

ment methodology used by the Banking Division. It makes only one change from the allocation methodology used by the former Banking Department in the previous state fiscal years.

That change affects only one of the industry groups regulated by the Banking Division. It somewhat alters the way in which the Banking Division's costs of regulating mortgage banking industry are allocated among entities within that industry. In any case, the total amount assessed against regulated entities within that industry will remain the same.

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Lottery Subscription Program

I.D. No. SGC-52-15-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This rule is proposed pursuant to 5-Year Review of Existing Rules. Amendment of sections 5005.1(b), (c), 5005.2(b), 5005.3(b), 5005.4, 5005.5, 5005.6, 5005.7 and 5005.8 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, section 104; Tax Law, sections 1601, 1604, 1612 and 1617

Subject: Lottery subscription program.

Purpose: To better serve customers needs and preferences.

Text of proposed rule: Subdivisions (b) and (c) of section 5005.1 are amended to read as follows:

§ 5005.1. Subscription program.

(b) Entry into a subscription program will require the completion and submission of either a paper or electronic version of

- (1) a subscription application form; or
- (2) a subscription renewal [application] form.

The subscriber may [be required to] provide the subscriber's social security number on the respective application form so that prizes requiring Federal reporting or withholding may be automatically sent to the winning subscriber. An application for a group subscription [may] must contain the names[,] and addresses[,] and social security numbers] of each group member.

(c) By providing the social security number, the subscriber is authorizing the commission to retain and use the number for the purpose of tax reporting and any other lawful purpose of the commission. No group may exceed 10 members if such group's application was made by mail.

Subdivisions (b), (e), (g), (h), (i), (k), (l), (n), (p) and (q) of section 5005.2 are amended to read as follows:

§ 5005.2. Subscription definitions.

(b) Confirmation [letter] means the paper or electronic correspondence sent to a subscriber from the commission confirming the game(s), game characters for each game panel played, the type of plan, the effective date and the expiration date.

(e) Game numbers means the numbers selected for each of the game panels played on an application [form].

(g) Group means two or more individuals sharing a game subscription whose [individual] combined qualifications meet that of an individual subscriber.

(h) Group representative means the individual designated on a group application [form] as the person selected by the group subscribers to act on behalf of the group in handling any communications and prize payments related to the subscription.

(i) Plan means the game(s) played, the number of consecutive [games] drawings played and the duration of the subscription as determined by the number of weeks selected by the subscriber.

(k) Subscriber means either the individual or the group identified on an application [form] as the person(s) entitled to [the winning] any prize the individual or group may win.

(l) Subscriber identifying information means the name, address, subscription number and, taxpayer identification number (if provided) of the subscriber or each member of a group.

(n) Subscription file means a file maintained by the commission or the commission's contractors containing subscription information and used in the [prize] determination [process] of sales and prizes.

(p) Valid Subscription Entry means one that includes the following: Subscriber identifying information (as defined herein), [selected payment option,] game characters entered on the appropriate commission or contractor computer [file] system that is the official record of subscription entry.

(q) Valid Group Subscription Entry means one that includes the following: Subscriber identifying information for each member of the group, [selected payment option,] game numbers entered on the appropriate commission or contractor computer [file] system, which is the official record of group subscription entry.

Subdivision (b) of section 5005.3 is amended to read as follows:

§ 5005.3. Subscription costs.

(b) A subscription may be for one[, two, or three] or more game panels[, or a greater number of game panels] as may be determined by the commission.

Subdivisions (a) and (b) of section 5005.4 are amended to read as follows:

§ 5005.4. Subscription application requirements.

(a) To be accepted for entry without changes, a subscription application must meet the following requirements:

(1) Each game panel must contain the required amount of unduplicated game numbers selected from the numbers available for the game that the applicant indicates on his or her application [form]. If a game panel submitted by an applicant contains no game numbers or fewer than the required amount of game numbers, the Quick Pick option may be used to randomly select game numbers. If an applicant submits an application with more than the required amount of game numbers circled in a game panel, the commission may select the required number of game numbers consecutively from among such selected numbers. All other numbers may be disregarded.

(b) An application may be rejected for any of the following reasons:

- (1) If the application is illegible in whole or in part;
- (2) If the application includes a form of payment that is not acceptable to the commission;
- (3) If the applicant is under the age of 18; or
- (4) If the applicant does not submit a New York State address for a subscription submitted through the U.S. Mail.

Subdivisions (a) and (b) of section 5005.5 is amended to read as follows:

§ 5005.5. Valid subscription entry.

To be a valid entry, a subscription must meet the following requirements:

(a) To be eligible to win a prize, an application [form], including the subscriber identification information, [lump sum option (if selected),] and the game numbers must be entered into the Division's subscription file to create the official record of subscription entry.

(b) A confirmation [letter] (paper or electronic) shall be issued by the commission to the subscriber confirming a valid subscription entry has been received.

Subdivisions (a), (b), (c), (d), and (e) of section 5005.6 are amended to read as follows:

§ 5005.6. Payment of subscription prizes.

(a) Prizes that [exceed \$1 and] are less than the threshold withholding amount for Federal tax reporting will be [remitted to an] placed into the player account created prior to purchase of the player's first subscription. Such prizes may be used to purchase additional subscriptions or the player may request a cash-out and receive payment for any unpaid prizes. Payment will be made to the individual subscriber or group representative whose name appears on the application.

(b) Prizes that meet or exceed the threshold amount for Federal withholding for an individual will be remitted to the individual subscriber whose name appears on the application [form] minus the required withholding amount.

(c) Prizes that are greater than \$1 will be remitted to an individual subscriber whose name appears on the application form. Prizes equal to or less than \$1 will be credited to the subscriber's account to reduce the cost of subscription renewal, or in the event the subscriber chooses not to renew

such subscriber's subscription, the prize winning(s) in the account will be remitted to the subscriber.

(d) For payment of a prize that does not meet the threshold amount for Federal tax reporting to a group subscriber, payment will be made in one payment in the name of the group and the group representative as indicated on the application form, and remitted to the group representative.]

([e]/c) For payment of a prize that meets or exceeds the threshold amount for Federal withholding to a group subscriber, a payment representing [an equal] *the designated* share of the prize will be remitted to each individual member of the group. If the subscription or renewal application does not show the taxpayer identification number (social security number or Federal employer identification number) of each group member, the division will withhold appropriate income taxes in accordance with the applicable back-up withholding rules.

Subdivisions (c) section 5005.7 are amended to read as follows:

§ 5005.7. Subscription disputes.

(c) If there is a discrepancy between the information set forth on an application [form] and the information set forth in a confirmation letter, the subscriber may ask the commission, by written or electronic communication, to resolve the discrepancy. After such a report is received by the commission, the commission shall resolve the discrepancy as soon as possible and issue a revised confirmation letter. Resolution may include, but is not limited to, cancellation of the subscription. No change in the subscription shall be effective until a revised confirmation letter is issued. No request to resolve a discrepancy shall be accepted after the effective date in the confirmation letter issued.

Subdivisions (a) and (b) of section 5005.8 are amended to read as follows:

§ 5005.8. Subscription miscellaneous.

(a) [Furthermore, the] *The* commission, pursuant to the commission's statutory authority, may from time to time add games to the commission's subscription program [(including but not limited to Mega-Millions)].

(b) A subscription renewal must be processed [at least 12 business days] prior to the expiration date of a current subscription in order to avoid a lapse in the subscription. A renewal application [form] containing current subscription number, games, game numbers, plan, effective date and expiration date will be sent to the subscriber either electronically or by mail. The commission will make reasonable efforts to process renewal applications to assure no interruptions; however, the commission shall not be responsible for an interruption if a renewal application is not processed in sufficient time.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, NY 12301-7500, (518) 388-3407, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Five-Year Review of Existing Rules An assessment of public comments is not attached because no comments were received. Not applicable.

Regulatory Impact Statement

1. Statutory authority: Pursuant to the authority conferred in New York State Tax Law Sections 1601, 1604, 1612, and Racing, Pari-Mutuel Wagering and Breeding Law Section 104, the following amendments shall take effect upon publication in the State Register. Section 1601 of the Tax Law states the purpose of Article 34 of the Tax Law is to carry out the constitutional mandate to establish a lottery operated by the State. Section 1604 of the Tax Law provides for the Lottery's authority to promulgate rules and regulations governing the Lottery. Subdivision 19 of Section 104 of the Racing, Pari-Mutuel Wagering and Breeding Law authorizes the Gaming Commission to promulgate rules and regulations necessary to carry out its responsibilities.

2. Legislative objectives: The Lottery's purpose is to generate revenue for the support of education in the State through the operation of Lottery games. Amendment of these regulations forwards such purpose by better reflecting player preferences and updating the regulations to reflect use of electronic mediums.

3. Needs and benefits: The Division of Lottery offers a subscription program, which permits a customer to play the same number selections for a period of consecutive drawings over a set period. The proposed revision to the regulations will better serve customer needs and preferences and reflect the use of electronic technology. The revisions include: paper or electronic applications; eliminate the requirement that a group application contain the names, addresses and social security numbers of each group member; make 10-member maximum group size apply only to mail applications; modify definition of group to mean two or more individuals

whose combined qualifications meet that of an individual subscriber; make requirement of NYS address applicable to applications sent by postal mail; make subscription prizes that are less than the threshold amount for Federal tax reporting payable to a credit account, which may be used to purchase additional wagers or may be cashed out; eliminate 12 -day-lead time for renewals; and various technical changes.

4. Costs:

a. Costs to regulated parties for the implementation and continuing compliance with the rule: There are no costs to stakeholders.

b. Costs to the agency, the State, and local governments for the implementation and continuation of the rule: No additional operating costs are anticipated, since funds originally appropriated for the expenses of operating the existing subscription program are expected to be sufficient to support these amendments.

c. Sources of cost evaluations: The foregoing cost evaluations are based on the New York State Lottery's experience in operating State Lottery games for more than 40 years.

5. Local government mandates: The proposed amendment does not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

6. Paperwork: There are no changes in paperwork requirements.

7. Duplication: There are no relevant State programs or regulations which duplicate, overlap or conflict with the proposed amendment.

8. Alternatives: The alternative to amending the subscription regulations is to continue the currently effective subscription program regulations and prevent the Lottery from providing greater convenience to its players and updating the regulations to reflect use of electronic mediums.

9. Federal standards: The proposed amendment does not exceed any minimum standards imposed by the Federal government.

10. Compliance schedule: The proposed amendment will be effective upon publication of a Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis

A rural area flexibility analysis is not required for this proposal since it will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on rural areas. This proposal amends the subscription regulations in the interest of customer convenience and preferences; and to recognize electronic technology.

Rural Area Flexibility Analysis

A regulatory flexibility analysis is not required for this proposal since it will not impose any adverse economic impact or reporting, record keeping or other compliance requirements on small businesses or local governments. This proposal amends the subscription regulations in the interest of customer convenience and preferences; and to recognize electronic technology.

Job Impact Statement

A job impact statement is not submitted because this proposed rule will have no adverse impact on jobs or employment opportunities. This proposal amends the subscription regulations in the interest of customer convenience and preferences; and to recognize electronic technology.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Manner in Which Prize Payments Are Made

I.D. No. SGC-52-15-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This rule is proposed pursuant to 5-Year Review of Existing Rules. Amendment of section 5002.5 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, section 104; Tax Law, sections 1601, 1604, 1612 and 1617

Subject: Manner in which prize payments are made.

Purpose: To better reflect customer and retailer preferences and the administrative needs of the Commission.

Text of proposed rule: Section 5002.5 is amended to read as follows:

§ 5002.5. Manner of payment.

(a) [Cash payment.]

[(1) A prize payable on a winning instant game ticket having a value of \$25 or less may be obtained in cash from the lottery sales agent who sold the ticket.]

[(2) A prize payable on a winning instant game ticket having a value of \$100 may be obtained in cash from any lottery sales agent.]

[(3) A prize payable on a winning computerized game ticket having a