

**CHAPTER 3.18  
GAMBLING TAX**

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3.18.020 Definitions: For the purposes of this chapter, the words and terms used shall have the same meaning as each has under Chapter 218, Laws of 1973, 1st Ex. Sess. and RCW Chapter 9.46, each as amended, and under the rules of the Washington State Gambling Commission, Chapter 230 WAC, unless otherwise specifically provided or the context in which they are used herein clearly indicates that they be given some other meaning. (Ord. 918, 1979)

3.18.060 Taxes Imposed - Amounts: There is levied a tax upon all persons, associations, and organizations who conduct or operate gambling activities within the city and who have been duly licensed by the Washington State Gambling Commission to conduct or operate such gambling activities, which tax shall be paid on the following gambling activities in the following respective amounts:

A. Bingo and Raffle Games: Any bingo or raffle activity, a tax computed at the rate of five percent (5%) of the gross receipts from a bingo game or raffle, less the amount awarded as cash or merchandise prizes; provided, however, that no tax shall be imposed under the authority of this chapter on bingo or raffles when such activity or any combination thereof is conducted by any bona fide charitable or non-profit organization as defined in RCW 9.26.020 (3), which organization has no paid operating or management personnel and has gross income from bingo or raffles, or any combination thereof, not exceeding five thousand dollars (\$5,000) per year less the amount paid for as prizes; and provided further, that activities carried out by public or private schools or by organizations sponsored by or related to public or private schools, including parent organizations and student body organizations, shall be exempt from the provisions of this chapter when the proceeds of such activities are applied for the benefit of any such school or school-sponsored or school-related organization; and provided further, that any deviation from exemption restrictions enumerated in this subsection shall subject such organization to the requirements of this chapter to the same extent as if such exemption had not been granted, including required payment within ten (10) days after written demand of the Finance Director of any taxes formerly granted exemption under this subsection.

B. Punchboard or Pull-Tab: Any punchboard or pull-tab, as of January 1, 1994, a tax computed at the rate of three percent (3.0%) of the gross receipts received from the conduct of such activity. The tax shall be assessed at the rate of two and a half percent (2½%) of the gross receipts beginning the second quarter of 1995 provided the city's sales tax revenues exceeds the West Coast CPI C-W for the year of 1994 by at least two percent (2%) over those revenues for 1993.

- C. Card Games: Any card game, a tax computed at the rate of ten percent (10%) of the gross income received from the conduct of such activity. (Ord. 1955, 5/23/00; Ord. 1613, 1994; Ord. 1575, 1993; Ord. 1425, 1990; Ord. 1343, 1988; Ord. 1305, 1987; Ord. 1221, 1986; Ord. 918, 1979)

3.18.100 Tax to be Computed and Paid Quarterly - Exceptions: Each of the various taxes imposed by this chapter shall be computed on the basis of activity during each calendar quarter year. They shall be due and payable in quarterly installments, and the remittance, together with return forms, shall be made to the City of Moses Lake, Washington. This shall be done on or before the last day of the month next succeeding the quarterly period in which the tax is accrued; that is, on January 31st, April 30th, July 31st, and October 31st of each year. The following exceptions to this payment schedule shall be allowed or required:

- A. Whenever any person, association, or organization taxable under this chapter conducting or operating a taxable activity on a regular basis discontinues operation for a period of more than four (4) consecutive weeks, or quits business, sells out, or otherwise disposes of the business, or terminates the business, any tax due shall become payable, and such taxpayer shall within ten (10) days make a return and pay the tax.
- B. Whenever it appears to the Finance Director that the collection of taxes from any person, association, or organization may be in jeopardy, the Finance Director, after not less than fifteen (15) days' notice to the taxpayer, may require the taxpayer to remit taxes and returns at whatever intervals the Finance Director shall deem appropriate under the circumstances.
- C. Whenever reports required by the State Gambling Commission under the provisions of RCW Chapter 9.46 are required on less than a quarterly basis, any person, association, or organization taxable under this chapter shall report to the city on the same basis. (Ord. 918, 1979)

3.18.140 Administration and Collection of Tax:

- A. Administration and collection of the various taxes imposed in this chapter shall be the responsibility of the Finance Director of the city. Remittance of the amount due shall be accompanied by a completed return form prescribed and provided by the Finance Director. The taxpayer shall be required to swear and affirm that the information given in the return is true, accurate, and complete. The Finance Director is authorized, but not required, to mail to taxpayers the necessary forms. Failure of the taxpayers to receive such a form shall not excuse them from making the return and timely paying all taxes due. The Finance Director shall make forms available to the public in reasonable numbers in his office during regular business hours.
- B. In addition to the return form, a copy of the taxpayer's quarterly report to the Washington State Gambling Commission required by WAC 230-08 for the period in which the tax accrued shall accompany remittance of the tax. (Ord. 918, 1979)

3.18.200 Method of Payment: Taxes payable shall be remitted to the Finance Director on or before the time required by bank draft, certified check, cashier's check, personal check, money order, or in cash. If payment is made by draft or check, the tax shall not be deemed paid until the draft or check is honored in the usual course of business, nor shall the acceptance of any sum by the Finance Director be an acquittance or discharge of the tax unless the taxes due are paid in full. The return and a copy of the quarterly report to the Washington State Gambling Commission shall be filed in the office of the Finance Director after notation by that office upon the return of the amount actually received from the taxpayer. (Ord. 918, 1979)

3.18.240 Failure to Make Timely Payments of Tax or Fee: If full payment of any tax or fee due is not received by the Finance Director on or before the date due, there shall be added to the amount due a penalty fee as follows:

- A. One (1) to ten (10) days late, six percent (6%) of tax due;
- B. Eleven (11) to twenty (20) days late, eight percent (8%) of tax due;
- C. Twenty-one (21) to thirty-one (31) days late, ten percent (10%) of tax due;
- D. Thirty-two (32) to sixty (60) days late, twelve percent (12%) of tax due;

But in no event shall the penalty amount be less than five dollars (\$5). In addition to this penalty, the Finance Director shall charge the taxpayer interest of one percent (1%) on all taxes and fees due for each thirty-day (30) period or portion thereof that said amounts are past due.

Failure to make payment in full of all tax amounts, and penalties, within sixty days (60) following the day the tax amount initially became due shall be both a civil and criminal penalty of this section. (Ord. 2415, 9/23/08; Ord. 918, 1979)

3.18.280 Notice of Intention to Engage in Activity to be Filed:

- A. In order that the city may identify those persons who are subject to taxation under these provisions, each person, association, or organization shall file with the Finance Director a form "Declaration of Intent" to conduct an activity taxable as provided in this chapter. The Declaration of Intent shall be a form to be prescribed by the Finance Director and shall be submitted with a copy of the license issued by the Washington State Gambling Commission. The filing shall be made not later than ten (10) days prior to conducting or operating a taxable activity or twenty (20) days after the effective date of the ordinance codified in this chapter if the activity is being conducted prior to its adoption. No fee shall be charged for such filing, which is not for the purpose of regulation of this activity.
- B. Failure to timely file shall not excuse any person, association, or organization from any tax liability. (Ord. 918, 1979)

3.18.320 Records Required:

- A. Each person, association, or organization engaging in an activity taxable under these provisions shall maintain records respecting that activity which truly, completely, and accurately disclose all information necessary to determine the tax liability during each base tax period. Such records shall be kept and maintained for a period of not less than three (3) years. In addition, all information and items required by the Washington State Gambling Commission under WAC 23-08, and the United States Internal Revenue Service respecting taxation, shall be kept and maintained for the periods required by those agencies.
- B. All books, records, and other items required to be kept and maintained under this section shall be subject to and immediately available for inspection and audit at any reasonable time with reasonable notice. Inspection shall be made upon demand by the Finance Director or his designee, at the place where such records are kept, for the purpose of enforcing these provisions.
- C. Where the taxpayer does not keep all of the books, records, or items required in this jurisdiction, the taxpayer shall either:
  - 1. Produce all of the required books, records, or items within the city for such inspection within seven days following a request of the Finance Director; or

2. Bear the actual cost of the inspection by the Finance Director or his designee, at the location at which such books, records, or items are located, provided that a taxpayer choosing to bear these costs shall pay in advance to the Finance Director the estimated costs thereof, including, but not limited to, round-trip fare by the most rapid means, lodging, meals, and incidental expenses. The actual amount due, or to be refunded, for expenses shall be determined following said examination of the records. (Ord. 918, 1979)

3.18.360 Overpayment or Underpayment of Tax: If, upon application by a taxpayer for a refund or an audit of his records, or upon any examination of the returns or records by the Finance Director, it is determined that within the immediate past three (3) years:

- A. A tax or other fee has been paid in excess of that properly due, the total excess paid over all amounts due to the city within such period shall be credited to the taxpayer's account or shall be credited to the taxpayer at the taxpayer's option. No refund or credit shall be allowed with respect to any excess amounts paid more than three (3) years before the date of such application or examination.
- B. A tax or other fee has been paid which is less than properly due, or no tax or other fee has been paid, the Finance Director shall mail a statement to the taxpayer showing the balance due, including the tax amount or penalty assessment and fees, and it shall be a separate, additional violation of the provisions of this section, both civil and criminal, if the taxpayer fails to make payment in full within ten (10) calendar days of mailing. (Ord. 918, 1979)

3.18.400 Failure to Make Return: If any taxpayer fails, neglects, or refuses to make and file his return as and when required under these provisions, the Finance Director is authorized to determine the amount of tax payable, together with any penalty and/or interest assessed. The taxpayer shall then be notified by mail of the amount which shall become immediately due and payable. (Ord. 918, 1979)

3.18.440 Tax Additional to Others: The tax levied under this chapter shall be in addition to any license fee or tax imposed or levied under any law or any other ordinance of the city except as otherwise expressly provided in this chapter. (Ord. 918, 1979)

3.18.450 Notice of Violation and Order to Pay to Correct:

- A. General. If the Finance Director determines that any person is violating any of the provisions of this Chapter including but not limited to payment of taxes with the office of the Finance Director, he or she may issue a Notice of Violation and Order to Pay or Correct. This Notice will specifically indicate the following:
  1. The name and address of the person(s) charged with the violation.
  2. The street address or description of the location of the site on which the violation has been determined to exist.
  3. The amount necessary to cure the violation, including payment of taxes and penalties,
  4. The date by which the payment is to be made.
  5. A statement that the civil penalties established in 1.20.050(5) shall be assessed against the person(s) cited if the payment is not made within the specified time or the violation is not cured.
- B. Appeals: Any Notice of Violation and Order to Pay issued by the Finance Director shall be appealable to the Hearing Examiner under Chapter 20.03.
- C. Penalties:

1. Any violation for which a Notice of Violation and Order to Pay or Correct has been issued but which has not been paid or corrected within the time specified shall incur a civil penalty of two hundred fifty dollars (\$250) per day up to a sum of five thousand dollars (\$5,000), beginning on the day the payment was to be made. The cumulative penalty provided for in this paragraph shall not accrue while an appeal is pending, nor shall the penalty preclude the initiation of appropriate legal action to bar further operation of a business, trade, or occupation in violation of this chapter.
  2. If a penalty has been assessed pursuant to 1.20.050(5)(a), a Court shall assess that penalty and any additional penalty the Court considers appropriate plus court costs and attorney's fees.
- D. If the Finance Director determines that the violator continues to operate a business, trade, or profession after the Notice of Violation and Order to Pay or Correct has been issued and payment has not been received within the time specified, the Finance Director shall issue a notice of termination of utility service to any property permitting such business, trade, or profession to operate in violation of this chapter. Such notice of termination of utility service shall be issued pursuant to Chapter 13.12 and the procedures therein shall be followed. The Finance Director may refer the matter to the City Attorney for civil enforcement by injunction or other appropriate action.
- E. Compromise, Settlement, and Disposition of Disputes or Litigation: The Finance Director and the City Attorney may negotiate a settlement or compromise, or otherwise dispose of a dispute or litigation when to do so would be in the best interests of the city. (Ord. 2387, 4/8/08; Ord. 2374, 2/26/08; Ord. 1643, 1994)
- 3.18.520 Limitations on Right to Recovery: The right of recovery by the city from the taxpayer for any tax provided under this chapter shall be outlawed after the expiration of three (3) calendar years from the date that tax became due. The right of recovery against the city because of overpayment of tax by any taxpayer shall be outlawed after the expiration of three (3) calendar years from the date such payment was made. (Ord. 918, 1979)
- 3.18.600 Revenue: Any revenue collected from such tax shall be used primarily by the city for the purpose of the enforcement of the provisions of RCW Chapter 9.46, the rules and regulations of the Washington State Gambling Commission, and this chapter. (Ord. 918, 1979)