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**Rules of**  
**Department of Public Safety**  
**Division 45—Missouri Gaming Commission**  
**Chapter 11—Taxation Regulations**

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**Title 11—DEPARTMENT OF  
PUBLIC SAFETY  
Division 45—Missouri Gaming  
Commission  
Chapter 11—Taxation Regulations**

**11 CSR 45-11.020 Deposit Account—Taxes  
and Fees**

*PURPOSE: This rule establishes the requirement of a deposit account for taxes and fees.*

(1) As authorized in section 313.822, RSMo, a tax is imposed on the adjusted gross receipts received from gambling games at the rate of twenty percent (20%) (the “gaming tax”).

(2) The gaming taxes imposed shall be returned and remitted through the commission to the Missouri Department of Revenue.

(3) The home dock city or county designated by the excursion gambling boat shall receive ten percent (10%) of the gaming tax for use in providing services necessary for the safety of the public visiting an excursion gambling boat.

(A) The home dock city or county may enter into agreements with other cities or counties to share in the ten percent (10%) revenue.

(B) The home dock city or county must annually submit to the commission an original or certified copy of any shared revenue agreement with any other city or county.

(4) The gaming tax imposed and remitted by the licensee to the commission shall be deposited in a special trust account designated by the commission. Not less than once per month on a date to be selected by the commission, the director of revenue shall disburse from the account moneys owed to the home dock city or county. Any shared revenue shall be disbursed by the home dock city or county to such other city or county as a shared revenue agreement may provide.

(A) All revenues to be transferred to the governing body of any city not within a county, and any city with a population of over three hundred fifty thousand (350,000) inhabitants shall not be considered state funds and shall be deposited in the city’s general revenue fund.

(B) The remaining amount of the gaming tax shall be deposited in the state treasury to the credit of the Gaming Proceeds for Education Funds.

(5) As a condition of its license, each licensee shall establish and, after that, maintain two

(2) accounts at a designated financial institution capable of handling electronic fund transfers, the deposit accounts. These accounts shall be designated, in substance, by the following language: “Name of licensee, for the benefit of the Missouri Gaming Commission.” The licensee must notify the commission of the financial institution where funds are deposited. No change of financial institution may be made without prior commission approval.

(6) Each Class A licensee, as a condition of licensure, shall deposit into separate accounts an amount sufficient to cover its estimated liability for the gaming tax and the admission fee imposed by section 313.820, RSMo representing the first week of operation.

(7) Licensees. Beginning in the first month, second day of operation, each licensee, as a condition of its license, shall deposit daily into the deposit account an amount sufficient to cover the estimated tax and fee liabilities for the previous day.

(A) With approval by the commission, the licensee may select a twenty-four (24)-hour cycle that is defined as the business day for the purpose of establishing the estimated tax and fee liabilities.

(B) Deposits will be deemed timely when made no later than 12:00 p.m. Central Standard Time on the first day financial institutions are open for business after the close of the business day on which the estimated liabilities were established.

(C) The licensee, by applicable agreement with the financial institution, shall provide for the automatic withdrawal or transfer of funds for payment of the taxes and fees.

(D) In the event that the licensee’s adjusted gross receipts result in a negative tax due or if overpayment is made, the licensee shall file a deposit adjustment form, as set forth in Appendix A, along with the tax return.

(E) Every deposit adjustment form must be in writing under oath and must state the specific grounds upon which the claim is founded. Amended returns are required to be filed for all periods involved within the weekly period defined in 11 CSR 45-11.030.

(F) The deposit adjustment form may be requested by writing to: Missouri Gaming Commission, 11775 Borman Drive, St. Louis, MO 63146.

*AUTHORITY: sections 313.004, 313.800, 313.805, 313.820, 313.822, RSMo 1994 and 313.807 and 313.835, RSMo Supp. 1997.\*  
Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994.  
Emergency rule filed Jan. 5, 1994, effective*

*Jan. 18, 1994, expired Jan. 30, 1994.  
Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed June 14, 1994, effective June 24, 1994, expired Oct. 21, 1994. Amended: Filed May 4, 1994, effective Sept. 30, 1994. Emergency amendment filed March 2, 1995, effective March 12, 1995, expired July 9, 1995. Amended: Filed March 2, 1995, effective Aug. 30, 1995. Amended: Filed June 25, 1996, effective Feb. 28, 1997. Amended: Filed Nov. 10, 1997, effective June 30, 1998. Amended: Filed May 13, 1998, effective Oct. 30, 1998.*

*\*Original authority: 313.004, RSMo 1993, amended 1994; 313.800 and 313.805, RSMo 1991, amended 1993, 1994; 313.807, RSMo 1991, amended 1993; 313.820, RSMo 1991, amended 1993; 313.822, RSMo 1991, amended 1993; and 313.835, RSMo 1991, amended 1993, 1994, 1996.*



Appendix A

DEPOSIT ADJUSTMENT FORM

This form is submitted by \_\_\_\_\_, a Class A licensee (the "Licensee") in compliance with 11 CSR 45-11.020 to the Missouri Gaming Commission as a request for an adjustment to gaming tax or admission fee deposit liability. The undersigned, an authorized agent for the Licensee, states the following:

- (1) The amounts listed below relate to a daily deposit tax or fee adjustment within the one week tax and fee collection period:

Gaming Date: \_\_\_\_\_

Amount Deposited: \_\_\_\_\_

Amount Due for Deposit: \_\_\_\_\_

Amount of Overpayment to be Adjusted Within the Tax Period: \_\_\_\_\_

Proposed Gaming Date for Adjustment: \_\_\_\_\_

Type of Tax or Fee: \_\_\_\_\_

Reason for Adjustment: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- (2) This deposit adjustment is being filed in duplicate and amended returns for all periods involved are attached hereto.

\_\_\_\_\_

(Signature)

\_\_\_\_\_

(Name typed)

\_\_\_\_\_

(Position)

\_\_\_\_\_

(Company)

State of \_\_\_\_\_ )

County of \_\_\_\_\_ )

ss.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_

(Notary Public)

SEAL:

**11 CSR 45-11.030 Payment—Gaming Tax**

*PURPOSE:* This rule establishes a payment procedure for gaming taxes.

(1) The licensee shall timely remit from the deposit account to the commission the gaming tax for each weekly period which, for purposes of this section, means Wednesday of each week through the following Tuesday.

(2) The weekly remittance shall be automatically made from the licensee's deposit account and shall be deemed timely if credited to the deposit account designated by the commission on or before 12:00 p.m. Central Standard Time on the first day financial institutions are open for business after the close of the day following each weekly period.

(A) These deposits shall be made via an electronic funds transfer system employing an automated clearinghouse method.

(3) The licensee shall ensure that the deposit is accompanied by such identifying information necessary to assure proper account crediting.

(4) The excess, if any, of a remittance over the actual amount for a period shall be applied to subsequent tax liability in accordance with 11 CSR 45-11.110.

(5) In the case of an underpayment of any weekly amount to be paid, the licensee shall be liable for interest on the delinquent amount as determined under 11 CSR 45-11.120(2) and for a penalty, which shall be five percent (5%) of the amount of the underpayment.

(6) The five percent (5%) penalty shall not be imposed if the licensee establishes that the failure to make a timely remittance of at least ninety percent (90%) was due to reasonable cause, and not due to willful neglect; provided that the full remittance is paid within ten (10) days of notice from the commission that it is due, along with interest as determined under 11 CSR 45-11.120(2).

(7) The commission may waive the penalty against any licensee during the first two (2) months the licensee is obligated to make weekly remittance of the gaming tax; provided that all due remittances are paid in full at the end of the two (2)-month period, along with interest as determined under 11 CSR 45-11.120(2).

*AUTHORITY:* sections 313.004, 313.805 and 313.822, RSMo 1994 and 313.807 and

313.835, RSMo Supp. 1997. \*Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed June 14, 1994, effective June 24, 1994, expired Oct. 21, 1994. Amended: Filed May 4, 1994, effective Sept. 30, 1994. Emergency amendment filed Aug. 10, 1994, effective Aug. 20, 1994, expired Dec. 17, 1994. Amended: Filed Aug. 10, 1994, effective Jan. 29, 1995. Amended: Filed Nov. 10, 1997, effective June 30, 1998.

\*Original authority: 313.004, RSMo 1993, amended 1994; 313.805, RSMo 1991, amended 1983, 1984; 313.807 and 313.822, RSMo 1991, amended 1993; and 313.835, RSMo 1991, amended 1993, 1994, 1996.

**11 CSR 45-11.040 Return—Gaming Tax**

*PURPOSE:* This rule establishes the procedure for tax returns for gaming tax.

*Editors Note:* The form mentioned in this rule may be found at the Department of Revenue, and is exempted from filing with this rule (section 536.010(4)(m), RSMo).

(1) The licensee shall be responsible not only for the collection and payment of the amount of the gaming tax, but also shall make a return to the commission on the dates prescribed by the commission showing the daily —1) gross receipts, 2) amount of winnings paid to wagerers, 3) resulting adjusted gross receipts and 4) amount of gaming tax, and other information as the commission may require; and shall remit to the commission any unpaid amount.

(2) The tax return filed with the commission shall be on a form supplied by the commission and shall be filed at the address shown on the return. It is the duty of the licensee to obtain any required form from the commission and failure to obtain the form will not be an excuse for failing to file the required returns.

(3) The commission in its discretion may require electronic filing upon the terms and conditions that the commission shall specify.

(4) Every licensee is required to file a return on the prescribed basis even though no wagers were made during the period covered by the return.

*AUTHORITY:* sections 313.004, 313.805 and 313.822, RSMo 1994. \*Emergency rule filed

Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed June 25, 1996, effective Feb. 28, 1997.

\*Original authority: 313.004, RSMo 1993, amended 1994; 313.805, RSMo 1991, amended 1993, 1994; and 313.822, RSMo 1991, amended 1993.

**11 CSR-11.050 Admission Fee**

*PURPOSE:* This rule establishes the procedure for payment of admission fees.

(1) An admission boat licensee shall pay to the commission an admission fee of two dollars (\$2) for each person embarking on an excursion gambling boat with a ticket of admission and one dollar (\$1) of this shall be paid to the home dock city or county; provided, however, that the licensee may charge any amount deemed necessary for a ticket of admission to any person embarking on an excursion gambling boat.

(2) An admission fee paid by the licensee to the commission shall be deposited into a separate deposit account. This deposit account shall be one separate and apart from the account established for the gaming tax. Not less than once per month on a date to be selected by the commission, disbursement shall be made from this account to the home dock city or county designated by the licensee of moneys owed to home dock city or county. The remaining amount of the admission fee shall be deposited in the state treasury to the credit of the Gaming Commission Fund for the purpose of funding the administrative costs of the commission relating to excursion gambling boat operations, subject to appropriation.

*AUTHORITY:* sections 313.004, 313.805 and 313.820, RSMo Supp. 1993. \*Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994.

\*Original authority: 313.004, RSMo 1993 and 313.805 and 313.820, RSMo 1991, amended 1993.

**11 CSR 45-11.060 Season Tickets, Complimentary Tickets and Fee-Free Passes**

*PURPOSE:* This rule establishes procedures to account for season tickets, complimentary tickets and fee-free passes.

(1) If tickets are issued which are good for more than one (1) excursion, the admission fee is paid to the commission for each person using the ticket on each excursion for which the ticket is used.

(2) In the event free or complimentary admission tickets are issued, the licensee shall pay to the commission, the admission fee upon the tickets as if they were sold at the regular admissions rate; except, however, that the licensee may issue fee-free passes to actual and necessary officials and employees of the licensee or other persons actually working on the excursion gambling boat.

(A) For purposes of this section, “actual and necessary officials and employees of the licensee” shall mean officers and directors of the licensee, regular full-time employees of the licensee and other persons hired by the licensee on a special or part-time basis, any of whom must be present on the excursions gambling boat for the express purpose of performing services for the licensee in connection with the normal and ordinary course of its gambling operations.

(B) For purposes of this section “other persons actually working on the excursion gambling boat” shall mean persons who are not the employees of the licensee but whose presence on the excursion gambling boat is otherwise for the express purpose of performing services for the licensee or any vendors conducting business, in connection with the normal and ordinary course of its gambling operations.

(3) All persons embarking on an excursion gambling boat shall enter with a ticket of admission, except those persons entitled to enter upon issuance of a fee-free pass.

(4) All entries onto and exits from the excursion gambling boat shall be through a turnstile or similar device capable of automatic and accurate recording of the number of persons entering and exiting the boat for each excursion.

(5) The location of entry for all ticket holders shall be separate from the location of entry for persons entitled to a fee-free pass.

(6) Calculation of the admission fee due by the licensee shall be made upon the record of ticket entries onto the excursion gambling boat or the number of persons recorded by the turnstile reading as being in the gaming area, whichever is higher.

(A) At the conclusion of the excursion, the licensee shall take a reading of the exit turnstile. The licensee shall record a reading of

the entry turnstile upon the conclusion of the time for entry for each excursion.

(7) The licensee shall be responsible to keep and maintain a record of ticket entries onto the boat on a daily basis. This record shall be available for inspection by the commission at all times, and may be requested by the commission in its discretion. The actual record should be attached to the licensee’s return when filed with the commission.

(8) The licensee shall otherwise maintain a list of all persons entitled to a fee-free pass, and to whom such a pass is actually issued on a daily basis. This list shall specify the relationship of the person to the licensee, the duration of the pass and the basis upon which it is issued.

(A) The commission may review this list, and request from the licensee a written explanation regarding the basis for the issuance of a fee-free pass to any person whose name appears on the list. If, in the discretion of the commission, this explanation is unsatisfactory or the commission otherwise finds that the pass was improperly issued, the commission may assess the fee for each day the pass was improperly used, assess penalties or take any other appropriate remedial action.

(B) No person shall be issued more than one (1) fee-free pass per day and no pass may be issued for more than the length of time necessary for the person to conduct the services authorizing its use. No person to whom a fee-free pass is issued may wager on the excursion gambling boat.

(9) It shall be the licensee’s responsibility to establish an internal system of control to comply with this rule.

*AUTHORITY: sections 313.004, 313.805 and 313.820, RSMo 1994. \* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Dec. 17, 1996, effective July 30, 1997. Amended: Filed Nov. 10, 1997, effective June 30, 1998.*

*\*Original authority: 313.004, RSMo 1993, amended 1994; 313.805, RSMo 1991, amended 1993, 1994; and 313.820, RSMo 1991, amended 1993.*

### **11 CSR 45-11.070 Return and Payment—Admission Fee**

*PURPOSE: This rule establishes the procedure for payment returns for the admission fees.*

*EDITORS NOTE: The form mentioned in this rule may be found at the Department of Revenue, and is exempted from filing with this rule (section 536.010(4)(m), RSMo).*

(1) The licensee shall be responsible not only for collection of the admission fee, but shall make a return to the commission showing the number of tickets issued for persons embarking on the excursion gambling boat, the amount of admission fee for the boat and shall deposit the admission fee into the bank account approved by the commission and transmit the return.

(A) It is the duty of the licensee to obtain any required form from the commission.

(B) Failure to obtain the form will not be an excuse for failure to file the required returns.

(2) Every licensee is required to file a return on the prescribed basis even though no tickets are issued during the period covered by the return.

(3) The licensee shall timely remit from the deposit account to the commission the admission fee for each weekly period which for purposes of this section, means Wednesday of each week through the following Tuesday.

(4) The weekly remittance shall be automatically made from the licensee’s deposit account and shall be deemed timely if credited to the deposit account designated by the commission on or before 12:00 p.m. Central Standard Time on the first day financial institutions are open for business after the close of the day following each weekly period. These deposits shall be made via an electronic funds transfer system employing an automated clearinghouse method.

(5) The licensee shall ensure that the deposit is accompanied by such identifying information necessary to assure proper account crediting.

(6) The excess, if any, of a remittance over the actual amount for a period shall be applied to subsequent fee liability in accordance with 11 CSR 45-11.110.

(7) In the case of an underpayment of any weekly amount to be paid, the licensee shall be liable for interest on the delinquent amount as determined under 11 CSR 45-11.120(2) and for a penalty which shall be five percent (5%) of the amount of the underpayment.

(8) The five percent (5%) penalty shall not be imposed if the licensee establishes that the

failure to make a timely remittance of at least ninety percent (90%) was due to reasonable cause, and not due to willful neglect; provided that the full remittance is paid within ten (10) days of notice from the commission that it is due, along with interest as determined under 11 CSR 45-11.120(2).

(9) The commission may waive the penalty against any licensee during the first two (2) months the licensee is obligated to make weekly remittance of the admission fee; provided that all due remittances are paid in full at the end of the two (2)-month period, along with interest as determined under 11 CSR 45-11.120(2).

*AUTHORITY: sections 313.004, 313.805 and 313.820, RSMo 1994.\* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed June 14, 1994, effective June 24, 1994, expired Oct. 21, 1994. Amended: Filed May 4, 1994, effective Sept. 30, 1994. Emergency amendment filed Aug. 10, 1994, effective Aug. 20, 1994, expired Dec. 17, 1994. Amended: Filed Aug. 10, 1994, effective Jan. 29, 1995. Amended: Filed Nov. 10, 1997, effective June 30, 1998.*

*\*Original authority: 313.004, RSMo 1993, amended 1994; 313.805, RSMo 1991, amended 1993, 1994; and 313.820, RSMo 1991, amended 1993.*

### 11 CSR 45-11.080 Other Taxes and Fees

*PURPOSE: This rule establishes procedures for payment of other taxes and fees.*

(1) The licensee is responsible for all sales taxes as may be applicable under sections 144.010–144.525, RSMo including, without limitation, tax on admission fees, concession sales and retail sales. Those taxes not connected directly to gambling games are collected by the Department of Revenue. The statutes and rules for all other taxes shall apply.

(2) The licensee is responsible for all other income taxes, earnings taxes, use taxes, property taxes or any other tax or fee lawfully levied by any political subdivision. Those taxes not connected directly to gambling games are collected by the Department of Revenue. The statutes and rules for all other taxes shall apply.

(3) The licensee shall provide the commission with proof of payment of all other state taxes required to be paid.

*AUTHORITY: sections 313.004, 313.805 and 313.822, RSMo Supp. 1993.\* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994.*

*\*Original authority: 313.004, RSMo 1993 and 313.805 and 313.822, RSMo 1991, amended 1993.*

### 11 CSR 45-11.090 Determination of Timeliness and Extensions for Filing a Return

*PURPOSE: This rule establishes the standard for timely filing of returns.*

(1) It is the licensee's responsibility to see that a return and payment filed with and made to the commission are received by the commission.

(2) As to any document required or allowed to be mailed, if the postmark on the envelope or wrapper of any return, payment or document required to be filed before a prescribed date is made by the United States Postal Service, the date of the United States postmark stamped on the envelope or wrapper is treated as the date of delivery. If the envelope or wrapper has both a postal meter date and a postmark date applied by the United States Postal Service, the commission will use the postmark date to determine the date of delivery.

(3) If any document is sent by United States registered mail, the date of registration is treated as the postmark date.

(4) If any document is sent by United States certified mail and the sender's receipt is postmarked by the postal employee to whom the document is presented, the date of the United States postmark on the receipt is treated as the postmark date.

(5) If any document is delivered by United States mail with a postmark date falling after the due date, the document is considered late unless the postmaster for the jurisdiction where the document was mailed verifies in writing that the document was mailed on or before the due date, including any extension granted, and was delayed because of an error of the United States Postal Service and not because of an error by the taxpayer.

(6) If any date, including any extension of time for performing any act, falls on a Saturday, Sunday or a legal holiday in this state, the performance of the act shall be considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday or legal holiday.

(7) The time for filing a return may be extended upon proper written application to the commission prior to the due date. For good cause shown, the commission may extend the time for filing a return of no more than sixty (60) days by returning to the licensee a written approval of request for extension.

(8) An approved extension for filing a return does not extend the time for payment of the tax or fee.

*AUTHORITY: sections 313.004, 313.805, 313.820 and 313.822, RSMo Supp. 1993.\* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994.*

*\*Original authority: 313.004, RSMo 1993 and 313.805, 313.820 and 313.822, RSMo 1991, amended 1993.*

### 11 CSR 45-11.110 Refund—Claim for Refund

*PURPOSE: This rule establishes the procedures for refunds due to overpayment.*

(1) If a tax or fee, penalty or interest has been paid by a licensee that is in excess of the amount owned, the licensee may file a claim for refund or credit. No such claim for refund or credit shall be allowed unless duplicate copies of the claim are filed within three (3) years from the date of overpayment. No claim will be considered unless filed within that time. The three (3)-year period of limitation for the credit or refund begins with the date the licensee pays taxes to the commission on account of the adjusted gross receipts in question or with the date the licensee pays fees to the commission on account of the tickets of admission in question.

(2) Every claim for refund or credit must include the claim for Refund or Credit Form shown in Appendix A to this rule, which must be in writing under oath and must state the specific grounds upon which the claim is founded. Amended returns are required to be filed for all periods involved in the overpay-

ment. The claim must also include a request for hearing as described in 11 CSR 45-13.030.

(3) Any refund or credit, or any portion of refund or credit, which is erroneously allowed by the commission or which is erroneously taken by the licensee, may be recovered in any action brought by the commission against the licensee. In the event that a tax or fee has been illegally imposed against a licensee, the commission shall authorize the cancellation of the tax or fee upon its record.

(4) A claim for credit or refund shall be approved only—

(A) After a hearing procedure is conducted in accordance with 11 CSR 45-13.060, provided that the hearing officer may, at his/her discretion, recommend a summary judgment without an actual hearing, and after a final commission order is entered in accordance with 11 CSR 45-13.070, granting such credit or refund; or

(B) After the director has determined, in his/her discretion, that there are no material facts in dispute regarding the validity of the refund or credit claim, and the director then, in his/her discretion, issues an order setting forth findings of fact, conclusions of law and an order granting the claim for refund or credit.

(5) In cases where a claim for credit is approved, the commission will issue a credit memorandum, in the form shown in Appendix A to this rule, in the amount of the overpayment along with the final order. The credit may then be applied by the person in satisfaction of subsequent tax or fee liability. A copy of the approved credit memorandum must be attached to the return to which it is being applied.

(A) A refund is made rather than a credit where the approved credit cannot be taken as a credit on the next return filed with the commission. Refund is made with interest as determined by section 32.065, RSMo.

(B) Any approved credit of the gaming tax or admission fee shall be made without interest.

(C) Taxes or fees which are claimed to have been unconstitutionally imposed or collected are subject to the same requirements as other claims for refund or credit.

(6) All claims for credit or refund filed with the commission and any documents filed in support of such claims or introduced through the hearing procedure to contest such claims shall be deemed open records.

(7) The claim for refund or credit forms may be requested by writing to Missouri Gaming Commission, P.O. Box 1847, Jefferson City, MO 65102.

*AUTHORITY: sections 313.004, 313.800, 313.805 and 313.822, RSMo 1994.\* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Feb. 19, 1998, effective Aug. 30, 1998. Emergency amendment filed June 5, 2000, effective June 16, 2000, expired Feb. 22, 2001. Amended: Filed June 23, 2000, effective Jan. 30, 2001.*

*\*Original authority: 313.004, RSMo 1993, 1994; 313.800, RSMo 1991, amended 1992, 1994; 313.805, RSMo 1991, amended 1993, 1994; and 313.822, RSMo 1991, amended 1993.*

#### 11 CSR 45-11.120 Penalties and Interest

*PURPOSE: This rule establishes penalties and interest for late payments.*

(1) Any licensee required to collect, account for and pay over any gaming tax or admission fee, who willfully, with intent to defraud, fails to collect the tax or fee, or truthfully account for and pay over the tax or fee, or willfully attempts in any manner to evade or defeat the tax or fee, or the payment of it, in addition to other penalties provided by law, shall be liable for a penalty equal to the total amount of the tax or fee evaded, or not collected, or not accounted for and paid over. For purposes of this rule, the term licensee includes an individual or an officer or employee of the licensee or a member or employee of the licensee who is under a duty to perform the act in respect of which the violation occurs.

(2) All taxes or fees not paid to the commission by the licensee on the date when the same becomes due and payable to the commission shall bear interest at the rate determined by section 32.065, RSMo, from and after the due date until paid.

*AUTHORITY: sections 313.004, 313.800, 313.805, 313.822 and 313.830, RSMo.\* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994.*

*\*Original authority: 313.004, RSMo 1993; 313.800, and 313.805, RSMo 1991, amended 1993, 1994; and 313.822 and 313.830, RSMo 1991.*

#### 11 CSR 45-11.130 Failure to File Return or Pay Tax or Fee

*PURPOSE: This rule establishes procedure for determining failure to file required returns.*

(1) In cases of failure to file any return on or before the date prescribed for filing (determined with regard to any extension of time for making a return), unless it is shown that the failure is due to reasonable cause and not the result of willful neglect, evasion or fraudulent intent, the commission shall assess a penalty of at least five percent (5%) of the tax or fee due with the filing.

(2) In case of failure to deposit accurate estimates of the gaming tax or admission fee on or before the date prescribed for deposit into the deposit accounts (determined with regard to any extension of time for payment), unless it is shown that the failure is due to reasonable cause and not the result of willful neglect, evasion or fraudulent intent, there shall be added to the tax or fee an amount equal to five percent (5%) of the deficiency.

(3) Except in cases of fraud or evasion, if a person neglects or refuses to make a return and payment as prescribed, the commission shall make an estimate based upon any information in its possession, or that may come into its possession, of the amount of the adjusted gross receipts of, or the number of admission tickets issued by the delinquent for the period in respect to which it failed to make return and payment, and upon the basis of this estimated amount or number compute and assess the tax or fee payable by the delinquent; the estimate may be reconstructed for that period of time for which the tax or fee may be collected as prescribed in this section.

(4) After completing the estimate assessment, the commission shall give the delinquent written notice of the estimated assessment.

(5) The penalties provided by this chapter shall be in addition to the right of the commission to suspend, revoke or fine a licensee.

*AUTHORITY: sections 313.004, 313.800, 313.805, 313.822 and 313.830, RSMo Supp. 1997.\* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30,*

1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Dec. 15, 1997, effective July 30, 1998.

\*Original authority: 313.004, RSMo 1993, amended 1994; 313.800 and 313.805, RSMo 1991, amended 1993, 1994; and 313.822 and 313.830, RSMo 1991, amended 1993.

#### 11 CSR 45-11.140 Additional Assessments

*PURPOSE: This rule establishes procedures for additional assessments.*

(1) If the commission is not satisfied with the return or payment of taxes or fees made by any licensee, the commission may make an additional assessment of tax or fees due from the licensee, based upon the facts contained in the return or upon any information within the commission's possession or that shall come into the commission's possession.

(2) The commission shall give the licensee written notice of this additional or revised assessment by certified or registered mail to the licensee at its last known address.

(3) Except in the case of a fraudulent return, or neglect or refusal to make a return, every notice of additional amounts proposed to be assessed shall be mailed to the licensee within three (3) years after the return was filed or was required to be filed. In the case of a fraudulent return or of neglect or refusal to make a return, there is no limitation on the period of time the commission has to assess.

(4) Any amount assessed or any additional amount assessed by the commission, together with the penalty, if any, shall be due and payable from the licensee to the commission ten (10) days after the service upon or mailing to the person, whichever is earlier, of notice of the assessment or of the additional assessment, except only for these amounts for which the person has filed those for review with the commission.

*AUTHORITY: sections 313.004, 313.800 and 313.805, RSMo Supp. 1993. \* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994.*

\*Original authority: 313.004, RSMo 1993 and 313.800 and 313.805, RSMo 1991, amended 1993.

#### 11 CSR 45-11.150 Records, Examination and Investigation

*PURPOSE: This rule establishes requirements for maintaining records to be available for examinations and investigations.*

(1) Every licensee shall keep such records and books as may be required by Title 26 of the *United States Code* for federal income tax purposes. The books and records and other papers and documents, at all times during business hours of the day, shall be subject to inspection by the commission or its duly authorized agents and employees. The books and records shall be preserved for a period of at least five (5) years, unless the commission provides written authorization for their destruction at any earlier date.

(2) For the purpose of ascertaining the correctness of any return or for the purpose of determining the amount of tax due from any licensee, the commission, or any agent or employee duly authorized by the commission, may hold investigations and hearings and may examine any books, papers, records or memoranda and may require, within any city or county where the licensee has its home dock, the attendance of the licensee, or any officer or employee of the licensee, or of any person having knowledge of matters relevant to the commission's investigation, and may take testimony and require proof for its information. In the conduct of any investigation or hearing, neither the commission nor any agent or employee of the commission shall be bound by the technical rules of evidence and no informality in any proceeding, or in the manner of taking testimony, shall invalidate any order, decision or rule made or approved or confirmed by the commission. The commission or any agent or employee of the commission holding an investigation shall have power to administer oaths to the licensee or witness.

*AUTHORITY: sections 313.004, 313.800, 313.805, 313.822 and 313.830, RSMo 1994. \* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Nov. 10, 1997, effective June 30, 1998.*

\*Original authority: 313.004, RSMo 1993, amended 1994; 313.800 and 313.805, RSMo 1991, amended 1993, 1994; and 313.822 and 313.836, RSMo 1991, amended 1993.

#### 11 CSR 45-11.160 Collection and Enforcement

*PURPOSE: This rule establishes the procedures for collection and enforcement of taxes and fees.*

(1) In any case in which any assessment of tax, fee, interest, additions to tax or fee, or penalty imposed has been made and has become final, the commission may file for recording in the recorder's office of any county in which the licensee resides, owns property or has a place of business, a certificate of lien specifying the amount of the tax, fee, additions to tax or fee, interest or penalty and the name of the licensee liable therefor. Included in the assessment, the commission shall notify the licensee of the commission's intent to file prior to the filing of the certificate. This notification shall contain an explanation of the licensee's right to protest or contest the proposed assessment. Within twenty (20) days after filing the certificate, the commission shall notify the licensee by first class mail postage prepaid.

(2) The lien shall arise on the date the assessment becomes final and shall be continuing and shall attach to real or personal property or interest in real or personal property owned by the licensee or acquired in any manner by the licensee after the filing of the certificate of lien. Unless sooner released or discharged, the lien shall expire ten (10) years after the certificate of lien was filed, unless within the ten (10)-year period, the certificate of lien has been refiled by the commission with the recorder. Unless sooner released or discharged, a timely refiled certificate of lien shall be treated as if filed on the date of filing of the original certificate of lien and shall expire ten (10) years after the refiled. A certificate of lien may not be refiled more than one (1) time.

(3) If any licensee fails to pay any tax, fee, interest, additions to tax or fee, or penalties when due and the assessment for which has become final, the commission may file for recording in the office of the clerk of the circuit court of any county in which the licensee resides, has a place of business or owns property, a certificate of lien specifying the amount of the tax, fee, interest, additions to tax or fee, and penalties due and the name of the liable licensee. The clerk of the circuit court shall file the certificate and enter it in the record of the circuit court for judgments and decrees under the procedure prescribed for filing transcripts of judgments. If the



licensee does not reside, have a place of business or own property in Missouri, the commission may file for record a certificate of delinquency in the office of the clerk of the circuit court of Cole County. From the time of the filing of the certificate of lien or certificate of delinquency with the clerk of the circuit court, the amount of the tax, fee, interest, additions to tax or fee and penalties specified in the certificate shall have the full force and effect of a default judgment of the circuit court until satisfied. Execution shall issue at the request of the commission as is provided in the case of other judgments. No exemption shall be allowed from the levy of any execution issued for the delinquent tax, fee, interest, additions to tax or fees, or penalties and no bond shall be required of the commission, its agents or of the sheriff before making the levy.

(4) These remedies shall be cumulative to any other remedy provided to the commission. No action taken shall be construed as an election on the part of the state or any of its officers to pursue any remedy or action under these rules to the exclusion of any other remedy or action for which provision is made.

(5) If any certificate of lien has been erroneously or improvidently filed, the licensee or any other person affected by the lien may notify the commission. The licensee or other affected person shall provide the commission with the reasons the filing is erroneous or improvident as to that person (including also that the affected person's name or other identification is similar to the licensee's) and a list of creditors with current addresses who are affected by the commission's action. Upon receipt of the creditors' list, reasons and verification of the erroneous or improvident filing, the commission shall release the lien as to the licensee or the affected person, as necessary, and notify all creditors, stating the certificate of lien filed erroneously or improvidently.

(6) The lien imposed by the action of the commission may be wholly or partially released by filing for record in the office of the county recorder a release of the lien executed by the commission upon payment of the tax, fee, interest, additions to tax or fee, and penalties or upon receipt by the commission of security sufficient to secure payment of the lien, or by final judgment holding the certificate of lien to have been erroneously or improvidently imposed.

(7) The commission may release any part of the property subject to the lien by filing with

the county recorder a copy of the original lien document and an affidavit containing a legal description of the property and stating that the property is to be released from the lien. The county recorder shall note the partial release in the same manner as provided in section 443.090, RSMo. The release of any specific property shall not affect in any manner other property subject to lien.

(8) The commission will maintain records for all certificates of lien. The commission shall also maintain records of all releases of lien. The provisions of section 32.057, RSMo to the contrary notwithstanding the records prepared by the commission, to the extent such information is or may be on file with the recorder, shall be open to public inspection. The records established and maintained by the commission shall not be the official record and are not conclusive evidence of any liability of any licensee to this state.

(9) If any action is taken by the commission to alter or abate any assessment upon which a judgment has been filed, the commission may file a modification or satisfaction of that judgment.

*AUTHORITY: sections 313.004, 313.800, 313.805 and 313.822, RSMo Supp. 1993.\* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994.*

*\*Original authority: 313.004, RSMo 1993 and 313.800, 313.805 and 313.822, RSMo 1991, amended 1993.*

**11 CSR 45-11.170 Exemptions**

*PURPOSE: This rule establishes exemptions.*

(1) Any exemption to tax provided in section 144.030, RSMo otherwise applicable shall not be inapplicable by virtue of the licensee's participation in excursion gambling activity.

*AUTHORITY: sections 313.004, 313.800 and 313.805, RSMo Supp. 1993.\* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994.*

*\*Original authority: 313.004, RSMo 1993 and 313.800 and 313.805, RSMo 1991, amended 1993.*

**11 CSR 45-11.180 Estoppel**

*PURPOSE: This rule establishes estoppel theory.*

(1) Representation, both oral and written, by employees or representatives of the commission interpreting the status of the gaming taxes, the admission fees or the provisions of section 144.010, RSMo are merely for informational purposes and cannot be relied upon to establish any claim, or to substantiate or defend a position in litigation before any forums.

*AUTHORITY: sections 313.004, 313.800, 313.805 and 313.830, RSMo Supp. 1993.\* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994.*

*\*Original authority: 313.004, RSMo 1993 and 313.800, 313.805 and 313.830, RSMo 1991, amended 1993.*