

Subpart B. GENERAL FUND REVENUES

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ARTICLE I. PARIMUTUEL COLLECTIONS

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Source

The provisions of this Article I adopted January 3, 1975, 5 Pa.B. 36, amended January 3, 1975, 5 Pa.B. 81, unless otherwise noted.

CHAPTER 21. GENERAL PROVISIONS

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Authority

The provisions of this Chapter 21 issued under The Fiscal Code (72 P. S. § 6), unless otherwise noted.

Source

The provisions of this Chapter 21 amended March 9, 1984, effective March 10, 1984, 14 Pa.B. 840, unless otherwise noted. Immediately preceding text appears at serial pages (72873), (35890) to (35893), and (40181) to (40182).

§ 21.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Race Horse Industry Reform Act (4 P. S. §§ 325.101—325.402).

Commission—The State Horse Racing Commission or the State Harness Racing Commission of the Commonwealth.

Licensed corporations—A corporation that has obtained a license from the Commission to conduct thoroughbred or harness meetings for parimutuel wagering.

Make-up-race day—A previously authorized race day which was cancelled due to reasons beyond the control of the licensed corporation and which has been authorized and rescheduled by the Commission and certified as a make-up-race day to the Secretary under the section 207 of the act (4 P. S. § 325.207).

Meeting—The period within a calendar year for which approval to race has been granted by the Commission to a licensed corporation.

Multiple/exotic race—A race involving two or more horses including exacta, daily double, quinella, trifecta and similar races.

“Outs” tickets—A ticket resulting in a distribution from the parimutuel pool which has not been presented for payment.

Postmark date—The date imprinted upon an envelope or wrapper by the United States Postal Service but does not include the postmark date printed by a postal meter licensed by the United States Postal Service.

Race day—A day during a meeting for which horse or harness racing has been authorized by the Commission and which has been certified to the Secretary under section 207 of the act.

Secretary—The Secretary of the Department.

§ 21.2. Wagering tax.

(a) *General.* A licensed corporation shall pay daily to the Department a tax upon the total amount wagered together with a tax upon the total amount wagered in each multiple/exotic race during the race day.

(b) *Filing tax return and payment of tax.* Each licensed corporation shall file a tax return for each race day including previously authorized race days which are cancelled. The tax return together with the required tax and breakage shall be filed with the Department by the due date. The tax return shall be in the format prescribed by the Department and shall be completed in accordance with instructions of the Department.

(c) *Due date.*

(1) The wagering tax return shall be filed, and tax payment and breakage shall be made by the end of the day following the race day during which the wagers were made.

(2) This subsection shall be subject to §§ 21.6 and 21.7 (relating to extension of time for filing tax returns; and timely mailing treated as timely filing and payment).

(d) *Rate of tax.* The rates of tax which shall be paid to the Department by the licensed corporation with its tax returns shall be computed at the rates set forth

in the act for the periods covered by the return. The rates shall apply to total wagers notwithstanding the fact that the licensed corporations shall cease business operations prior to July 1, 1984.

(e) *Cancelled race days.* A tax return shall be filed for each cancelled race day even though tax is not required to be paid. A tax return, together with the required tax and breakage, shall be filed with the Department for each make-up-race day during which wagers are made.

§ 21.3. Admission tax.

(a) *General.* A licensed corporation is required to collect and remit to the Department a tax upon each admission. The tax is imposed upon one of the following:

- (1) The admission price charged for individual admissions.
- (2) The admission price charged for seasonal discount tickets.
- (3) The minimum charge approved by the Commission in the case of free passes, cards or badges issued under special promotional programs to persons other than those listed at subsection (e).

(b) *Filing of tax returns and payment of tax.* Each licensed corporation shall file a tax return for each race day, including previously authorized race days which are cancelled. The tax return together with the required admission tax collected shall be filed with the Department by the due date. The tax return shall be in the format prescribed by the Department and shall be completed in accordance with instructions of the Department.

(c) *Due date.*

(1) For a licensed thoroughbred corporation an admission tax return shall be filed, and the tax payment shall be made by the end of the 10th day following each race day.

(2) For a licensed harness corporation an admission tax return shall be filed, and the tax payment shall be made by the end of the 10th day following the end of the meeting including split meetings.

(3) This subsection shall be subject to §§ 21.6 and 21.7 (relating to extension of time for filing tax returns; and timely mailing treated as timely filing and payment).

(d) *Rate of tax.* The rate of admission tax which shall be collected and remitted by a licensed corporation shall be 5.0% of the established admission price or 5.0% of the approved minimum charge.

(e) *Free passes, cards and badges which are exempt for admission tax.* Free passes, cards and badges which are issued to corporate officers, employees and stockholders of licensed corporations conducting the race; officers, members and employees of the commissions; members of horse racing associations of other states and foreign countries; government employees, including those of the Department, whose duties require admission to the race; persons employed and accredited by the press to attend the race; and stable managers, trainers, jockeys, con-

cessionaries, and other persons whose duties require their presence at the race track, are not subject to admission tax.

Cross References

This section cited in 61 Pa. Code § 21.9 (relating to records).

§ 21.4. Breakage.

(a) *General.* Licensed corporations which conduct thoroughbred horse racing shall pay to the Department, in addition to wagering taxes, an amount equal to 25% of the breakage retained by the corporation from total wagers each racing day.

(b) *Payment date.* Breakage shall be paid daily to the Department and shall accompany the wagering tax return filed with the Department. This subsection shall be subject to the provisions of §§ 21.6 and 21.7 (relating to extension of time for filing tax returns; and timely mailing treated as timely filing and payment).

§ 21.5. Unclaimed award money.

(a) *General.* Winning parimutuel tickets shall be presented for payment to the licensed corporation by March 31 of the year following the calendar year of purchase. The failure to present a winning ticket by that date constitutes a waiver of the right to receive the award money. The licensed corporation is required to remit to the Department unclaimed award money.

(b) *Filing of return and payment.* The licensed corporation shall file an unclaimed award money return together with the unclaimed award money by the due date. The return shall be in the format prescribed by the Department and shall be completed in accordance with instructions of the Department.

(c) *Due date.*

(1) The unclaimed award money return shall be filed and all unclaimed award money shall be paid by April 10 of each year.

(2) This subsection shall be subject to §§ 21.6 and 21.7 (relating to extension of time for filing tax returns; and timely mailing treated as timely filing and payment).

§ 21.6. Extension of time for filing tax returns.

(a) *General.* The Department may, for good cause, grant to a licensed corporation an extended period of time up to 60 days within which to file its wagering or admission tax return, if the request for extension is in written form, is received by the Department, Attn: Bureau of Examination, on or before the due date for filing the tax return to which the extension relates, and specifies the extended date upon which the return will be filed. Upon receipt of the request, the Department will in writing advise the licensed corporation whether or not the request has been granted. Notwithstanding the grant of an extension for filing a return, the Depart-

ment will impose interest upon the unpaid tax. The Department may not impose penalties if the tax return is filed and the tax payment has been remitted to the Department on or before the extended due date for filing the tax return.

(b) *Nonbusiness due date.* Whenever a due date for filing a wagering or admission tax return falls on a Saturday, Sunday or on a day made a legal holiday by the statutes of this Commonwealth or by the United States, the due date shall be the next regular business day.

Cross References

This section cited in 61 Pa. Code § 21.2 (relating to wagering tax); 61 Pa. Code § 21.3 (relating to admission tax); 61 Pa. code § 21.4 (relating to breakage); 61 Pa. Code § 21.5 (relating to unclaimed award money); and 61 Pa. Code § 21.8 (relating to interest and penalties).

§ 21.7. Timely mailing treated as timely filing and payment.

(a) *General.* A tax return and payment enclosed in an envelope or wrapper which reflects a postmark date shall be considered as filed by the postmark date. If the postmark date reflects a date on or before the due date, the return and payment will be deemed timely filed. If the postmark date reflects a date after the due date, the tax return and payment will be considered as having been filed late.

(b) *Registered mail.* If a tax return and payment are sent by registered mail, the date of registration shall be treated as the postmark date.

(c) *Certified mail.* If tax return and payment are sent by certified mail, the postmark date imprinted on the sender's receipt shall be treated as the postmark date.

(d) *No postmark and metered marks.* Tax returns and payments enclosed in envelopes or wrappers having no postmark date or having a postmark date printed by a meter, even if licensed by the United States Postal Service, shall be deemed as having been filed late if received by the Department more than 5 days after the due date.

Cross References

This section cited in 61 Pa. Code § 21.2 (relating to wagering tax); 61 Pa. Code § 21.3 (relating to admission tax); 61 Pa. Code § 21.4 (relating to breakage); and 61 Pa. Code § 21.5 (relating to unclaimed prize money).

§ 21.8. Interest and penalties.

(a) *Interest.* Wagering and admission tax paid or remitted to the Department after the due date shall be subject to interest at the rate in effect as determined by the Secretary, beginning on the day following the due date and continuing to the date of payment.

(b) *Penalty.* Admission tax paid or remitted to the Department after the due date or extended due date under § 21.6 (relating to extension of time for filing tax returns), shall be subject to a penalty at the rate of 5.0% per month, for each month the tax remains unpaid, beginning on the day following the due date and

continuing to the date of payment. If a licensed corporation fails to file a wagering tax return by the due date or extended due date and fails to file the return within 30 days following a written demand by the Department, the licensed corporation shall be subject to a penalty of \$500 in accordance with section 1703 of The Fiscal Code (72 P. S. § 1703).

Cross References

This section cited in 61 Pa. Code § 21.10 (relating to miscellaneous).

§ 21.9. Records.

(a) *Required records.* A licensed corporation shall maintain records which will permit the Department to examine and verify the following:

- (1) Daily wagers.
- (2) Contributions to, retention of and distributions from the corporation's parimutuel pool.
- (3) Unclaimed award monies or "outs" listings.
- (4) Manually processed "outs" tickets.
- (5) Taxable admissions for which admission charges are made.
- (6) Taxable seasonal discount ticket programs.
- (7) Taxable special promotional programs for which free passes, cards or badges are issued.
- (8) Exempt free passes issued to those individuals described at § 21.3(e) (relating to admission tax).

(b) *Record retention period.* Records required under subsection (a) shall be retained for a minimum period of 1 year following the close of the race meeting and may not be destroyed without the written consent of the Department.

§ 21.10. Miscellaneous.

(a) *Settlements.*

(1) *Wagering or admissions tax.* If a licensed corporation fails to pay to the Department the required wagering or admission tax by the due date, the Department will determine the amount of tax interest and penalty due and settle the tax together with interest and penalty, under § 21.8 (relating to interest and penalties).

(2) *Breakage and unclaimed award money.* If a licensed corporation fails to pay to the Department the required breakage and unclaimed award money by the due date, the Department will determine the amount of unclaimed award money due and settle the account with the licensed corporation.

(b) *Overpayments.* If a licensed corporation overpays a wagering or admission tax or breakage or unclaimed award money, it may claim the overpayments in section 217 of the act (4 P. S. § 325.217).

(c) *Appeals.* If the licensed corporation is indebted or is believed to be indebted to the Commonwealth, the Department will state and settle the tax with the licensed corporation under section 1001 of the FC (72 P. S. § 1001).

(d) *Enforcement.* Settlements for wagering and admission tax, together with interest and penalties, and breakage and unclaimed award money are enforceable against a licensed corporation under sections 1401, 1402, 1404, 1405 and 1704A of the FC (72 P. S. §§ 1401, 1402, 1404, 1405 and 1704A).

§ 21.11. [Reserved].

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(265790) No. 308 Jul. 00

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