

7861.0320 ORGANIZATION OPERATIONS, ACCOUNTS, REPORTS, AND RECORDS.**Subpart 1. Internal accounting and administrative controls required.**

A. An organization must establish and implement a written system of internal accounting and administrative controls for its lawful gambling operations, on a form prescribed by the board, in addition to any other documented procedures the organization has approved and implemented to meet the following objectives:

- (1) transactions are made with management's authorization;
- (2) gambling revenue transactions are recorded properly and completely to maintain accountability for assets;
- (3) assets are secured and access to assets is only permitted with management's authorization;
- (4) recorded gambling funds and equipment are monitored on an ongoing basis and discrepancies are resolved;
- (5) separation of duties, functions, and responsibilities to protect the organization from theft and fraudulent reporting and ensure compliance with all lawful gambling reporting requirements; and
- (6) fair play of the games to the public is not restricted.

B. The organization's members, gambling employees, or gambling volunteers must perform, at a minimum, the following duties:

- (1) prepare source documents that include:
 - (a) inventory records for daily tracking of game inventory, site inventory, monthly physical inventory, and merchandise inventory. The person who maintains the perpetual inventory must not be the same person who performs the physical inventory;
 - (b) gambling deposit slips;
 - (c) gambling occasion and daily activity records; and
 - (d) authorization for disbursements of gambling funds;
- (2) provide oversight of lawful gambling including but not limited to:
 - (a) conduct of lawful gambling;
 - (b) monitoring the organization's permitted premises to detect illegal gambling;
 - (c) investigating cash variances;
 - (d) determining product to be purchased;
 - (e) ordering product;

(f) presenting the gambling report to members at the regular monthly meeting of the organization; and

(g) ensuring compliance with the lawful purpose rating under Minnesota Statutes, section 349.15, subdivision 1;

(3) hire, discipline, or fire employees;

(4) train employees;

(5) deposit gambling receipts into the bank accounts;

(6) verify cash banks; and

(7) verify that all gambling expenditures, equipment, assets, and receipts are properly accounted for.

C. The organization is responsible for verifying the accuracy of records and reports, including but not limited to:

(1) check register;

(2) monthly bank statement reconciliation;

(3) all tax returns and schedules;

(4) final audit of closed games;

(5) bank deposit reconciliation to game and bank records;

(6) reconciliation of physical and perpetual inventories; and

(7) all monthly reports filed with the board.

D. The organization must use the board-prescribed form to document the segregation of functional responsibilities for the organization's gambling operations, including the names or titles of persons who are responsible for:

(1) presenting the monthly gambling report to the organization membership;

(2) ensuring that prior authorization for all gambling expenditures is obtained;

(3) recording the monthly gambling report and authorization of expenditures in the organization meeting minutes;

(4) preparing checks and electronic transaction authorizations for signatures and maintaining the check register that includes check and electronic transactions;

(5) signing checks from the gambling account;

(6) maintaining perpetual inventory records, and comparing the physical inventory to the perpetual inventory;

- (7) conducting and verifying the physical inventory;
- (8) maintaining merchandise inventory;
- (9) preparing bank deposits;
- (10) depositing receipts into the gambling account;
- (11) reconciling bank statements to the checks, electronic transactions, and deposits listed in the check register, and reconciling bank deposits to games and bank records;
- (12) auditing closed games;
- (13) verifying and resolving profit carryover variances;
- (14) preparing reports required to be submitted to the board and the commissioner of revenue;
- (15) monitoring the organization's compliance with the lawful purpose rating under Minnesota Statutes, section 349.15, subdivision 1;
- (16) investigating and resolving fund losses of missing inventory, tickets, or receipts; and
- (17) investigating and resolving cash shortages.

E. If the organization does not meet the requirements in this subpart, the board must require that the organization revise its internal accounting and administrative control systems. Failure to respond to the board's notice that the organization must revise its internal accounting and administrative control systems must result in the board taking disciplinary action.

Subp. 2. **Method of accounting.** An organization must use the cash basis method to report gross receipts and allowable expenses on the tax return except that the accrual basis method must be used to report the tax required by Minnesota Statutes, section 297E.02, and the monthly regulatory fee required by Minnesota Statutes, section 349.16, subdivision 6a.

Subp. 3. **Gambling bank accounts; expenditures of gambling funds; emergency expenditures.** Each organization must maintain a separate gambling bank account at banks, savings and loans institutions, or credit unions located within Minnesota and comply with the following.

A. The organization must maintain a gambling checking account that complies with the requirements of Minnesota Statutes, section 297E.06, subdivision 2, as prescribed by the commissioner of revenue.

B. For all expenditures from the gambling checking account, two signatures of active organization members are required on all checks and for the authorization for electronic transactions. The treasurer of the organization may not sign the checks or the authorization for electronic transactions from the gambling bank account.

C. The organization may make expenditures from the gambling checking account by electronic transfer or by debit card. Each month, two active organization members must review a

listing of the electronic transfers and debit card transactions for the previous month to verify that the expenditures were made with the authorization of the organization's membership. The active organization members conducting this review must sign and date the list.

D. The organization must make all expenditures or contributions of gambling funds from the gambling checking accounts. This item does not pertain to emergency expenditures which may be made from a source other than the organization's gambling account if the organization's membership has approved the expenditure or to an electronic fund transaction for the payment of taxes for the organization as a whole according to Minnesota Statutes, section 349.19, subdivision 2, paragraph (b).

Subp. 4. **Deposits and transfers of gambling receipts.** The following items pertain to the deposit and transfer of gambling receipts.

A. Each organization must deposit into the organization's gambling bank account all income derived from or related to lawful gambling, including:

- (1) all gambling receipts;
- (2) interest income;
- (3) any rebate or credit refund for an expenditure originally paid with gambling funds;

and

(4) advertising income, including any income from sponsors of the organization's gambling activities.

B. An organization may transfer gambling funds to a nonchecking gambling bank account.

C. For deposits of gambling receipts, the organization must record on the deposit slip the date of deposit, premises permit number, and the following:

(1) for each paper pull-tab and tipboard game, the game serial number and amount of actual cash deposited for each game;

(2) for electronic pull-tabs and electronic linked bingo, the date of the first electronic game occasion included in the deposit and the date of the last electronic game occasion being deposited;

(3) for bingo occasions, the date of each occasion and amount of actual cash deposited from each occasion;

(4) for raffles, the date of the raffle and actual amount of deposit from the sale of raffle tickets or certificates of participation; and

(5) for paddlewheel activity, the actual amount of cash deposited from each day's paddlewheel activity and series number of all paddletickets sold during that day's paddlewheel activity.

D. Funds from a nongambling source must not be deposited in the gambling bank account except as required by subpart 5 and subpart 16, item B.

E. Gambling funds must not be transferred to the organization's general bank accounts for any expenditures or contributions without prior board approval. This item does not pertain to transfers allowed under subpart 15, item B, or to an electronic fund transaction for the payment of taxes for the organization as a whole according to Minnesota Statutes, section 349.19, subdivision 2, paragraph (b).

Subp. 5. Reimbursements to gambling bank account. An organization may not deposit funds from a nongambling source into the gambling bank account unless the organization is required by the board or as otherwise required by statute or rule to reimburse its gambling account for the following reasons, including but not limited to:

- A. unlawful expenditure or expense;
- B. cash shortage;
- C. fund loss;
- D. gambling receipts that the organization failed to deposit into the account;
- E. bring the organization into compliance with Minnesota Statutes, chapter 297E, as required by the commissioner of revenue; or
- F. bring the organization into compliance as required by the terms of a license termination plan approved by the board.

Subp. 6. Report to membership and approval of expenditures by membership required.

A. Before gambling funds are spent, the organization must obtain the approval of its members at a regular organization meeting and record the approval in the meeting minutes.

B. The gambling manager or designee must present a monthly report to the organization's members. The organization must include the report with the meeting minutes. The report must contain the following information:

- (1) gross receipts from each form of lawful gambling conducted;
- (2) for each form of lawful gambling conducted, the dollar amount of all prizes paid out and total value of all merchandise prizes awarded;
- (3) details on all allowable expenses;
- (4) records that show how the net receipts from gambling activity were spent for lawful purpose;
- (5) records of gambling equipment purchases, including:
 - (a) type, quantity, date purchased, and unit cost of equipment purchased; and

- (b) the licensed distributor from whom the equipment was purchased;
- (6) a month-end physical inventory of all games in play and unplayed games, including:
 - (a) manufacturer's identification, part number, and serial number;
 - (b) game name;
 - (c) cost of each game; and
 - (d) date and signature, in ink, of the person completing the inventory;
- (7) bank reconciliation that balances with the organization's profit carryover for each month, and lists:
 - (a) outstanding checks, including check number, payee, and amount;
 - (b) outstanding electronic transactions;
 - (c) deposits in transit;
 - (d) beginning and ending bank balances for each month;
- (8) any correspondence received or sent about the organization's lawful gambling operations; and
- (9) any fund loss discovered during the month.

C. On an annual basis the organization must report to its membership the financial summary report required by Minnesota Statutes, section 349.19, subdivision 5, in a format prescribed by the board.

Subp. 7. **Report of lawful purpose expenditures to board required.** An organization must file with the board a report of lawful purpose expenditures as required by Minnesota Statutes, section 349.19, subdivision 3, in a format prescribed by the board by the 20th day of the next month.

Subp. 8. **Monthly report to revenue required.** The organization must file information each month with the Department of Revenue as prescribed by the commissioner of revenue in Minnesota Statutes, section 297E.06.

Subp. 9. **Fund loss report or request for a profit carryover adjustment due to fund loss.** When an organization has a fund loss by questionable means of its inventory or cash, including prizes paid from a game not conducted in compliance with statute and rule, the organization must use the following procedures.

- A. The organization must file a report with local law enforcement authorities within:
 - (1) five days of discovering the loss; or
 - (2) 24 hours of discovering a loss from a pull-tab dispensing device.

B. The organization must submit one of the following to the board within 60 days of discovering the loss:

(1) documentation that its gambling account was reimbursed for the amount of the fund loss from a source of nongambling funds and the date the loss was reported to the organization's membership; or

(2) a request for a profit carryover adjustment due to a fund loss. If the organization does not submit the request within 60 days of discovering the loss, the board will not consider the request.

C. An organization that submits a request to the board for a profit carryover adjustment due to a fund loss must use a form prescribed by the board. The request must contain, at a minimum:

(1) organization's name, address, license number, premises permit number, and effective date of the premises permit where the loss occurred;

(2) monetary value of the loss or total amount of prizes paid from a game not conducted in compliance with statute and rule;

(3) how and when the loss occurred;

(4) how the assets were secured when the loss occurred;

(5) whether the current status of the law enforcement investigation is active, inactive, or closed;

(6) whether any portion of the loss has been or will be paid by insurance or restitution and, if so, the anticipated amount to be paid and dates of payment;

(7) internal controls in place when the loss occurred and any changes made to the internal controls and personnel to prevent future losses;

(8) date the loss was reported to the membership;

(9) signatures of the chief executive officer and gambling manager; and

(10) before the request will be considered by the board, the organization must provide the board with copies of:

(a) the local law enforcement report or a letter showing that the organization has requested a copy of the report;

(b) a copy of the Schedule B2, if any, and the lawful gambling fund reconciliation showing how the loss was reported; and

(c) minutes from the meeting at which the fund loss was reported to the membership.

D. The board must consider the following items when approving or denying a request for a profit carryover adjustment due to a fund loss:

- (1) security procedures and internal controls in effect when the loss occurred;
- (2) how assets were secured when the loss occurred;
- (3) whether established internal controls were followed by the organization's employees;
- (4) timely filing of the local law enforcement report;
- (5) whether the information in the request was complete;
- (6) when the loss occurred, whether an organization employee was in control of the cash, inventory, or prizes paid from a game not conducted in compliance with statute and rule;
- (7) whether the cash, inventory, or prizes paid from a game not conducted in compliance with statute and rule were accessible to nonorganization employees; and
- (8) if the loss occurred after business hours, how the organization protected and controlled the cash or inventory.

E. If the board denies a request for a profit carryover adjustment due to a fund loss, the organization must reimburse its gambling account for the amount of the fund loss. The organization must submit proof of reimbursement to the board within 90 days of the board's final determination.

F. The board must reconsider a request for a profit carryover adjustment due to a fund loss when an organization presents new information that the organization could not have discovered before the board's initial consideration of the request.

Subp. 10. [Repealed, 35 SR 1276; 35 SR 1528]

Subp. 11. [Repealed, 35 SR 1276; 35 SR 1528]

Subp. 12. [Repealed, 35 SR 1276; 35 SR 1528]

Subp. 13. [Repealed, 35 SR 1276; 35 SR 1528]

Subp. 14. **Standards for 501(c)(3) organizations and 501(c)(4) festival organizations.**

A. To be eligible to make lawful purpose contributions to itself under Minnesota Statutes, section 349.12, subdivision 25, paragraph (a), clause (1), a licensed 501(c)(3) organization or 501(c)(4) festival organization must comply with the following:

- (1) the organization's total general fund expenditures for fundraising, management, and general costs for its most recent two fiscal years must be 30 percent or less. "Fundraising costs" has the meaning given in part 7861.0210, subpart 24. "Management and general costs" has the meaning given in part 7861.0210, subpart 34; and
- (2) the organization must submit to the board a copy of the organization's annual report on income and expenses that was provided to the Internal Revenue Service, or in a format prescribed by the board, upon request.

B. If the board determines that the organization does not meet the standards under item A, then any expenditure made by the organization under Minnesota Statutes, section 349.12, subdivision 25, paragraph (a), clause (1), must be:

(1) related to its program services which do not include fundraising, management, and general costs; and

(2) paid directly from the gambling checking account.

C. Nothing in this subpart prohibits an organization from making other lawful purpose expenditures as allowed under Minnesota Statutes, section 349.12, subdivision 25.

Subp. 15. **Lawful purpose expenditures allowed.** In addition to lawful purpose as defined in Minnesota Statutes, section 349.12, subdivision 25, an organization may make a lawful purpose expenditure for the following.

A. A contribution may be made to a 501(c)(3) organization or 501(c)(4) festival organization if the organization does not:

(1) exist primarily for the purpose of receiving and distributing gambling profits;

(2) have more than 49 percent of its membership in common with the contributing organization; and

(3) have an officer, director, or other person in a managerial position who is also an officer, director, or management person in the contributing organization.

B. A contribution may be made by a 501(c)(3) organization or 501(c)(4) festival organization to itself for its primary purpose if the board has determined that the organization has complied with subpart 14, item A.

C. A contribution may be made to a person or family suffering from poverty, homelessness, or disability if the contribution is reasonably calculated to relieve the effects of that poverty, homelessness, or disability. A contribution may be made to a nonprofit corporation that exists exclusively for these relief purposes if the entire contribution is used to relieve one or more of these effects. Disability includes, but is not limited to, physical or mental difficulties in doing daily tasks and activities such as personal care, meal preparation, cleaning, transportation, or athletic activities.

D. A contribution or expenditure may be made to or on behalf of a public or private nonprofit educational institution registered with or accredited in Minnesota or any other state. If a contribution or expenditure is made to or on behalf of a public educational institution the organization must document the contribution or expenditure on a form prescribed by the board showing the request from or acknowledgment of the institution. The organization must keep the completed form in its records.

E. A contribution may be made for scholarships according to Minnesota Statutes, section 349.12, subdivision 25, paragraph (a), clause (5), if:

- (1) the selection process does not discriminate based on race, gender, religion, national origin, marital status, disability, or age;
- (2) the scholarship is not limited to organization members or their immediate families;
- (3) the criteria for the selection process is communicated to all participants and to all organization members; and
- (4) the names of the persons awarded scholarships are public and communicated to all organization members.

F. A contribution or an expenditure may be made for the cost of activities recognizing military service to the United States, the state of Minnesota, or a community if the following criteria is met.

(1) Any member of the organization making the contribution or expenditure may not receive any money, money equivalent, goods, or services with a market value greater than \$10. In any 12-month period, the total amount of contributions and expenditures for a person must not exceed \$100. These limits do not apply to contributions or expenditures made for members who are active military personnel and their immediate family members in need of support services or to expenditures made for membership events allowed under Minnesota Statutes, section 349.12, subdivision 25, paragraph (a), clause (17). For purposes of this subitem, "immediate family members" means persons living in the same residence as the active military personnel.

(2) If a contribution is made to or on behalf of a unit of government the organization must document the contribution or expenditure on a form prescribed by the board showing the request from or acknowledgment of the unit of government. The organization must keep the completed form in its records.

G. A contribution may be made for recreational, community, and athletic facilities and activities intended primarily for persons under age 21 if the facilities and activities are available to both boys and girls and the opportunity to participate shows their interest in the activity. "Primarily" is demonstrated by written documentation showing that programs for persons under age 21 are given priority scheduling consideration. Equal opportunity must be given for:

- (1) provision of equipment and supplies;
- (2) scheduling of activities, including games and practice times;
- (3) supply and assignment of coaches or other adult supervisors; and
- (4) provision and availability of support facilities.

H. A contribution may be made to or on behalf of any unit of government as authorized by Minnesota Statutes, section 349.12, subdivision 25, paragraph (a), clause (10). The organization must document the contribution or expenditure on a form prescribed by the board showing the request from or acknowledgment of the unit of government and keep the completed form in its records.

I. A contribution for activities recognizing humanitarian service includes expenditures for transportation, food, and beverages given to persons making blood donations.

J. Expenditures may be made for grooming and maintaining snowmobile and all-terrain vehicle trails that are open to public use or are designated as grant-in-aid trails by the commissioner of natural resources under Minnesota Statutes, sections 84.83 and 84.927. Expenditures may be made for supplies and materials for safety training and educational programs coordinated by the Department of Natural Resources. This item includes the repair of equipment used exclusively for the grooming and maintenance of public use snowmobile or all-terrain vehicle trails that are not in the Department of Natural Resources grant-in-aid program or other reimbursement program. Lawful purpose expenditures made under Minnesota Statutes, section 349.12, subdivision 25, paragraph (a), clauses (13), (23), and (24), are not eligible for reimbursement under the grant-in-aid program. Before an expenditure is made, the organization must obtain approval of the project or activity from the commissioner of natural resources or its agents. The organization must document the approval on a form prescribed by the board and keep the completed form in its records.

K. Expenditures may be made for citizen monitoring of surface water quality as allowed under Minnesota Statutes, section 349.12, subdivision 25, paragraph (a), clause (12). Before an expenditure is made, the organization must obtain approval of the project from the Minnesota Pollution Control Agency. The organization must document the approval on a form prescribed by the board and keep the completed form in its records.

Subp. 16. Lawful purpose expenditures requiring board approval. This subpart governs lawful purpose expenditures that require board approval before an expenditure may be made as allowed under Minnesota Statutes, section 349.12, subdivision 25, paragraph (a). The organization must submit a request for board consideration in a format prescribed by the board.

A. For a replacement building as allowed under Minnesota Statutes, section 349.12, subdivision 25, paragraph (a), clause (25), the replacement structure must be used for the same or similar purposes as the building being replaced and must have essentially the same square footage as the building being replaced. Additional costs for landscaping, building code, or parking lot requirements required by the local unit of government after the original building was built may be included.

B. An organization that received board approval to make an expenditure for a mortgage payment or other debt service must obtain prior board approval for any increase in the expenditure, including refinancing or other debt restructuring that increases the debt balance. Closing costs are not included. Any equity withdrawn from real property or a capital asset as part of the refinancing or other debt restructuring is considered gambling gross profits and must be deposited in the organization's gambling bank account.

C. With prior approval of the board, a contribution may be made to a parent organization at the Minnesota state level if the parent organization has submitted to the board a list of the charitable contributions, as defined under Minnesota Statutes, section 349.12, subdivision 7a, for which the parent organization will use the contributions.

Subp. 17. **Lawful purpose expenditures not allowed.** In addition to Minnesota Statutes, section 349.12, subdivision 25, paragraph (c), lawful purpose does not include any of the following:

- A. interest on taxes, tax penalties, or interest on tax penalties;
- B. any expenditure, contribution, or other distribution of gambling gross profits for which the organization keeps any control over the funds, except as allowed in subpart 15, item B;
- C. any contribution or expenditure that results in any monetary, economic, financial, or material benefit to the organization making the contribution or expenditure;
- D. any contribution or expenditure that is not allowed under the conflict of interest provisions of the Minnesota Nonprofit Corporation Act, Minnesota Statutes, section 317A.255;
- E. the purchase of any intoxicating liquor, wine, or malt beverages; and
- F. fundraising costs, except as allowed by subpart 15, item B.

Subp. 18. **Organization records and reports.**

- A. An organization must maintain documentation showing that expenditures of gambling gross profits are either an allowable expense or a lawful purpose.
- B. Each organization must maintain complete, accurate, and legible records with documentation to support all gambling transactions.
- C. The organization must record all inventory records, including perpetual, physical, site, and merchandise prize records, in a format prescribed or approved by the board.
- D. All records must show the gross receipts, prizes, net receipts, expenses, and all other accounting transactions.
- E. The organization must keep all records and reports for 3-1/2 years.
- F. The organization may maintain or convert and store records and reports in an electronic format. The organization must make records and reports available in paper format to the board, the commissioner of revenue, the commissioner of public safety, or their agents upon request.

Statutory Authority: *MS s 14.055; 349.12; 349.151; 349.154; 349.155; 349.16; 349.162; 349.163; 349.1635; 349.165; 349.166; 349.167; 349.169; 349.17; 349.1711; 349.1721; 349.173; 349.19; 349.191; 349.211*

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