

Small Games of Chance Still a Gamble!

On February 2, 2012 Governor Corbett signed into law Act 2 of 2012, which became effective March 3, 2012. Act 2 makes substantial changes to the Small Games of Chance Act, and those who are involved with charities that might sponsor a raffle or other small game of chance will want to become familiar with these changes.

Act 2 basically has rewritten the Small Games of Chance Act ("SGCA"). As a result, much of the guidance previously available, such as the Department of Revenue Small Games of Chance Primer, is no longer valid, and it will take time before new guidance is issued. As before, enforcement is to occur at the county level. Therefore, some of the issues will have to be resolved by discussion with appropriate county officials. Charities sponsoring small games of chance will need to consider the following:

- All organizations conducting raffles must be licensed, as was previously the case. A raffle is any contest where one must pay money or make a contribution in order to enter the contest. License fees increased moderately.
- A licensed organization can hold raffles with prizes up to \$1000. For a raffle with prizes in excess of \$1000, a Special Permit must be obtained for the raffle. Up to eight Special Permits may be obtained per license term (up from two), with some organizations eligible for ten permits per license term.
- A raffle must be conducted only at a licensed premises, as indicated on the license holder's license application. There is a special exception for off-site events held on an "historical" basis, but the district attorney and licensing authority of the county where the event is to take place must be notified. Off site ticket sales may occur if the municipality where tickets are to be sold has approved such sales by municipal referendum, and the local district attorney and licensing authority have been notified of the time and place where ticket sales are to occur. It is unclear how this is to be applied to raffles where there are no separate ticket sales and the mere act of making a contribution enters one into the contest. Disclosure and discussion with the local county officials on this issue are recommended.
- The licensed organization must keep raffle proceeds segregated in a separate bank account. How this is to work when there is no specific dollar amount designated for the price of the raffle ticket and the act of making a contribution causes entry into the raffle is unclear.
- The licensee CEO, secretary and any other person designated by the Department of Revenue must obtain criminal background checks from the State Police. This is done using Form SP4-164, which requires a fee (download the form below). The results are included with the annual license renewal.

- A report must be made to the Department of Revenue every year listing raffle winners with prizes exceeding \$600 in value, together with a report as to how the proceeds from the previous year were utilized for public interest purposes.
- The local district attorney is responsible for enforcing the Act. The DA can revoke a SGCA license, and can levy civil penalties beginning at \$500 per violation, and increasing to \$1500 per violation. There are also criminal penalties applicable to both the licensee and the individuals involved in the illegal behavior, beginning at the level of a third degree misdemeanor for a first violation and a first degree misdemeanor for a subsequent violation.

"Clubs" have more extensive reporting rules and are subject to various other requirements under the Act, but this only applies to organizations licensed to sell liquor.

Conducting a raffle also raises federal income tax withholding issues for prizes with a value in excess of \$5000. These mandatory withholding rules can create personal liability for charity officers, so caution is advised when prizes exceed the \$5000 threshold.

There is much that is not known about how the new law is going to operate, so caution is advised. For more information, contact **Rebecca Finkenbinder** at 237-5328 rfinkenb@mwn.com or **David Watts** at 237-5344 dwatts@mwn.com.

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