

General Information Letter: Explanation of various issues arising under the Illinois Charitable Games Act.

October 18, 2010

Dear:

This is in response to your letter dated August 18, 2010 in which you request information regarding the Illinois Charitable Games Act ("the Act"; 230 ILCS 30/1 et seq.). The nature of your request and the information you have provided require that we respond with a General Information Letter (GIL). A GIL is designed to provide general information, is not a statement of Department policy and is not binding on the Department, See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's website at www.revenue.state.il.us.

In your letter you have stated the following:

As a licensed charitable games provider for Illinois, I have a few questions regarding the equipment and logistics of fundraising events. Please address the following questions in as much detail as possible.

- 1) Can a licensed charitable gaming supplier also own gaming equipment for strictly fun events?
- 2) If the answer is yes, can the equipment be stored in the same facility and to what extent do they have to be segregated within that same facility.
- 3) Does all equipment used for charitable gaming need to be marked with the name registered on the suppliers license or can we use one of our DBA business names?
- 4) Given the amount of equipment we currently have in stock, I would like to adjust the RCG-9 form to reflect the equipment donations we have processed since our last submission of the RCG-9. Can we update the RCG-9 form at any time or does it have to be with renewal of our license?
 - a. If the answer is yes, what is the correct procedure to do so?
- 5) Our company currently has 5 different DBA accounts registered with the Illinois Secretary of State. Can we choose to use those names on client contracts & equipment labeling instead of Articulate Promotions?
- 6) It is to my understanding that a charitable game supplier cannot provide charitable organizations with staff of any kind to work the event, aside from a volunteer dealer training session before the event. Can we provide a dealer training guide with rules and payouts for each game to the volunteers to help them during the event?

RULING

Section 6 of the Act states, in part:

No licensed supplier under this Act shall lease, lend, or distribute charitable gaming equipment, supplies, or other devices to persons not otherwise licensed to conduct charitable games under this Act.

In addition, Department Regulations Section 435.130(b)(3) states:

No supplier shall sell, lease, lend or distribute any item of charitable games equipment to any organization or entity not holding a license to conduct charitable games. To ensure that the organization to whom equipment is sold, leased, lent, or distributed is licensed for charitable gaming, the supplier shall obtain from the organization and retain among his or her books and records a copy of the organization's license showing the license number, expiration date and the event date for which the equipment was sold, leased, lent, or distributed.

In Letter No. ST 2006-0065-GIL, the taxpayer inquired whether a licensed supplier could lease charitable games equipment to a corporation for the purpose of hosting a casino night for its employees in which the games would be played only for fun with no wagering or gambling allowed. Relying on Section 435.130(b)(3), the Department concluded that as a licensed supplier the taxpayer was prohibited from leasing the equipment to any person other than a licensed organization. Therefore, regarding your question (1), Articulate Promotions may not distribute gaming equipment "strictly for fun events" unless the distributee holds a charitable games license.

Section 6 of the Act states, in part:

A supplier shall permanently affix his name to all charitable games equipment, supplies and pull tabs.

In addition, Department Regulations Section 435.130(e) states:

A supplier shall permanently affix his name to all charitable games equipment, supplies and pull tabs he sells, leases or rents. The name shall be plainly visible to the public while any item of charitable games equipment is being used for the purpose for which it was intended at a charitable games event. The supplier's name shall be affixed to any box or other package containing unopened pull tab or break open tickets, and to any promotional cards, or "flares."

Regarding your questions (3) and (5), the above provisions require that all charitable games equipment be marked with the supplier's true corporate name or entity name, and not an assumed corporate name or "DBA" name.

Regarding your question (4), Section 6 of the Act states, in part:

A supplier shall keep among its books and records and make available for inspection by the Department a list of all products and equipment offered for sale or lease to any organization licensed to conduct charitable games, and all such products and equipment shall be sold or leased at the prices shown on the books and records.

Department Regulations Section 435.130(b)(2) states:

No supplier shall sell, lease or distribute to any charitable games licensee any item of charitable games equipment not included on the list or any amendments thereto described in subsection (b)(1) above, nor shall any supplier sell, lease or distribute to any charitable games licensee any item of charitable games equipment at a price other than the price on file with the Department

Form RCG-8 is used by licensed suppliers to report to the Department, among other things, a list of

all charitable games equipment offered for sale, lease or distribution and the accompanying prices. Form RCG-8 should be amended as necessary to comply with Regulations Section 435.130(b)(2). Form RCG-9 is used by organizations possessing a charitable games license to report all charitable games equipment that the organization owns and uses in the conduct of charitable games.

Section 6 of the Act states, in part:

No employee, owner, or officer of a supplier may participate in the management or operation of a charitable games event, even if the employee, owner, or officer is also a member, volunteer, or employee of the charitable games licensee. A supplier may not promote or solicit a charitable games event on behalf of a charitable games licensee or qualified organization.

Department Regulations Section 435.130(d)(6) clarifies that a supplier's provision of training classes and consulting services prior to a charitable games event is not participation in the management or operation of a charitable games event.

In addition, Department of Revenue Informational Bulletin FY 95-24 provides the following guidance as to activities that constitute the management or operation of a charitable games event.

What activities constitute “management or operation” of a charitable games event?

The following activities constitute “management or operation” of a charitable games event:

- selling admission tickets
- selling or redeeming chips, scrip, or play money; or assisting in these activities
- participating in the conducting of any game played during the event
- supervising, directing, or instructing anyone conducting a game
- counting or handling any of the proceeds or chips, scrip, or play money at the event; or supervising anyone doing so
- ensuring that the games are being conducted according to the rules established by the sponsoring organization
- ensuring that the game equipment is working properly

What activities do not constitute “management or operation” of a charitable games event?

The following activities do not constitute “management or operation” of a charitable games event:

- setting up
- cleaning up
- selling food or drink
- providing security for persons or property

Regarding your question (6), consistent with the above authorities the mere provision of a dealer training guide as described in your letter would not constitute participation in the management or operation of a charitable games event. Therefore, pursuant to your supplier's license, Articulate Promotions may sell or distribute dealer training guides to licensed organizations.

As stated above, this is a GIL. A GIL does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you have additional questions regarding this GIL, you may contact me at (217) 782-7055.

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Sincerely,

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