

## TITLE 5: OFFICE OF THE ATTORNEY GENERAL

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### CHAPTER 5-20 GAMBLING EXEMPTION CERTIFICATES

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Chapter Authority: 6 CMC § 3166.

Chapter History: Proposed 30 Com. Reg. 28580 (Jul. 28, 2008);\* Amdts Adopted 13 Com. Reg. 8280 (Nov. 15, 1991); Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

\* To date, a notice of adoption had not been published.

Commission Comment: 6 CMC §§ 3161-3166 provide for the exemption of non-profit corporations or organizations from gambling restrictions applicable in the Commonwealth. 6 CMC § 3162 authorizes the Registrar of Corporations to grant the exemptions. 6 CMC § 3166 directs the Attorney General to promulgate rules and regulations as may be necessary to fully implement the exemption provisions.

The Attorney General did not publish the original “Rules for the Issuance of Gambling Exemptions to Non-profit Organizations” or the amendments for comment prior to adoption.

#### **Part 001 - General Provisions**

##### **§ 5-20-001 Rule Making Authority**

This chapter as set forth, and from time to time amended, is promulgated pursuant to the authority and directions set forth in the Commonwealth Code including, but not limited to, 6 CMC § 3166 and the Commonwealth Administrative Procedure Act, 1 CMC §§ 9101, et seq.

Modified, 1 CMC § 3806(d).

History: Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

##### **§ 5-20-005 Introductions and Purpose**

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This chapter as set forth, and from time to time amended, is enacted to implement, interpret, prescribe and clarify the policies and procedures the Registrar of Corporations will follow in issuing gambling exemption certificates which, under certain circumstances, permit a non-profit organization to conduct gambling activities on a specific occasion basis within the Commonwealth of the Northern Mariana Islands; and, to assist such non-profit organizations in preparing their application and/or written financial summaries which are to be submitted to the Registrar of Corporations. The rules in this chapter are intended to be guidelines only and are subject to exemption, clarification, or modification, as deemed appropriate by the Attorney General or Registrar of Corporations.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

### **§ 5-20-010 Definitions**

Unless otherwise specifically defined in this chapter, in chapter 6, division 3, article 3 of the Commonwealth Code, all words and phrases set forth in the rules in this chapter shall be given their normal commonly understood meaning with the masculine including the feminine and neuter, the singular including the plural, the plural including the singular, the present tense including the past tense and future tense.

(a) “Attorney General” means the Attorney General of the Commonwealth of the Northern Mariana Islands or any Deputy Attorney General, Assistant Attorney General, or other employee of the Attorney General’s Office authorized to act for or on behalf of the Attorney General.

(b)(1) “Charitable purpose” means a gift, payment or donation which:

- (i) Will promote the welfare of others; or
  - (ii) Help those in need; or
  - (iii) Better the condition of society; or
  - (iv) Benefit the public at large; or
  - (v) Promote or support education; or
  - (vi) Relieve disease and suffering; or
  - (vii) Assist people in establishing themselves in life; or
  - (viii) Erecting or maintaining public buildings or works; or
  - (ix) Lessen the burdens of government; or
  - (x) To support any other benevolent purpose.
- (2) Support of the operation or day-to-day activities of the non-profit organization shall not be considered a charitable purpose.

(c) “Event or occasion” means a noteworthy happening; a social activity or occurrence; a holiday or celebration organized or recognized by the Commonwealth government; a festival or similar religious celebration. A gambling fund raising event which promotes social activities or interaction among the people in attendance may also be deemed an event or occasion for purposes of these rules. Provided however, that if the

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gambling fund raising activities are the event or occasion for which an exemption is granted, all such gambling activities must be conducted and concluded within a period not to exceed 4 consecutive days each calendar quarter.

(d) “Exemption” means a certificate or similar written acknowledgment issued by the Registrar of Corporations permitting a corporation or association to conduct gambling activities pursuant to the procedures set forth in 6 CMC §§ 3161, et seq.

(e) “Gambling” means any game of craps, keno, faro, monte, roulette, lansquenet, punch board, rough-etnoir, rondo, tan, fan-tan, poker of any kind, seven-and-a-half, twenty-one, hokey-pokey, forty-one, any activities involving a “gambling device” as that term is defined in 6 CMC § 3154, or any other banking or percentage game played with cards, dice, tiles, or any other device, for money, checks, credit, or other things of value.

(f) “Occasion” means the same as “event or occasion” as defined above.

(g) “Registrar of Corporations” means the Registrar of Corporations employed within the Office of the Attorney General of the Commonwealth of the Northern Mariana Islands or any Deputy Registrar, Assistant Registrar or other employee of the Registrar Office designated or authorized to act for or on behalf of the Registrar of Corporations.

(h) “Verifiable cost” means any cost or expense solely and directly related to the gambling activities for which an exemption is issued and which is supported by a receipt, voucher, invoice or similar written document.

Modified, 1 CMC § 3806(d), (f), (g).

History: Proposed 30 Com. Reg. 28580 (Jul. 28, 2008);\* Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

\* To date, a notice of adoption had not been published.

Commission Comment: In subsection (c), the Commission corrected the spelling of “occurrence.” In subsection (d), the Commission corrected the spelling of “acknowledgment.”

In July 2008, the Office of the Attorney General proposed to add new subsections (i) through (n) and to repeal and replace subsection (b)(1). To date, a notice of adoption had not been published.

### **Part 100 - Rules for Issuance of Gambling Exemption**

#### **§ 5-20-101 The Date of Submission**

Any application for an exemption shall be submitted to the Registrar no later than thirty days prior to the first date that gambling activities are to commence.

Modified, 1 CMC § 3806(e).

History: Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

#### **§ 5-20-105 Contents of Application**

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Every application for a gambling exemption shall contain at least the following information:

- (a) The name of the applicant seeking a gambling exemption as that corporation or association is registered with the Registrar;
- (b) The date that the applicant was first chartered or registered as a non-profit corporation or association;
- (c) The specific identity of the beneficiary of the proceeds of the proposed gambling activity either by specific name or a general description by class or status;
- (d) A detailed description of the type of activity for which the exemption is sought including, but not limited to, the name of each gambling game that will be conducted pursuant to the exemption;
- (e) The monetary limitation of any wager or payout which will be imposed upon each game or games;
- (f) The name or names of the person or people responsible for conducting each game;
- (g) The name or names of the person or people responsible for supervising those individuals who conduct each game;
- (h) That the applicant has not less than twelve shareholders or members who are full time bona-fide residents of the Commonwealth of the Northern Mariana Islands and actually living in the Commonwealth at the time the application for exemption is filed;
- (i) That a majority of the applicant's directors are full time bona-fide residents of the Commonwealth of the Northern Mariana Islands actually living in the Commonwealth at the time the application for the exemption is filed;
- (j) An acknowledgment that the applicant must provide a written financial summary to the Registrar no later than thirty days after the completion of the gambling event;
- (k) An acknowledgment to all profits on that proceeds from a gambling event shall be used only for charitable purposes;
- (l) An acknowledgment that no person, corporation, association, or entity will, either individually or on a combined basis, receive more than \$1,000 or 10% of the gross receipts, which ever is smaller, (excluding verifiable costs), for staging or conducting an exempted gambling activity on behalf of the applicant;

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(m) The most recent previous date, if any, when the applicant conducted an exempted gambling activity.

Modified, 1 CMC 3806(e), (g).

History: Proposed 30 Com. Reg. 28580 (Jul. 28, 2008);\* Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

\* To date, a notice of adoption had not been published.

Commission Comment: In subsection (g), the Commission changed “of person” to “of the person” to correct a manifest error. In subsection (i), the Commission changed “applicants” to “applicant’s.” In subsections (j), (k) and (l), the Commission corrected the spelling of “acknowledgment.” In subsection (l), the Commission changed “receives” to “receive.” The Commission corrected the periods at the ends of subsections (k) and (l) to semicolons and inserted the word “and” at the end of subsection (l) pursuant to 1 CMC § 3806(g).

In July 2008, the Office of the Attorney General proposed to amend the first paragraph of this section and to repeal and replace subsection (l). To date, a notice of adoption had not been published.

### **§ 5-20-110      Signing of Application**

Each application for exempt gambling activities shall be signed, under oath, before a notary or other person authorized to take oath in the CNMI, by an officer or other individual specifically authorized to act for and on behalf of the applicant.

History: Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

### **§ 5-20-115      Additional Information**

The Registrar may require that any applicant for an exemption further prove, confirm or verify any or all information set forth in any application submitted prior to issuing a gambling exemption; or require an applicant to submit information in addition to that required by these rules prior to issuing such gambling exemption.

History: Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

### **§ 5-20-120      Denial of Exemption**

The Registrar may deny an exemption to any applicant whose application is not in compliance with either the requirements of 6 CMC §§ 3161, et seq. or this chapter.

Modified, 1 CMC § 3806(d).

History: Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

### **§ 5-20-125      Financial Summary Requirements**

The financial summary which shall be submitted to the Registrar within thirty days after the completion of the gambling event shall contain a summary of income and expenses which shall include, at the minimum, the following information:

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- (a) A separate listing of the proceeds collected from each type of gambling activity i.e.
  - (1) Gambling devices
  - (2) Card games
  - (3) Dice games
  - (4) Other games.
- (b) Income from ticket sales or admission charges, and income from related activities such as the sale of food and beverages.
- (c) Other income or accounts receivable unpaid at the time the report is filed.
- (d) A summary of expenses which shall include, at a minimum, the following information:
  - (1) Rental paid for the location wherein the gambling activities are held;
  - (2) Cost of food or beverages sold to the public;
  - (3) The cost of food provided to volunteers or workers;
  - (4) The cost of beverage provided to volunteers or workers;
  - (5) Advertising;
  - (6) Posters, tickets, script;
  - (7) Other supplies;
  - (8) Miscellaneous expenses.

Modified, 1 CMC 3806(e), (g).

History: Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

Commission Comment: In subsection (a)(4), the Commission inserted the final period.

### **§ 5-20-130 Signing of Financial Summary**

Each financial summary report shall be signed, under oath, before a notary or other person authorized to take an oath in the CNMI, by an officer or other person authorized to act for and on behalf of the organization filing such financial summary report.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 13 Com. Reg. 8280 (Nov. 15, 1991).

### **§ 5-20-135 Supplemental Financial Report**

The Registrar may require any party to whom a gambling exemption has been issued to prove, confirm or verify any or all information set forth in the written financial summary which is submitted in accordance with this chapter or to provide further or additional information relative to the written financial summary in addition to that information required by this chapter.

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Modified, 1 CMC § 3806(d), (f).

History: Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

### **§ 5-20-140 Denial of Subsequent Exemption**

The Registrar may deny to any charitable corporation or organization a gambling exemption to hold any further or additional gambling event if such corporation or organization, or its predecessor in interest, has failed or refused to comply with either the requirements of 6 CMC § 3162(f) or this chapter.

Modified, 1 CMC § 3806(d).

History: Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

### **§ 5-20-145 Limitation on Issuance**

(a) For purposes of issuance of a gambling exemption, the months of January, February and March, inclusive, shall comprise the first calendar quarter; the months of April, May and June, inclusive, shall comprise the second calendar quarter; the months of July, August and September, inclusive, shall comprise the third calendar quarter; and, the months of October, November and December, inclusive, shall comprise the fourth calendar quarter.

(b) Where the “event or occurrence” incidental to which a gambling exemption is sought, is the social interaction occasioned by the gathering of people at the gambling fund raising event, a gambling exemption issued pursuant to the authority of 6 CMC §§ 3161, et seq. and this chapter, must be issued for consecutive days and will not be issued for a period in excess of four consecutive days during each calendar quarter.

Modified, 1 CMC § 3806(d).

History: Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

Commission Comment: In July 2008, the Office of the Attorney General proposed to add a new section to this part, entitled “Operation of Gambling Activities.” To date, a notice of adoption had not been published. If adopted, the new section will be codified in § 5-20-150.

## **Part 200 - Miscellaneous Provisions**

### **§ 5-20-201 Fees**

Because of the non-profit nature of the corporation or organization to which a gambling exemption is issued, and in an effort to permit such corporation or organization to have the maximum amount of proceeds to donate towards a charitable purpose, no fee will be charged or imposed by the Registrar of Corporations for the issuance of a gambling exemption.

History: Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

**§ 5-20-205 Notice**

The Registrar of Corporations will, contemporaneously with issuing a gambling exemption certificate to a qualified organization, provide a copy of such certificate to the Department of Public Service in the district where the exempt organization will conduct its gambling fund raising activities.

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).

Commission Comment: The reference to the Department of Public Service is in error. No such department existed in the government of the Commonwealth in 1991, nor does it currently exist.

**§ 5-20-210 Effective Date**

This chapter shall, pursuant to 1 CMC § 9105(b) become effective ten days after its publication in the Commonwealth Register which publication occurred on the fifteenth day of April, 1991.

Modified, 1 CMC 3806(d), (e).

History: Adopted 13 Com. Reg. 7676 (Apr. 15, 1991).