation and collection of wagering taxes; penalties and interest; general assembly does not acquiesce in certain interpretation of statutes**

Sec. 0.2. (a) This section applies to the calculation and collection of wagering taxes on the adjusted gross receipts of a riverboat received:

(1) on or after the date that the riverboat implemented flexible scheduling under IC 4-33-6-21; and

(2) before July 1, 2003.

(b) The general assembly does not acquiesce in any interpretation of section 1.5 of this chapter and P.L.192-2002(ss), SECTION 205 that excludes adjusted gross receipts of a riverboat received after June 30, 2002, and before the date that the riverboat implemented flexible scheduling under IC 4-33-6-21 from the determination of which wagering tax rate to apply to adjusted gross receipts of the riverboat received on or after the riverboat implemented flexible scheduling under IC 4-33-6-21.

(c) Wagering taxes imposed under section 1.5 of this chapter on adjusted gross receipts received on or after the date that the riverboat implemented flexible scheduling under IC 4-33-6-21 must be calculated and deposited using a graduated wagering tax rate selected (as stated in section 1.5 of this chapter) through a calculation that includes "adjusted gross receipts received during the period beginning July 1 of each year and ending June 30 of the following year".

(d) All penalties and interest otherwise due from a riverboat that underpaid the amount of wagering tax due after June 30, 2002, and before May 1, 2003, as a result of a failure to include adjusted gross receipts received by the riverboat after June 30, 2002, and before the date that the riverboat implemented flexible scheduling under IC 4-33-6-21 in the determination of which wagering tax rate to

apply to adjusted gross receipts received after the riverboat implemented flexible scheduling under IC 4-33-6-21 are waived if the riverboat paid the unpaid balance due in two (2) equal installments on the following dates:

(1) July 1, 2003.

(2) July 1, 2004.

*As added by P.L.220-2011, SEC.56.*

#### **IC 4-33-13-1**

##### **Adjusted gross receipts tax; rate; payment; inapplicability to flexible scheduling**

Sec. 1. (a) This section does not apply to a riverboat that has implemented flexible scheduling under IC 4-33-6-21.

(b) Subject to section 1.5(h) of this chapter, a tax is imposed on the adjusted gross receipts received from gambling games authorized under this article at the rate of twenty-two and five-tenths percent (22.5%) of the amount of the adjusted gross receipts.

(c) The licensed owner shall remit the tax imposed by this chapter to the department before the close of the business day following the day the wagers are made.

(d) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(e)).

(e) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the licensed owner to file a monthly report to reconcile the amounts remitted to the department.

(f) The department may allow taxes remitted under this section to be reported on the same form used for taxes paid under IC 4-33-12.

*As added by P.L.277-1993(ss), SEC.124. Amended by P.L.192-2002(ss), SEC.24; P.L.224-2003, SEC.45.*

#### **IC 4-33-13-1.5**

##### **Graduated wagering tax applied to riverboats implementing flexible scheduling**

Sec. 1.5. (a) This section applies only to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 or IC 4-33-6.5.

(b) A graduated tax is imposed on the adjusted gross receipts received from gambling games authorized under this article as follows:

(1) Fifteen percent (15%) of the first twenty-five million dollars (\$25,000,000) of adjusted gross receipts received during the period beginning July 1 of each year and ending June 30 of the following year.

(2) Twenty percent (20%) of the adjusted gross receipts in excess of twenty-five million dollars (\$25,000,000) but not exceeding fifty million dollars (\$50,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(3) Twenty-five percent (25%) of the adjusted gross receipts in excess of fifty million dollars (\$50,000,000) but not exceeding

seventy-five million dollars (\$75,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(4) Thirty percent (30%) of the adjusted gross receipts in excess of seventy-five million dollars (\$75,000,000) but not exceeding one hundred fifty million dollars (\$150,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(5) Thirty-five percent (35%) of all adjusted gross receipts in excess of one hundred fifty million dollars (\$150,000,000) but not exceeding six hundred million dollars (\$600,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(6) Forty percent (40%) of all adjusted gross receipts exceeding six hundred million dollars (\$600,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(c) The licensed owner or operating agent shall remit the tax imposed by this chapter to the department before the close of the business day following the day the wagers are made.

(d) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

(e) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the licensed owner or operating agent to file a monthly report to reconcile the amounts remitted to the department.

(f) The department may allow taxes remitted under this section to be reported on the same form used for taxes paid under IC 4-33-12.

(g) If a riverboat implements flexible scheduling during any part of a period beginning July 1 of each year and ending June 30 of the following year, the tax rate imposed on the adjusted gross receipts received while the riverboat implements flexible scheduling shall be computed as if the riverboat had engaged in flexible scheduling during the entire period beginning July 1 of each year and ending June 30 of the following year.

(h) If a riverboat:

(1) implements flexible scheduling during any part of a period beginning July 1 of each year and ending June 30 of the following year; and

(2) before the end of that period ceases to operate the riverboat with flexible scheduling;

the riverboat shall continue to pay a wagering tax at the tax rates imposed under subsection (b) until the end of that period as if the riverboat had not ceased to conduct flexible scheduling.

*As added by P.L.192-2002(ss), SEC.25. Amended by P.L.224-2003, SEC.46; P.L.92-2003, SEC.54; P.L.97-2004, SEC.16; P.L.233-2007, SEC.18.*

#### **IC 4-33-13-2**

**State gaming fund; establishment**

Sec. 2. The state gaming fund is established. Money in the fund does not revert to the state general fund at the end of the state fiscal year.

*As added by P.L.277-1993(ss), SEC.124. Amended by P.L.273-1999, SEC.41.*

#### **IC 4-33-13-3**

##### **Deposits into state gaming fund**

Sec. 3. The department shall deposit tax revenue collected under this chapter in the state gaming fund.

*As added by P.L.277-1993(ss), SEC.124. Amended by P.L.273-1999, SEC.42.*

#### **IC 4-33-13-4**

##### **Appropriations**

Sec. 4. Sufficient funds are annually appropriated to the commission from the state gaming fund to administer this article.

*As added by P.L.277-1993(ss), SEC.124. Amended by P.L.20-1995, SEC.18; P.L.273-1999, SEC.43.*

#### **IC 4-33-13-5**

##### **Disposition of tax revenue**

Sec. 5. (a) This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The first thirty-three million dollars (\$33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (e).

(2) Subject to subsection (c), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

(i) a city described in IC 4-33-12-6(b)(1)(A); or

(ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A).

(3) Subject to subsection (d), the remainder of the tax revenue remitted by each licensed owner shall be paid to the state general fund. In each state fiscal year, the treasurer of state shall make the transfer required by this subdivision not later than the last business day of the month in which the tax revenue is remitted to the state for deposit in the state gaming fund.

However, if tax revenue is received by the state on the last business day in a month, the treasurer of state may transfer the tax revenue to the state general fund in the immediately following month.

(b) This subsection applies only to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue remitted by the operating agent under this chapter as follows:

(1) Thirty-seven and one-half percent (37.5%) shall be paid to the state general fund.

(2) Nineteen percent (19%) shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b). However, at any time the balance in that fund exceeds twenty million dollars (\$20,000,000), the amount described in this subdivision shall be paid to the state general fund.

(3) Eight percent (8%) shall be paid to the Orange County development commission established under IC 36-7-11.5.

(4) Sixteen percent (16%) shall be paid in equal amounts to each town that is located in the county in which the riverboat is located and contains a historic hotel. The following apply to taxes received by a town under this subdivision:

(A) At least twenty-five percent (25%) of the taxes must be transferred to the school corporation in which the town is located.

(B) At least twelve and five-tenths percent (12.5%) of the taxes imposed on adjusted gross receipts received after June 30, 2010, must be transferred to the Orange County development commission established by IC 36-7-11.5-3.5.

(5) Nine percent (9%) shall be paid to the county treasurer of the county in which the riverboat is located. The county treasurer shall distribute the money received under this subdivision as follows:

(A) Twenty-two and twenty-five hundredths percent (22.25%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) Twenty-two and twenty-five hundredths percent (22.25%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve

thousand (12,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Fifty-five and five-tenths percent (55.5%) shall be retained by the county in which the riverboat is located for appropriation by the county fiscal body after receiving a recommendation from the county executive.

(6) Five percent (5%) shall be paid to a town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). At least forty percent (40%) of the taxes received by a town under this subdivision must be transferred to the school corporation in which the town is located.

(7) Five percent (5%) shall be paid to a town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). At least forty percent (40%) of the taxes received by a town under this subdivision must be transferred to the school corporation in which the town is located.

(8) Five-tenths percent (0.5%) of the taxes imposed on adjusted gross receipts received after June 30, 2010, shall be paid to the Indiana economic development corporation established by IC 5-28-3-1.

(c) For each city and county receiving money under subsection (a)(2), the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year, the treasurer of state shall pay that part of the riverboat wagering taxes that:

- (1) exceeds a particular city's or county's base year revenue; and
- (2) would otherwise be due to the city or county under this section;

to the state general fund instead of to the city or county.

(d) Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the state general fund under subsection (a)(3) to the build Indiana fund an amount that when added to the following may not exceed two hundred fifty million dollars (\$250,000,000):

- (1) Surplus lottery revenues under IC 4-30-17-3.
- (2) Surplus revenue from the charity gaming enforcement fund under IC 4-32.2-7-7.
- (3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.

The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the state general fund under subsection (a)(3) to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the state general fund from the transfers under subsection (a)(3) for the state fiscal year.

(e) Before August 15 of each year, the treasurer of state shall distribute the wagering taxes set aside for revenue sharing under subsection (a)(1) to the county treasurer of each county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. Except as provided in subsection (h), the county auditor shall distribute the money received by the county under this subsection as follows:

- (1) To each city located in the county according to the ratio the city's population bears to the total population of the county.
- (2) To each town located in the county according to the ratio the town's population bears to the total population of the county.
- (3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

(f) Money received by a city, town, or county under subsection (e) or (h) may be used for any of the following purposes:

- (1) To reduce the property tax levy of the city, town, or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5).
- (2) For deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for debt repayment.
- (3) To fund sewer and water projects, including storm water management projects.
- (4) For police and fire pensions.
- (5) To carry out any governmental purpose for which the money is appropriated by the fiscal body of the city, town, or county. Money used under this subdivision does not reduce the property tax levy of the city, town, or county for a particular year or reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5.

(g) This subsection does not apply to an entity receiving money under IC 4-33-12-6(c). Before September 15 of each year, the treasurer of state shall determine the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year. If the treasurer of state determines that the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year was less than the entity's base year

revenue (as determined under IC 4-33-12-6), the treasurer of state shall make a supplemental distribution to the entity from taxes collected under this chapter and deposited into the state general fund. Except as provided in subsection (i), the amount of an entity's supplemental distribution is equal to:

- (1) the entity's base year revenue (as determined under IC 4-33-12-6); minus
- (2) the sum of:
  - (A) the total amount of money distributed to the entity during the preceding state fiscal year under IC 4-33-12-6; plus
  - (B) any amounts deducted under IC 6-3.1-20-7.

(h) This subsection applies only to a county containing a consolidated city. The county auditor shall distribute the money received by the county under subsection (e) as follows:

- (1) To each city, other than a consolidated city, located in the county according to the ratio that the city's population bears to the total population of the county.
- (2) To each town located in the county according to the ratio that the town's population bears to the total population of the county.
- (3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be paid in equal amounts to the consolidated city and the county.

(i) This subsection applies only to the Indiana horse racing commission. For each state fiscal year the amount of the Indiana horse racing commission's supplemental distribution under subsection (g) must be reduced by the amount required to comply with IC 4-33-12-7(a).

*As added by P.L.277-1993(ss), SEC.124. Amended by P.L.2-1995, SEC.11; P.L.25-1995, SEC.7; P.L.273-1999, SEC.44; P.L.186-2002, SEC.11; P.L.178-2002, SEC.3; P.L.192-2002(ss), SEC.26; P.L.185-2003, SEC.1; P.L.92-2003, SEC.55; P.L.224-2003, SEC.47; P.L.97-2004, SEC.17; P.L.2-2005, SEC.10; P.L.246-2005, SEC.46; P.L.91-2006, SEC.4; P.L.233-2007, SEC.19; P.L.234-2007, SEC.281; P.L.3-2008, SEC.14; P.L.146-2008, SEC.18; P.L.96-2010, SEC.4.*

#### **IC 4-33-13-5.1**

##### **Use of certain funds received under section 5 of chapter; requirements**

Sec. 5.1. Subject to:

- (1) the appropriation requirements in IC 6-1.1; and
- (2) any agreement entered into by a city, town, or county that commits the money for a particular purpose;

money received at any time under section 5(d) (currently, section 5(e) or 5(h)) of this chapter may be used after May 7, 2003, for any purpose authorized by section 5 of this chapter.

*As added by P.L.220-2011, SEC.57.*

**IC 4-33-13-6**

**Tax revenue paid to local governments**

Sec. 6. (a) Money paid to a unit of local government under this chapter:

- (1) must be paid to the fiscal officer of the unit and may be deposited in the unit's general fund or riverboat fund established under IC 36-1-8-9, or both;
- (2) may not be used to reduce the unit's maximum or actual levy under IC 6-1.1-18.5; and
- (3) may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4.

(b) This chapter does not prohibit the city or county designated as the home dock of the riverboat from entering into agreements with other units of local government in Indiana or in other states to share the city's or county's part of the tax revenue received under this chapter.

*As added by P.L.277-1993(ss), SEC.124. Amended by P.L.90-1997, SEC.3.*