GAMING POLICY MODELS, PART V: ACCOUNTING REGULATIONS

By Glenn Light and Karl Rutledge

Last month we addressed taxation and discussed some of the key factors that jurisdictions should assess when making determinations regarding taxation schemes. In this month's article, we discuss how accounting regulations control and protect the flow of revenues generated by the gaming activities. In essence, there are two principal objectives in setting regulations governing the accounting of private gaming establishments.

The first objective is to prevent non-licensed persons from sharing in the gaming revenues. This ensures that unsuitable persons are not avoiding the licensing requirement through hidden interests. For instance, a regulator should be able to utilize these regulations to detect if an unsuitable person has circumvented the licensing process but nonetheless is profiting from a gaming establishment. Accounting regulations, therefore, can assist a gaming jurisdiction in protecting the integrity of its gaming industry.

The second objective is to prevent "skimming," whereby the gaming establishments receive revenues without paying the appropriate taxes to the jurisdiction. This objective is particularly important in jurisdictions that impose high tax rates upon their gaming industries, because these governments have a major interest in assuring that all revenues are accounted for and all taxes owed to them are received. These regulations also assist with stopping employee theft or embezzlement.

Accounting in gaming establishments is much more difficult than accounting in most businesses, where each transaction is recorded. Take, for instance, a hardware store. The hardware store will keep records of each item sold. Even another cash business, like a bank, records all individual transactions. These records serve as a basis to both account for and audit the financial transactions of the respective business. Yet, it is impractical for a gaming establishment to record every single bet made, so instead governments and gaming establishments "must rely on accounting by aggregate."[1] As such, the accuracy of this type of accounting "relies on the accurate and secure handling of all casino transactions: collecting, transferring and paying cash, granting and recording credit, and exchanging, collecting and disbursing gaming chips and tokens."[2]

Gaming accounting controls can take various forms, from actual governmental participation in the accounting process to less obtrusive reporting requirements.[3] The specific accounting controls implemented by a gaming jurisdiction will depend on a variety of factors specific to that jurisdiction, including the size of its gaming industry, its financial resources and personnel resources.

If a government strives to best ensure that all revenues are properly accounted for, the government needs to be actively involved in the accounting process. What this precisely entails varies by the type of gaming offered. For instance, if the permitted gaming is restricted to gaming devices only, on-line monitoring systems give government accountants the opportunity to monitor play as it occurs. However, a table game environment requires a physical presence in the accounting process. This would include government participation in every transaction that involves the transfer of money, credit or monetary equivalents, such as chips.[4]

This type of government participation and oversight, however, is unpractical. While such intense governmental participation may be possible in a jurisdiction that allows a sole, large gaming establishment, it is both logistically and financially impractical in multi-establishment markets such as Nevada, where there are more than 200 casinos. In light of this, some governments focus their participation in key areas of the accounting process. For instance, many jurisdictions require government personnel to observe the process whereby the drop box is transported from the gaming device or table to the count room.

In contrast to full government participation, a cost-efficient method of assuring proper cash controls is through government audits.[5] While not as personnel-intensive as full government participation, this nonetheless requires that the government retain a staff of well-trained and competent individuals to conduct the audits with sufficient regularity to serve as an effective deterrent. Accordingly, government audits are often unannounced and conducted at irregular intervals. Typical objectives of the audit are to ensure no unlicensed persons receive gaming revenues, that the establishment has adequate internal control procedures, and it is following these procedures.

Another technique to aid gaming establishments in satisfying governmental accounting objectives is to require gaming establishments to undergo annual audits by outside accounting firms. Outside audits are of particular benefit when the government does not have the financial or personnel resources to conduct such audits itself. These audits may include not only a review of the establishment's financial statement, but also a review of the establishment's compliance with its internal control submission.[6]

Additionally, most gaming licensees are required to conduct internal audits. Indeed, one of the best ways to ensure compliance is through internal audit departments. An internal audit, when properly designed and staffed, can monitor and assess compliance with the law and also objectively assess whether the policies and procedures of a gaming establishment are adequate and effectively working to safeguard assets, control activities and prevent fraud, waste and abuse. Through the use of these audit systems, governments endeavor to make compliance a prolific and central focus of gaming companies to ensure that they not only comply with the letter of the law, but also establish internal controls as an integral part of their company culture.

Internal controls are policies and procedures that are designed to safeguard the assets of a gaming establishment, maintain accountability for transactions, and prevent and detect errors and irregularities that may occur in the operation of the business.[7] A government may dictate internal controls through the adoption of detailed regulations, or it may allow each establishment to devise its own set of internal controls that meet set standards.[8] Internal controls govern almost every aspect of the gaming business. Generally, they are written instructions on how employees and management must handle a particular situation. However, internal controls should be practical and cause only minimal interruption of operations. For instance, a gaming operator would not implement a policy to record the result of every hand of blackjack to verify revenues since such a policy would significantly impact the game's pace and profitability. Instead, a gaming operator will typically only examine a sample of hands to ensure the accurate recording of revenues.

There are three primary types of internal controls, namely (1) Access Controls, (2) Documentation Controls and (3) Personnel Controls.[9] Access Controls are physical safeguards, such as surveillance cameras and lock-and-key devices. These safeguards are common in the most sensitive areas of the gaming establishment, which handle the large amounts of cash, such as the cage and count room. Documentation Controls, on the other hand, are internal controls that result in physical evidence of a transaction from its origin through recording the financial records of the establishment.[10] For instance, Documentation Controls are used when management extends lines of credit to players. Such transactions are recorded by the gaming establishment and can be used by the establishment to prove compliance with the various regulatory auditing standards. Finally, Personnel Controls create a chain of command for approval of, and accountability for, transactions.[11] For instance, cage activity is typically supervised by a cashier supervisor, shift supervisor and cage manager. Moreover, at least one supervisor will approve all notable financial transactions. A comprehensive and probing internal control program will incorporate a combination of all three types of these controls.

To conclude, accounting procedures are essential to ensure the proper regulation of cash flowing through a gaming establishment. The type of accounting procedures a government chooses to implement, however, will depend upon a variety of factors that are unique to the government and its gaming market.

1 International Gaming Institute, University of Nevada, Las Vegas, William F. Harrah College of Hotel Administration, "The Gaming Industry: Introduction and Perspectives," pg. 93, John Wiley & Sons, Inc. (1996).

2 Id; citing Michael Santaniello, "Casino Gambling: The Elements of Effective Control," 6 SETON HALL LEG. J. 25-27 (1982).

3 Cabot, Anthony N., "Casino Gambling: Policy, Economics and Regulation," pg. 396, Las Vegas: UNLV International Gaming Institute (1996).

4 Id

5 Id. at 397

6 International Gaming Institute, *supra* note 3 at 94.

7 Cabot, *supra* note 5 at 398

8 International Gaming Institute, *supra* note 3 at 95

9 Cabot, *supra* note 5 at 399

10 Id. at 400

11 Id.

GLENN **LIGHT**

Glenn Light is an associate in the Gaming Practice Group at the Las Vegas offices of Lewis and Roca. He focuses his practice on casinos, restricted gaming locations, horse racing, Internet gaming, sweepstakes and contests. He can be reached at glight@lrlaw.com.

KARL **RUTLEDGE**

Karl Rutledge is an associate in the Gaming Practice Group at the Las Vegas offices of Lewis and Roca. Prior to joining the firm, he was a judicial law clerk to the Honorable James A. Rice of the Montana Supreme Court. He can be reached at krutledge@lrlaw.com.