

**11 GCA FINANCE & TAXATION  
CH. 5 GAMING ACTIVITIES**

**CHAPTER 5  
[GAMING ACTIVITIES]**

**SOURCE:** Formerly entitled “Gaming,” this chapter was apparently created in 1996 when the Compiler codified GC §§ 59001-59019.1 as Chapter 5 of Title 11 of the Guam Code Annotated. Entire chapter repealed and reenacted by P.L. 30-162:3 (July 16, 2010).

**2013 NOTE:** The first Guam law to address gaming was P.L. 13-026:1 (June 7, 1975), which added new Title LXIV to the Government Code and provided for the creation of the Guam Greyhound Racing Commission to oversee dog racing in Guam. (This public law erroneously identified the title as LXIV, rather than LIX, but this typographical error did not affect the substance or validity of the legislation.) The name of the commission was amended to “Guam Gaming Commission” pursuant to P.L. 13-105:3 (Nov. 26, 1975).

Gaming activities were addressed in other legislation. P.L. 13-105:1 (Nov. 26, 1975), the Guam Jai Alai Act, added new Chapter IV to GC Title XXVII (§§ 26400 - 26438). This public law erroneously identified the title as XXVII, rather than XXVI, this typographical error did not affect the substance or validity of the legislation. P.L. 13-123:1 (Jan. 7, 1976), the Territorial Lottery Act, added new Title LXVI (§§ 62300 - 62326) to the Government Code. This public law erroneously identified the title as LXVI, rather than LXII, this typographical error did not affect the substance or validity of the legislation.

Numerous changes were instituted by P.L. 19-005 (Aug. 21, 1987). Section 117 of this public law repealed GC § 59000 that created the commission, GC § 59002(3) that related to compensation of the commission chairman and secretary; and GC §§ 62524-62525 as they relate to compensation of commission members and audit of the commission. Section 118 of this public law amended any reference of Guam Gaming Commission to Director of the Department of Revenue and Taxation in GC §§ 59001 - 59013, 26400 - 26438 and 62301 - 62323, excluding those sections affected by section 117. Section 121 of P.L. 19-005 transferred all supplies, records, personal property, equipment, and commission staff to the Department of Revenue and Taxation; and all cash on hand transferred to the Treasurer of Guam.

P.L. 19-019:29 and 31 (Aug. 22, 1988) repealed both the Guam Jai Alai Act (GC §§ 26400 – 26438) and the Territorial Lottery Act (§§ 62300 – 62326). It appears that in 1996, the remaining statutes addressing gambling (GC §§ 59001-59019.1) were codified by the Compiler as Chapter 5 of Title 11 of the Guam Code Annotated, entitled “Gaming.” P.L. 30-162:3 (July 16, 2010) repealed Chapter 5 of 11 GCA entitled “Gaming” and enacted a new untitled Chapter 5 of 11 GCA consisting of §§ 5101 and 5102. Upon the enactment of P.L. 32-060:2 (July 9, 2013), Articles 1 and 2 were established to harmoniously fit within Chapter 5, pursuant to the authority granted by 1 GCA §1606.

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- Article 1. Dog Racing.
- Article 2. Revenue from Limited Gaming Activities.

**ARTICLE 1  
[DOG RACING]**

- § 5101. Dog Racing.
- § 5102. Licensing and Permitting.

**§ 5101. Dog Racing.**

Notwithstanding any other provision of law, rule or regulation, no dog racing or racing meeting where any form of betting or wagering on the speed or ability of dogs occurs shall be conducted or permitted.

**SOURCE:** Added by P.L. 30-162:3 (July 16, 2010).

**§ 5102. Licensing and Permitting.**

The Department of Revenue and Taxation and all other government of Guam agencies are hereby prohibited from accepting or approving any applications or requests for any canine racing-related activities, including, but not limited to, racing dates, race meetings and pari-mutuel pools.

**SOURCE:** Added by P.L. 30-162:3 (July 16, 2010).

**ARTICLE 2  
REVENUE FROM LIMITED GAMING ACTIVITIES**

- § 5201. Limited Gaming Tax.
- § 5202. Violations of Taxation Provisions - Penalties.
- § 5203. Returns and Reports - Failure to File - Penalties.
- § 5204. Limited Gaming Fund.
- § 5205. Limited Gaming Activities - Authorized and Unauthorized.

**§ 5201. Limited Gaming Tax.**

(a) There is hereby imposed a limited gaming tax on the gross receipts from limited gaming activities allowed by this Act in Guam. The tax rate on limited gaming activities shall be four percent.

(b) (1) The Department shall collect the amount of limited gaming tax on the gross receipts from limited gaming activities

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determined pursuant to Subsection (a) of this Section from any limited gaming licensee owing the tax, and shall have all of the powers, rights, and duties provided for by law to carry out such collection.

(2) All moneys collected pursuant to this Section shall be deposited in the Fund created by § 5204 of this Act.

(c) Senior Citizen Centers. Notwithstanding the provisions of 11 GCA § 5205(a), all bingo games or raffles being conducted in the senior centers by persons enrolled in the senior program shall not be taxable. Any income derived from the bingo games or sale of raffle tickets shall go towards the activities of the senior citizens and for exclusive use by the senior citizens.

**SOURCE:** Added by P.L. 32-060:2 (July 9, 2013). Subsection (c) added as uncodified law by P.L. 32-068:XII:27 (Sept. 11, 2013). Codified to this section by the Compiler.

**§ 5202. Violations of Taxation Provisions - Penalties.**

(a) Any person who willfully:

(1) makes any false or fraudulent return in attempting to defeat or evade the tax imposed by this Act, commits a third degree felony and shall be punished as provided for by law;

(2) fails to pay tax due under this Act within thirty days after the date the tax becomes due, commits a misdemeanor and shall be punished as provided for by law;

(3) fails to file a return required by this Act within thirty days after the date the return is due, commits a misdemeanor and shall be punished as provided for by law;

(4) violates either Subsection (2) or (3) of this Section two or more times in any twelve-month period, commits a third degree felony and shall be punished as provided for by law; and

(5) aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under any title administered by the Department, or a return, affidavit, claim, or other document which is fraudulent or is false as to any material fact, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document, commits a third

degree felony and shall be punished as provided for by law.

(b) For purposes of this Section, “person” includes corporate officers having control or supervision of, or responsibility for, completing tax returns or making payments pursuant to this Act.

**SOURCE:** Added by P.L. 32-060:2 (July 9, 2013).

**§ 5203. Returns and Reports - Failure to File - Penalties.**

(a) (1) Any person who fails to file a return or report required by this Act for limited gaming activities, which return or report includes taxable limited gaming transactions, on or before the date the return or report is due, as prescribed in § 5202(a)(3) of this Act, is subject to the payment of an additional amount assessed as a penalty equal to fifteen percent of the tax, or One Thousand Dollars (\$1,000), whichever is greater; except that for good cause shown, the Director may reduce or eliminate such penalty.

(2) Any person, subject to taxation under this Chapter for limited gaming activities, who fails to pay the tax within the time prescribed, is subject to an interest charge of two percent per month or portion thereof for the period of time during which the payment is late, or One Thousand Dollars (\$1,000), whichever is greater.

(3) (A) Penalty and interest are considered the same as a tax for the purposes of collection and enforcement, including liens, distraint warrants, and criminal violations.

(B) Any payment received for taxes, penalties, or interest is applied, first to the tax, beginning with the oldest delinquency, then to interest, and then to penalty.

(4) The Director may, upon application of the taxpayer, establish a maximum interest rate of twenty-four percent upon delinquent taxes if the Director determines that the delinquent payment was caused by a mistake of law and not by a willful intent to evade the tax.

(b) The procedures for collection of any taxes due under this Act and the authority of the Department to collect such taxes, shall be the same as those provided for the collection of business privilege taxes.

**SOURCE:** Added by P.L. 32-060:2 (July 9, 2013).

**§ 5204. Limited Gaming Fund.**

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(a) There is hereby created, separate and apart from other funds of the government of Guam, a fund to be known as the Limited Gaming Fund.

(1) All license fees, taxes and penalties collected under this Act shall be deposited in the Fund.

(2) The Fund shall not be commingled with the General Fund, except as indicated herein, shall be kept in a separate bank account, and shall not be used as a pledge of security or as collateral for government loans.

(3) The Director of Administration shall make an itemized quarterly report to *I Maga'lahen Guåhan* (the Governor of Guam), and *I Liheslaturan Guåhan*, of the condition of, and a detailed description of all financial activity within, the Fund.

(4) The Director of Administration shall further make an itemized annual report, which shall be made available to the general public.

(b) The Fund shall be used first for the purpose of the administration of this Act, and as otherwise stated herein. No more than five percent of the Fund balance may be expended for this purpose, and funds shall not be expended for personnel costs. Said Fund shall be examined and reported upon by the Director of Administration as required by law.

(c) No claim for the payment of any expense incurred by the Department or any other agency in the administration of this Act, shall be made unless it is against the Fund. No other moneys of the government of Guam shall be used or obligated to pay the expenses of the Department.

(d) Moneys remaining in the Fund, after maintaining the stated reserves for administrative expenses of this Act, are hereby appropriated, and for the purposes of the repair and construction of sports facilities *shall* continue to be deemed appropriated, annually, in the following manner in each fiscal year:

(1) (A) up to one third (1/3) of the available balance to the Mayors Council of Guam for the repair and construction of village recreational facilities, including community centers, and for the procurement of sports equipment and supplies,

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including, but not limited to, team sponsorships and uniforms.

(B) Funds may also be used to purchase equipment required to support community programs administered by village Mayors;

(2) up to one third (1/3) of the available balance to the Department of Parks and Recreation for the repair and construction of its facilities, and for the procurement of sports equipment and supplies;

(3) up to one third (1/3) of the available balance to the Department of Education for the repair and construction of its sports facilities, and for the procurement of sports equipment and supplies; and

(4) No more than fifty percent (50%) of the amount authorized in Item (1), twenty percent (20%) of the amount authorized in Item (2), and twenty percent (20%) of the amount authorized in Item (3) of this Subsection, for the repair and construction of village recreational facilities and for the procurement of sports equipment and supplies, *may* be used for team sponsorships and uniforms.

**SOURCE:** Added by P.L. 32-060:2 (July 9, 2013). Amended by P.L. 33-009 (Apr. 1, 2015), and P.L. 33-062 (Aug. 24, 2015).

**2017 NOTE:** Subsection item designations added in subsection (a) pursuant to the authority of 1 GCA § 1606.

**§ 5205. Limited Gaming Activities – Authorized and Unauthorized.**

(a) The following are the only limited gaming activities authorized in Guam under this Article:

(1) bingo or lottery that is conducted by a tax exempt non-profit organization as authorized in 9 GCA § 64.70(b);

(2) cockfighting that is conducted at a licensed cockpit, and that all wagers are present at the cockpit, as authorized in 9 GCA § 64.40; and

(3) all other limited gaming activities as authorized pursuant to statute.

(b) Each non-profit organization choosing to operate a gaming activity shall be open to an auditing of funds by the Office of Public

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Accountability to ensure that funding is being spent in the spirit of the non-profit's charter and the public benefit.

**SOURCE:** Added by P.L. 32-060:2 (July 9, 2013). Subsection (a) amended by P.L. 34-015:3 (June 8, 2017).

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