

Guide to Betting Operations Tax

2021-22

The purpose of this Guide to Betting Operations Tax (“Guide”) is to provide a general guide to the administration of the betting operations tax.

It deals with:

- liability
- registration
- calculation of tax payable
- payment of tax, interest and penalty tax
- record keeping obligations of a taxpayer
- audits and investigations; and
- taxpayers’ rights of objection in respect of the betting operations tax.

The contents of this Guide are current at the time of printing but may be subject to change in the future.

We hope you find this publication to be worthwhile and welcome any comments or suggestions that would help us to improve it.

For further details on any matters relating to the administration of the betting operations tax, please feel free to contact RevenueSA on (08) 8226 3750 or returns@sa.gov.au.

COMMISSIONER OF STATE TAXATION

25 October 2021

This Guide to Betting Operations Tax does not have the force of law

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Introduction

The Betting Operations Tax applies from 1 July 2017 and is payable in respect of a financial year if your Net State Wagering Revenue for that year exceeds \$150,000. The tax is payable at the rate of 15% on Net State Wagering Revenue in excess of \$150,000 for a financial year.

Who is liable to pay?

All betting operators with Net State Wagering Revenue that exceeds \$150,000 for a financial year.

When do I need to register?

If you expect your Net State Wagering Revenue to exceed \$150,000 for a financial year, you are required to register on RevenueSA's online system, which can be accessed via RevenueSA's website.

Returns and making payments

Once registered, betting operators (other than oncourse bookmakers) are required to lodge returns (even if nil tax is payable) and make any relevant payment on a monthly basis, within 21 days after the end of the month in a financial year in which the betting operator's Net State Wagering Revenue for that financial year first exceeds \$150,000, and within 21 days after the end of each subsequent month of that financial year.

Based on the example below, the requirement to lodge returns (even if nil tax is payable) and make any relevant payment would not commence until after the end of October.

Once registered, oncourse bookmakers are required to lodge returns (even if nil tax is payable) and make any relevant payment on an annual basis, within 21 days after the close of the financial year.

Returns must be made via RevenueSA's online system.

Payment is made by Electronic Funds Transfer (EFT).

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Example 1

| Month | Net State Wagering Revenue for month | Net State Wagering Revenue Year to Date | Tax-Free Balance (of \$150,000) | Taxable Net State Wagering Revenue for month | Tax Payable |
|-----------|--------------------------------------|---|---------------------------------|--|-------------|
| July | \$50,000 | \$50,000 | \$100,000 | Nil | Nil |
| August | -\$25,000 | \$25,000 | \$125,000 | Nil | Nil |
| September | \$100,000 | \$125,000 | \$25,000 | Nil | Nil |
| October | \$80,000 | \$205,000 | Nil | \$55,000 | \$8,250 |
| November | -\$25,000 | \$180,000 | Nil | Nil | Nil |
| December | \$150,000 | \$330,000 | Nil | \$125,000 | \$18,750 |

RevenueSA's online system will also contain help and instructions to assist betting operators with the lodgement of returns and the making of payment.

Calculation of Net State Wagering Revenue

The Net State Wagering Revenue of a betting operator for a financial year is the sum of:

(1)

The total amount of all bets made with, or using a service provided by, the betting operator during the financial year by persons who were located in South Australia at the time of making the bet or using the service.

plus

(2)

The total of any fees, commission or other amounts of a kind prescribed by the regulations associated with making the bets or using the service.

less

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(3)

The total amount of all winnings paid or payable in respect of those bets.

less

(4)

The total of any other amounts of a kind prescribed by the regulations.

For the purposes of (2), all fees and commissions associated with making bets with, or using a service provided by, a betting operator are required under the regulations to be included in this calculation.

For the purposes of (4), the amount of any refund of a bet made with, or using a service provided by, a betting operator by persons located in South Australia at the time of making the bet or using the service is required by the regulations to be included in this calculation.

There are no deductions prescribed by the regulations.

Determining the value of bets made by persons located in South Australia at the time of making a bet or using a service

RevenueSA acknowledges that it may be problematic for betting operators to accurately determine a person's location at the time of making a bet or using a service.

Accordingly, betting operators can, if they are unable to accurately determine a person's location at the time of making a bet or using a service, estimate Net State Wagering Revenue based on a person's registered residential address at the time of making the bet or using the service. Section 12 of the *Taxation Administration Act 1996* provides that the Commissioner of State Taxation (the "Commissioner") may make an assessment on the information that the Commissioner has from any source at the time the assessment is made. Further, if the Commissioner has insufficient information to make an exact assessment of a tax liability, the Commissioner may make an assessment by way of estimate.

Where a betting operator chooses the registered residential address approach to calculating Net State Wagering Revenue, it is essential that the betting operator has sufficient safeguards in place to ensure that registered residential address information is accurate.

RevenueSA will undertake comprehensive compliance activities to ensure that registered residential address information is accurate, with interest and penalty tax potentially applying where a betting operator fails to pay any of the tax it is liable to pay (see Interest & penalty tax).

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See the **Interest and penalty tax** section for more information.

Determining Net State Wagering Revenue if you are a betting exchange

Betting exchanges effectively operate as betting brokers (that is, facilitate the making or accepting of bets between others), and derive their revenue from charging a commission or a transaction fee for their service. The commission and/or transaction fee charged by a betting exchange to a person (including a business) who is located in South Australia at the time the bet is made or the service is used should be included by the betting exchange in its calculation of Net State Wagering Revenue.

Treatment of lay-off bets

If a betting operator receives a lay-off bet from a person (including a business) that is not related to the betting operator and that is located in South Australia at the time the lay-off bet is made, the betting operator should include the lay-off bet in its calculation of Net State Wagering Revenue.

If a betting operator makes a lay-off bet, the betting operator should not include the lay-off bet in its calculation of Net State Wagering Revenue.

Example 2

Betting Operator 1 receives a \$100 bet from a person, which will pay \$200 if the bet is successful.

Betting Operator 1 uses the \$100 to make a lay-off bet with unrelated Betting Operator 2, which will pay \$195 if the bet is successful.

| | Betting Operator 1 Net State Wagering Revenue | Betting Operator 2 Net State Wagering Revenue |
|---|--|--|
| Successful bet – unrelated parties | -\$100 (that is, \$100 minus \$200) | -\$95 (that is, \$100 minus \$195) |
| Unsuccessful bet – unrelated parties | \$100 | \$100 |

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Treatment of promotional bets / bonus bets / free bets

Example 3

A person receives a \$100 promotional bet from a betting operator and uses \$50 to make a bet, which will pay \$100 if successful.

If the bet is successful and:

- a) \$100 is paid as winnings, the betting operator should account for Net State Wagering Revenue of -\$50 (that is, \$50 bet received minus \$100 paid as winnings); or
- b) the betting operator is entitled to recoup the amount of the promotional bet used (that is, \$50) from the person's account, the betting operator should account for Net State Wagering Revenue of \$0 (that is, \$50 bet received minus \$100 paid as winnings plus \$50 taken from the person's account); or
- c) the terms of the promotional bet dictate that the amount of the promotional bet used (that is, \$50) should not be returned to the person as winnings, the betting operator should account for Net State Wagering Revenue of \$0 (that is, \$50 bet received minus \$50 paid as winnings).

If the bet is unsuccessful, the betting operator should account for Net State Wagering Revenue of \$50 (that is, \$50 received).

Treatment of fees, commissions or other amounts associated with making the bet or using the service

All fees, commissions or other amounts associated with making the bet or using the service (including, but is not limited to, amounts deducted for account keeping (including for inactive accounts), for memberships, for loyalty programs and for credit cards) should be included in Net State Wagering Revenue.

Interest and penalty tax

For the purposes of the *Taxation Administration Act 1996*, the *Authorised Betting Operations Act 2000* and the *Authorised Betting Operations (Taxation) Variation Regulations 2017* are taxation laws. Accordingly, interest and penalty tax may apply, as outlined in Part 5 of the *Taxation Administration Act 1996*, where a betting operator fails to pay any of the tax it is liable to pay pursuant to these taxation laws.

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Record keeping

Betting operators must keep all records necessary to accurately assess their tax liability for at least 5 years.

Audits and investigations

RevenueSA will conduct audit and investigation programs to ensure compliance with the Betting Operations Tax.

Accordingly, RevenueSA may request that a betting operator provide records and documents (including written or electronic records and documents) to help determine whether the betting operator is compliant with its obligations.

Objections and appeals

Objections

A betting operator that is dissatisfied with a reviewable decision of the Commissioner may lodge a written notice of objection with the Minister for Finance (the Minister) within 60 days of the decision, stating fully and in detail the grounds for the objection. The Minister can permit an objection after the 60-day period, but not after 12 months of the decision.

Appeals

A betting operator that is dissatisfied with a decision of the Minister to an objection may appeal to the Supreme Court within 60 days of the date of the Minister's determination. Appeals need not be restricted to the grounds of the original objection. The Supreme Court can permit an appeal after the 60-day period, but not after 12 months of the determination.

An appeal cannot be exercised unless 50% of the tax assessed (not including interest or penalty tax) that relates to the appeal has been paid.

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Application of refund of overpaid tax

A betting operator may request a refund of tax paid within the last 5 years, providing the Commissioner has not previously made an assessment of the tax liability for which the payment was made.

Further information

Online versions of state legislation are available at the South Australian legislation website at legislation.sa.gov.au.

See the **Betting Operations Tax** page
on revenuesa.sa.gov.au for more information.
