

**Department of Revenue and Taxation  
Government of Guam Limited Gaming Tax  
and Guam Memorial Hospital Authority  
Trust Fund Fees**

**Performance Audit  
July 2013 through September 2015**

**OPA Report No. 16-06  
August 2016**



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**EXECUTIVE SUMMARY**  
**Government of Guam Limited Gaming Tax and**  
**Guam Memorial Hospital Authority Trust Fund Fees**  
**OPA Report No. 16-06, August 2016**

Since July 2013, Public Law (P.L.) 32-60 imposed a new four percent (4%) Limited Gaming Tax (LGT) on gross receipts from certain authorized limited gaming activities (including electronic gaming devices, bingo/lottery, cockfighting, and Liberation Day gaming activities) and an additional new 4% Guam Memorial Hospital Authority (GMHA) Trust Fund Fee on income from licensed electronic gaming devices (Liberty, Symbolix, and Match Play). The Department of Revenue and Taxation (DRT) created Form 3260 to report both the self-assessed LGT and GMHA Trust Fund Fee. The form is still temporary, since a gaming commission has not been empaneled to create an official form. Form 3260 is manually processed by DRT and gaming entities are unable to file electronically.

For 27-month period from July 2013 to September 2015, the Department of Administration (DOA) reported \$3.9 million (M) in LGT and \$3.7M in GMHA Trust Fund Fees, a total of \$7.6M from these new taxes based on \$117.7M of Form 3260 gaming gross receipts filed by 44 entities. The LGT is allocated up to one-third each to the Mayors' Council of Guam (MCOG), Department of Parks and Recreation (DPR), and Department of Education (DOE) for capital, team sponsorships, and uniforms. These agencies each received \$923 thousand (K) for a total of \$2.8M of the \$3.9M LGT. However, these amounts do not reconcile with each agency's available financial records. GMHA received \$3.3M of the \$3.7M in GMHA Trust Fund Fees. GMHA has not submitted quarterly expenditure reports required by P.L. 32-60 to the Governor and Legislature.

We found that DRT's predominantly manual processes do not ensure that LGT and GMHA Trust Fund Fees are accurately collected and allocated to GMHA, GDOE, DPR, and MCOG. DOA reported \$7.6M was collected for LGT and GMHA Trust Fund Fees. However, DRT reported \$4.7M, a difference of \$2.9M.

**Gambling Winnings Not Consistently Reported**

Gaming entities are required to issue a Form W-2G to certain gambling winners by January 31 of each year, and file at DRT the required information returns monthly (Form 3260) and annually (Form 1096). A winner must report all gambling winnings on their Form 1040 as "Other Income". Based on tax years (TY) 2013 through 2015 Form 1096 filings, only \$33.3M in gambling winnings were reported by eight gaming entities of the 44 entities. Form 1096 summarizes the Forms W-2G provided to recipients. The top gaming entity, with gross receipts in excess of \$60.1M, did not report any gambling winnings for TY 2013 through 2015. The Internal Revenue Service subjects entities to a \$250 penalty, while P.L. 32-60 outlines other penalties, per failure to furnish an information return. However, DRT has not assessed failure to file penalties.

**Enforcement Efforts Need Improvement**

There is a high probability of revenue loss as DRT is not enforcing the limited gaming laws and not reviewing information provided by gaming entities for a predominantly "cash industry". DRT

indicated that there is not enough data to adequately review the LGT and GMHA Trust Fund Fee because this law is fairly new. As gaming entities self-report this new tax, DRT should monitor, audit, and send regular non-filing notices at a minimum. After almost three years, we found that sufficient information has been established for DRT to begin monitoring and review. DRT is further hampered as Form 3260 is manually filed and therefore, manually inputted into their system. Thus, data from electronic filings is not readily available for analysis and susceptible to human errors. In addition to the lack of review, there are no formalized procedures to monitor limited gaming activities.

### **Liberty and Symbolix Gaming Entities Not Paying LGT**

Gaming entities operating Liberty, Symbolix, and Match Play electronic gaming devices must pay the 4% GMHA Trust Fund Fee, in addition to the 4% LGT. We found six entities did not pay \$17K of the required LGT for gaming activities during FY 2014 through FY 2015. There are also inconsistencies in payment for both gaming taxes and no follow-up by DRT for failure to file.

### **Other Limited Gaming Activities Universe Unknown**

Other limited gaming activities include pinball, kiddie rides, children's video games, and music producing machines to name a few. DRT is unable to identify which gaming entity should be filing Form 3260. We found that only 44 gaming entities filed Form 3260 and most filed sporadically throughout FY 2013 to FY 2015. DRT stated that the LGT and GMHA Trust Fund Fee do not have a zero return requirement, unlike the business privilege tax. The listing of potential Form 3260 gaming entities provided by DRT did not match the actual filers. Many of these gaming entities did not file Form 3260 and DRT made no follow-ups of these potential filers. Without a complete list of gaming entities licensed to conduct gaming activities, the potential revenue loss increases as DRT is unable to determine who should be assessed the LGT and GMHA Trust Fund Fee.

### **Inconsistent and Unreconciled Financial Information**

We found that the gaming entities' published financial information, Form 1096, and Form 3260 were inconsistent and not reconciled. Our analysis of the available data showed that:

- DOA and DRT's reported LGT and GMHA Trust Fund Fee balances did not reconcile. The unreconciled balance is currently being addressed by both agencies.
- DRT did not accurately assess \$189K in penalties for 34 noncompliant gaming entities.
- No follow-up was performed to compel gaming entities to issue Forms W-2G to gambling winners.

### **Conclusion and Recommendations**

Self-reported limited gaming gross receipts require aggressive enforcement for a predominantly cash industry. With the manual filing and inputting of the gaming taxes, DRT is further hampered by not being provided the additional staff needed to properly analyze, review, monitor, and collect these new taxes. Audits or reviews of selected gaming entities, robust LGT and GMHA Trust Fund Fee analysis, and routine monitoring of reported gaming gross receipts should occur regularly. We made five recommendations for DRT to address these new gaming taxes and for GMHA to submit the required quarterly expenditure reports.

Doris Flores Brooks, CPA, CGFM  
Public Auditor



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## Introduction

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This report presents the results of our audit of the Government of Guam (GovGuam) Limited Gaming Tax (LGT) and Guam Memorial Hospital Authority (GMHA) Trust Fund Fee from July 9, 2013 through September 30, 2015. Our objective was to determine whether LGT and the GMHA Trust Fund Fee were accurately collected and allocated in accordance with its intended purpose.

The audit was requested by a 33<sup>rd</sup> Guam Legislature Senator, who was concerned about Guam's gaming activities.

The audit scope, methodology, and prior audit coverage are detailed in Appendices 1 and 2.

## Background

Beginning July 2013, Public Law (P.L.) 32-60 imposed a new four percent (4%) LGT on gross receipts less payouts from certain authorized limited gaming activities and an additional new 4% GMHA Trust Fund Fee on income from licensed gaming devices. Authorized limited gaming activities include, but are not limited to, electronic gaming devices, bingo/lottery, cockfighting, and Liberation Day gaming activities. Licensed gaming devices subject to the GMHA Trust Fund Fee are Liberty, Symbolix, and Match Play electronic gaming devices registered with the Department of Revenue and Taxation (DRT) prior to August 1, 2001. These new assessments are separate from income tax and business privilege tax (BPT)<sup>1</sup>. Refer to Appendix 3 for limited gaming activity definitions.

In accordance with Section 6 of P.L. 32-60, the Guam Gaming Control Commission, within 180 days of empanelment, is required to develop rules and regulations providing a fee schedule for all gaming activities on Guam, consistent with existing rules and regulations and P.L. 32-60. Such new rules and regulations shall be consistent with the manner in which existing gaming devices are legally authorized pursuant to Title 11 §22202(f) of the Guam Code Annotated (GCA), Title 3 §7114(a)(5) of the Guam Administrative Rules and Regulations (GAR), and P.L. 32-60. They must be implemented pursuant to the Administrative Adjudication Law.

Section 7 of P.L. 32-60 states that the tax imposed by this Act and the authority to license all gaming, limited gaming, and gambling referenced in P.L. 32-60 shall be repealed upon the payment of GMHA vendors.

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<sup>1</sup> Pursuant to P.L. 29-002, effective July 2007, all references to Gross Receipts Tax (GRT) have been amended to BPT.

### **Limited Gaming Tax and Fund**

The LGT is deposited into the Limited Gaming Fund (Gaming Fund). According to DRT, the procedures and authority to collect BPTs are the same procedures and authority used to collect LGT.

Up to five percent (5%) of the Gaming Fund is allocated for LGT administration. The remaining balance is allocated up to one third each to the following three GovGuam line agencies: 1) Mayors' Council of Guam (MCOG), 2) Department of Parks and Recreation (DPR), and 3) Department of Education (GDOE). Each agency is authorized to use the funds to repair and construct capital infrastructure. In August 2015, P.L. 33-62 further authorized that no more than 50% of MCOG's share, 20% of DPR's share, and 20% of GDOE's share may be used for team sponsorships and uniforms.

### **GMHA Trust Fund Fees and Fund**

GMHA Trust Fund Fees are deposited into the GMHA Healthcare Trust and Development Fund (GMHA Trust Fund) to support GMHA's operations, healthcare services, and revenue-generating medical services. In addition to GMHA Trust Fund Fees, licensing fees, BPT, and income tax on certain electronic gaming entities are required to be deposited to the GMHA Trust Fund. These gaming entities are also subject to the LGT.

Up to 60% of the GMHA Trust Fund is allocated to the GMHA Urgent Healthcare Center. The remaining 40% is allocated to GMHA for healthcare services, subject to legislative appropriation, and may be used specifically for the following purposes:

- 1) Local matching funds for GMHA Medicaid program patients;
- 2) Additional debt service payments for any existing borrowing by GMHA;
- 3) New revenue generating medical services; and
- 4) Medication, supplies, and medical equipment.

The GMHA Administrator is required to submit quarterly detailed expenditure reports to the Governor of Guam and Guam Legislature.

### **Department of Revenue and Taxation**

DRT is the GovGuam line agency that enforces Guam's tax laws and collects tax revenues, including the LGT and GMHA Trust Fund Fee. These taxes are paid to the Treasurer of Guam (TOG) for deposit into the Gaming Fund and the GMHA Trust Fund. DRT created a temporary Form 3260 to report both the self-assessed LGT and GMHA Trust Fund Fees collected monthly on certain limited gaming activities. The form is temporary, since a gaming commission has not been empaneled to create an official form. DRT manually processes the Form 3260 filings. Refer to Appendix 4 for the temporary Form 3260.

DRT is responsible for monitoring the LGT and GMHA Trust Fund Fees due to GovGuam to ensure proper filing by the limited gaming entities. When P.L. 32-60 was enacted, DRT transmitted letters informing certain limited gaming entities of the new law and penalties for noncompliance and failure to pay. Refer to Appendix 5 for the DRT letter. In addition, DRT spearheaded a two-day informational forum in August 2013 to answer any questions regarding the new law. DRT refers to the public laws and GCA to administer these gaming activity taxes.

## **Department of Administration**

As the official GovGuam record keeper, the Department of Administration (DOA) receives, records, and reviews all revenue through the Treasurer of Guam (TOG). TOG collects and posts LGT and GMHA Trust Fund Fee payments in the Transaction Processing System (TPS).

DOA allocates the LGT to MCOG, DPR, and GDOE. The MCOG and DPR allocation is directly transferred into their budget accounts and are restricted to facility repair and construction, team sponsorships, and uniforms. The GDOE share is a cash transfer from DOA. GDOE assigns the funds for divisions/schools based on priority. To date, GDOE has used the funds to repair the Jose Rios Middle School gym. The GMHA Trust Fund Fee is a check payment from DOA to GMHA.

## **Violation and Penalties**

Penalties and punishment for violating the LGT and GMHA Trust Fund Fee provisions include:

- Third (3<sup>rd</sup>) degree felony for fraudulent filing;
- The greater of 15% or \$1,000 on tax owed for failure to file;
- The greater of \$1,000 or 2% monthly interest charge on outstanding amounts for failure to pay; and
- Misdemeanor for failure to pay tax or file a return within 30 days of the deadline.

Taxpayers also commit a 3<sup>rd</sup> degree felony for two or more occurrences of failure to file or failure to pay the gaming taxes within 30 days of the deadline in any twelve-month period.

## **Reporting of Gambling Winnings**

The Internal Revenue Service (IRS) requires businesses and individuals to annually report winnings from gaming activities such as bingo, lotteries, and raffles. The business must furnish a Form W-2G to the winners to report certain gambling winnings. It must be provided to the winner no later than January 31<sup>st</sup> and submitted to the IRS no later than February 28<sup>th</sup>.<sup>2</sup> Refer to Appendix 6 for Form W-2G.

Certain gambling winnings must be reported using Form W-2G. Winnings from sweepstakes, wagering, lotteries, bingo, keno, slot machines, poker tournaments, and poker tournaments meeting certain criteria must be reported. According to the IRS, gambling winnings are reportable if:

- Winnings, not reduced by wager, are \$1,200 or more from bingo or slot machine;
- Winnings, reduced by the wager, are \$1,500 or more from keno games;
- Winnings, reduced by the wager or buy-in, are more than \$5,000 from poker tournament;
- Winnings except from bingo, slot machines, keno, and poker tournaments reduced, at the option of the payer, by the wager are: \$600 or more, and at least 300 times the amount of the wager; or
- Winnings are subject to federal income tax withholding (regular gambling withholding or backup withholding).

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<sup>2</sup> If filed electronically, the deadline is March 31<sup>st</sup>. However, DRT currently does not provide electronic filing for Form W-2G, only for BPT.



Form 1096 summarizes the Forms W-2G provided to recipients and must be filed annually by the gaming entity that conducted the gaming activity no later than the last business day of February. Refer to Appendix 7 for Form 1096.

The failure of a gaming entity or taxpayer to provide correct tax returns with no reasonable cause may be subject to a penalty. The penalty applies if the payee fails to provide the statement by the due date, fails to include all information required to be shown on the statement, or includes incorrect information on the statement. The amount of the penalty is based on when the payee furnishes the correct payee statement. Effective January 2016, the penalty for failure to furnish correct tax returns, such as Form W-2G, increased from \$100 per return to \$250 per return for failure to file. DRT has not assessed these penalties for failure to file.

## Results of Audit

We found that DRT's predominantly manual processes do not ensure that LGT and GMHA Trust Fund Fees are accurately collected and allocated to GMHA, GDOE, DPR, and MCOG. DOA reported that \$7.6 million (M) was collected for LGT and GMHA Trust Fund Fees during the 27-month period from July 2013 to September 2015. However, DRT reported \$4.7M, a difference of \$2.9M. We also found:

- 1) Gambling winnings were not consistently reported;
- 2) DRT enforcement efforts need improvement;
- 3) Liberty and Symbolix gaming entities were not paying LGT;
- 4) Other limited gaming activities universe is unknown;
- 5) Inconsistent and unreconciled financial information were reported; and
- 6) Monthly filing of Form 3260 is manually submitted to and inputted by DRT.

### DOA Reported \$7.6M in LGT and GMHA Trust Fund Fees

For fiscal years (FY) 2013, 2014, and 2015, DOA reported the collection of \$3.9M in LGT and \$3.7M in GMHA Trust Fund Fees, for a total of \$7.6M for these new taxes. The LGT was allocated up to one third each to MCOG, DPR, and GDOE, who each received \$923 thousand (K) of the \$3.9M in LGT. These amounts, however, do not reconcile with each agency's available financial records. GMHA received \$3.3M of the \$3.7M in GMHA Trust Fund Fees. Refer to Table 1 below for details.

**Table 1: LGT and GMHA Trust Fund Fees Received by DOA**

DESCRIPTION	FY 2013 <sup>3</sup>	FY 2014	FY 2015	TOTAL
<b>LIMITED GAMING FUND</b>				
DEPT REV AND TAX - ADMIN - 5%	\$ 5,592	\$ 51,760	\$ 48,599	\$ 105,951
DEPT OF ADMIN - ADMIN - 5%	5,592	51,760	48,599	105,951
MAYORS COUNCIL-REPAIR FAC 1/3	70,835	236,344	615,586	922,765
DEPT PARKS AND REC-REP FAC 1/3	70,835	236,344	615,586	922,765
GDOE-REPAIR OF FACILITIES 1/3	70,835	236,344	615,586	922,765
CONSOLIDATED FUND – 95% <sup>4</sup>	-	890,320	-	890,320
PENALTIES – FAILURE TO FILE	-	(589)	-	(589)
INTEREST – LIMITED GAMING FUND	-	(2)	-	(2)
PENALTIES – LATE TAX PAYMENT	-	25	-	25
<i>LIMITED GAMING FUND SUBTOTAL</i>	\$ 223,688	\$ 1,702,306	\$ 1,943,595	\$3,869,950
<b>GMHA HEALTHCARE TRUST AND DEVELOPMENT FUND</b>				
URGENT HEALTHCARE CENTER - 60%	\$ 151,267	\$ 906,662	\$ 1,092,494	\$ 2,150,422
HEALTHCARE LEGIS APPROP - 40%	100,845	604,442	728,329	1,433,615
LICENSE FEES-HEALTHCARE TRUST	-	-	182,000	182,000
GASB 33	-	-	3,284	3,284
LIBERTY, SYMBOLIX, MATCH PLAY	(53,904)	-	-	(53,904)
<i>GMHA TRUST FUND SUBTOTAL</i>	\$ 252,111	\$ 1,511,103	\$ 2,006,107	\$ 3,716,228
<b>OVERALL FUND TOTALS</b>	<b>\$ 422,705</b>	<b>\$ 3,213,409</b>	<b>\$ 3,950,063</b>	<b>\$ 7,586,178</b>

<sup>3</sup> FY 2013 was not a full fiscal year because P.L. 32-60 was enacted in July 2013.

<sup>4</sup> Suspense account for LGT transactions.

As shown in Table 2, DRT's data reported \$3.3M in LGT was collected from 43 gaming entities for various gaming activities from FY 2013 to FY 2015. At \$2.5M or 75%, the largest gaming activity reported was electronic gaming devices. The second largest activity reported was from bingo or lottery amounting to \$707K. The \$119K remaining was for Carnival/Liberation Day gaming, cockfighting, and other gaming activities.

DRT reported that \$1.4M in GMHA Trust Fund Fees was collected from eight gaming entities for Liberty, Symbolix, and Match Play electronic gaming devices. There are approximately 368 Liberty and Symbolix gaming devices licensed to two Guam gaming entities, who distribute these devices to approximately 80 island businesses. According to DRT, the LGT and GMHA Trust Fund Fees of these 80 businesses are paid by the two gaming entities.

**Table 2: LGT & GMHA Trust Fund Fees Collected by DRT**

DESCRIPTION	FY 2013	FY 2014	FY 2015	TOTAL
ELECTRONIC GAMING DEVICES	\$ 173,739	\$ 1,102,130	\$ 1,196,634	\$ 2,472,503
BINGO / LOTTERY	35,414	240,158	431,048	706,619
CARNIVAL / LIBERATION DAY	10,671	22,696	32,622	65,989
COCKFIGHTING	830	17,305	13,887	32,022
OTHER GAMING ACTIVITIES	499	8,192	11,989	20,680
<i>LIMITED GAMING TAX SUBTOTAL</i>	<i>\$ 221,152</i>	<i>\$ 1,390,481</i>	<i>\$ 1,686,181</i>	<i>\$ 3,297,814</i>
LIBERTY, SYMBOLIX, & MATCH PLAY	81,893	612,301	715,915	1,410,109
<i>GMHA TRUST FUND FEE SUBTOTAL</i>	<i>\$ 81,893</i>	<i>\$ 612,301</i>	<i>\$ 715,915</i>	<i>\$ 1,410,109</i>
<b>OVERALL TOTAL</b>	<b>\$ 303,045</b>	<b>\$ 2,002,782</b>	<b>\$ 2,402,096</b>	<b>\$ 4,707,923</b>

**LGT and GMHA Trust Fund Fees Collected Were Not Reconciled**

For FY 2013 to FY 2015, there are notable variances of \$572K in LGT and \$2.3M in GMHA Trust Fund Fees between DRT's \$4.7M and DOA's \$7.6M as shown in Table 3. DOA's amounts were higher due to:

- The timeframe between TOG payment collection, DOA transaction recording, and when DRT receives the manual Forms 3260.
- DRT reports on a tax year basis (January through December) and DOA reports on a fiscal year basis (October through September).
- Lack of monthly reconciliation between DRT's Power 7 and DOA's AS400 databases.

**Table 3: DRT and DOA LGT and GMHA Trust Fund Fee Variances**

FUND NAME	DOA	DRT	VARIANCE
<b>LIMITED GAMING FUND</b>			
FY 2013	\$ 223,688	\$ 221,152	\$ (2,536)
FY 2014	1,702,306	1,390,481	(311,825)
FY 2015	1,943,956	1,686,181	(257,775)
<i>LIMITED GAMING FUND SUBTOTAL</i>	<i>\$ 3,869,950</i>	<i>\$ 3,297,814</i>	<i>\$ (572,136)</i>
<b>GMHA TRUST FUND</b>			
FY 2013	\$ 252,111	\$ 81,893	\$ (117,125)
FY 2014	1,511,103	612,301	(898,802)
FY 2015	2,006,107	715,915	(1,290,192)
<i>GMHA TRUST FUND SUBTOTAL</i>	<i>\$ 3,716,228</i>	<i>\$ 1,410,109</i>	<i>\$ (2,306,119)</i>
<b>OVERALL TOTALS</b>	<b>\$ 7,586,178</b>	<b>\$ 4,707,923</b>	<b>\$ (2,878,255)</b>

DRT is unable to monitor P.L. 32-60 compliance if forms are not submitted to them timely.

LGT and GMHA Trust Fund Fees should be reconciled to ensure all tax revenues were received before they are allocated to the proper agencies. Since the LGT and GMHA Trust Fund Fees is a new program, monthly reconciliation is encouraged. The lack of reconciliation, as the program and volume of transactions continue to grow, will negatively affect the program. DRT has one Management Analyst who compiles Forms 3260 data, calculates the tax revenues and additional GMHA Trust Fund Fees, classifies them by gaming activities, and maintains the data in a spreadsheet. Form 3260 is also manually filed and processed, unlike BPT, which is filed online.

Currently, DOA and DRT are collaborating to reconcile these variances. Absent an integrated Financial Management Information System, we recommend a monthly reconciliation of DRT's Power 7 database with the DOA's AS400 to address variances in a timely manner.

### Gambling Winnings Not Consistently Reported

Limited gaming entities are required to issue Form W-2G to winners of certain gambling activities no later than January 31<sup>st</sup> following the preceding tax year (TY). A winner must report all gambling winnings on their annual Form 1040 as "Other Income," including winnings not subject to withholding. For example, a person who wins \$1,200 or more from bingo should be issued a W-2G.

For the 27-month period from July 2013 to September 2015, we found that approximately 44 entities reported gaming gross receipts of approximately \$122.7M as shown in Table 4.

**Table 4: Reported Gross Receipts and Gambling Winnings**

TAX YEAR <sup>5</sup>	COUNT OF ENTITIES (FORM 3260)	GROSS RECEIPTS	COUNT OF ENTITIES (FORM 1096)	GAMBLING WINNINGS
<b>LIMITED GAMING TAX</b>				
2013	32	\$ 17,194,199	7	\$ 8,450,641
2014	34	37,506,184	5	13,068,495
2015	25	31,061,638	5	11,800,497
<i>LGT SUBTOTAL</i>	43	85,762,021	8	33,319,633
<b>GMHA TRUST FUND FEE</b>				
2013	2	6,653,169	1***	115,081
2014	7	16,632,855	1***	199,201
2015	8	13,700,680	1***	218,478
<i>GMHA TRUST FUND FEE SUBTOTAL</i>	8	36,986,704	1	532,760
<b>OVERALL TOTAL**</b>	<b>44</b>	<b>\$ 122,748,725*</b>	<b>8</b>	<b>\$ 33,319,633</b>
* This overall total gross receipts may include duplicate gross receipts for entities filing the GMHA Trust Fee. ** Overall total reflect unique entities and Form 1096 filings. *** This gaming entity and the reported gambling winnings are already counted as part of the LGT data within Table 4.				

Forty-three gaming entities reported \$85.8M in gross receipts from electronic gaming devices, bingo/lottery, Carnival/Liberation Day, and other gaming activities. The remaining \$37.0M

<sup>5</sup> Tax year is the 12-month period from January to December. For this table, the tax year is the year in which the Form 3260 was filed.

represents gross receipts from eight gaming entities operating Liberty, Symbolix, and Match Play gaming devices. One of the eight gaming entities did not report any LGT.

The top gaming entity, with \$62.9M in LGT gross receipts, did not report any gambling winnings for TY 2013 through 2015. Most of the GMHA Trust Fund Fees (\$1.3M of the \$1.4M) was collected from this gaming entity. However, the second largest GMHA Trust Fund Fee entity, representing a significantly smaller amount of the GMHA Trust Fund Fees collected, filed Form 1096 for TY 2013 through 2015 reporting \$533K in gambling winnings.

There were 25 Bingo/Lottery gaming entities who reported a total of \$18.1M in gross receipts for TY 2013 through 2015 - \$3.7M in TY 2013, \$7.1M in TY 2014, and \$7.3M in TY 2015. However, only three of the gaming entities submitted Forms 1096.

There were six Carnival/Liberation Day gaming entities who reported a total of \$1.6M in gross receipts for TY 2013 through 2015 - \$267K in TY 2013, \$571K in TY 2014, and \$812K in TY 2015. Only one Carnival/Liberation Day gaming entity reported gambling winnings of \$18K for TY 2013.

Approximately 80% of the gaming entities did not file a Form 1096. While a total of 44 entities reported some form of limited gaming activity between July 2013 and September 2015, it appears that entities are not consistently reporting gambling winnings. Of the \$122.7M gaming gross receipts, only \$33.4M in gambling winnings was reported by nine gaming entities during TY 2013 through 2015.

If a gaming entity did not annually file Form 1096, DRT is unsure whether Forms W-2G were issued to gambling winners and there is the risk of underreported income each year. We recommend that DRT aggressively monitor gaming entities to issue Forms W-2G for gambling winnings.

The appropriate form to report gambling winnings is Form W-2G, however, we found that gaming entities instead issued Forms 1099. Although an acceptable form to report miscellaneous income, Form 1099 is generally used to report income of \$600 or more derived from sources other than regular employment and is considered "other income". The IRS assesses a \$250 penalty per failure to furnish an information return, such as Forms W-2G or 1099.

### **DRT Enforcement Efforts Need Improvement**

There is a high probability of revenue loss as DRT is not reviewing the information provided by gaming entities for a predominantly "cash industry". Further, gaming gross receipts may be underreported, since DRT is not monitoring and reviewing the Forms 3260.

DRT indicated that because this law is fairly new, there is not enough data to adequately review the LGT and GMHA Trust Fund Fee in order to formalize procedures and monitor limited gaming activities. As gaming entities self-report this new tax, DRT should monitor, audit, and send regular non-filing notices at a minimum to ensure all tax revenues are assessed and collected. This would include audits of selected gaming entities and routine monitoring of filed Forms 3260. After three

years, we found that sufficient information has been established for DRT to begin monitoring and review.

The \$7.6M in LGT and GMHA Trust Fund Fees reported by DOA represents the minimum collected in gaming taxes and does not include the potential taxes and penalties prescribed by P.L. 32-60 that DRT could have assessed had it aggressively monitored these gaming taxes. Instead, gaming taxes and potential penalties and interest are self-reported and presumed correct.

Our estimates show that 34 noncompliant gaming entities owe \$189K in penalties for failure to file, which have not been enforced and no penalties were recorded in DRT's Power 7 database. We found that 11 of these entities may have committed misdemeanors for failing to file within 30 days of the due date. A third-degree felony is committed if these failures are repeated more than two times. A gaming entity also commits a third-degree felony if it evades the taxes or fraudulently files a return in a 12-month period.

Of the 34 entities, nine entities owe penalties in at least two limited gaming activities. The following is a breakdown of the entities' penalties by gaming activity:

- 16 Bingo/Lottery entities owe \$70K;
- 9 Electronic Gaming entities owe \$53K;
- 7 Liberty, Symbolix, and Match Play entities owe \$40K;
- 5 Other Gaming entities owe \$16K;
- 4 Cockfighting entities owe \$5K; and
- 4 Carnival/Liberation Day entities owe \$5K.

According to DRT, filers are assessed penalties and interest for failure to file and failure to pay usually after the taxes are paid. Collections of any subsequent payments after the initial filing are made to the DRT Collection Branch and not with TOG. Currently, DRT has not fully implemented the application of penalties due to different interpretations of the penalties and the program to assess penalties is not correctly established and automated.

### **Liberty and Symbolix Gaming Entities Not Paying LGT**

Gaming entities operating Liberty, Symbolix, and Match Play electronic gaming devices must pay the 4% GMHA Trust Fund Fees in addition to the 4% LGT. Our analysis of the available data showed that six entities did not pay \$17K of the required LGT for FY 2014 and FY 2015 gaming activities. This indicates an inconsistency in paying both gaming taxes. In addition, DRT has not enforced the requirement as it has not notified the non-filers.

Unlike other penalties, there is a minimum of \$1K for non-filing, plus additional penalties. We recommend that DRT review the variances in the reporting of GMHA Trust Fund Fees in relation to LGT fees as part of their monitoring process. In addition, DRT should notify these GMHA Trust Fund Fee non-filers to file the LGT.

### **Other Limited Gaming Activities Universe is Unknown**

Other limited gaming activities include pinball, kiddie rides, children's video games, and music producing machines to name a few. We found that only 44 gaming entities filed Form 3260, and they filed sporadically throughout the year. DRT stated that the LGT and GMHA Trust Fund Fee

do not have zero return requirements similar to BPT. As a result, DRT's listing of potential Form 3260 filers did not match the actual filers. For example, there were gaming entities that reported their gaming activities on Form 3260 that were not on DRT's listing and vice versa.

If a Form 3260 was not filed, DRT would conclude that the entity had no gaming activity for that month. This is in contrast to 11 GCA §26110, which requires BPT to be filed monthly. DRT should explore whether or not to require zero gaming gross receipts filing for Form 3260 considering the limited number of gaming entities and the significance of the tax. DRT should explore monthly electronic filing options for Form 3260 to obtain readily available data for review to include zero gaming gross receipts filing to ensure accountability of each entity's gaming activity.

DRT is unable to identify gaming entities required to file Form 3260 because there is no complete database of all limited gaming activity licensees. There may be some business licenses with the activity "operation of amusement device" that were not assigned the activity "amusement and recreation service" and would require a different search. Further, the licenses for pinball and the operation of billiard rooms are maintained with other services to include janitorial, lawn care, and educational consultant, which amount to over 5,000 licenses as of September 2015. As for "gaming" and "cockfighting" licenses, the DRT Compliance Branch regulates those activities.

Without a complete list of gaming entities licensed to conduct gaming activities, DRT is unable to properly assess the LGT, GMHA Trust Fund Fee, and possible penalties and fines, resulting in potential revenue losses. We recommend that DRT properly classify the limited gaming activity licenses and compile a list of potential filers.

### **Other Matters**

#### *GMHA Trust Fund Fees Quarterly Reports Not Filed*

Although DOA submitted their required FY 2013 through 2015 reports, they were submitted on an annual basis. However, P.L. 32-60 requires submission of quarterly reports. In addition, GMHA was not aware they were required to submit quarterly expenditure reports. As a result, no detailed reports were submitted since P.L. 32-60 was implemented.

#### *Gaming Control Commission Not Empaneled*

The Gaming Control Commission was not empaneled, even though Section 6 of P.L. 32-60 required the Commission to oversee gaming activities. The creation, powers, and duties of the Commission are compiled in 3 GAR §§ 7110 and 7111. Since a Commission has not been empaneled, DRT and DOA created the temporary Tax Form 3260 to collect LGT and GMHA Trust Fund Fees.

#### *Electronic Gaming Devices Court Cases*

In August 2013, the Attorney General (AG) filed suit for declaratory relief against the Director of DRT, Governor of Guam, certain electronic gaming device license holders, and unnamed license holders. The complaint sought a judgment declaring that 1) DRT's 2003 regulations for licensing electronic gaming devices were void and without force or effect, and 2) P.L. 32-60 did not make those regulations valid and Guam Law continued to prohibit the licensing of electronic gaming devices.

In July 2015, the Supreme Court of Guam ruled to reverse the trial court's earlier decision to dismiss the case for lack of subject matter jurisdiction based on the AG's failure to exhaust administrative remedies. The case was remanded to the trial court for further proceedings on the regulations' validity.

DRT will continue to regulate the gaming devices in accordance with P.L. 32-60 until such time the court makes a ruling. However, if the Superior Court finds that the licensed amusement devices are illegal, then the Gaming Fund and GMHA Trust Fund will be significantly affected. Gross receipts from electronic gaming devices account for 75% of the Gaming Fund and 100% of the GMHA Trust Fund. As of the date of this report, the matter is still in court.

#### *P.L. 32-60 Differs From 3 GAR*

We found that the rules and regulations conflict with certain public laws, such as allowable limited gaming activities and distribution of funds. For example, dog racing has been prohibited per P.L. 30-162 as of July 2010. In contrast, 3 GAR §7114 listed dog racing as a permitted limited gaming activity. Furthermore, the Gaming Fund's allocation and uses are inconsistent with P.L. 32-60. In P.L. 32-60, the net amount of the Gaming Fund is allocated up to one third (33%) each to MCOG, DPR, and GDOE. Differently noted in 3 GAR §7148(e) wherein the funds are distributed 25% each to GDOE, Guam National Olympic Committee, Guam Sports Complex, and Southern Sports Complex. When an agency regulation conflicts with a duly enacted law, the law must be followed, and not the regulation.

#### *Expired Cockfighting Licenses*

Per 22 GCA §39105, the Cockpit License Board is authorized to issue cockpit licenses. According to DRT, all cockfighting licenses expired in June 2012 and cannot be renewed until the Cockpit License Board convenes with the required quorum. Despite this, we found cockfighting LGT transactions amounting to \$32K reported to DRT on Form 3260 during the unlicensed period of July 2013 to September 2015.



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## Conclusions and Recommendations

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Our audit revealed that the process to assess the LGT, GMHA Trust Fund Fee, and limited gaming activities need improvement. Specifically, we found the following:

- 1) Inconsistent and unreconciled financial information were reported;
- 2) Gambling winnings were not consistently reported;
- 3) DRT enforcement efforts need improvement;
- 4) Liberty and Symbolix gaming entities were not consistently paying LGT;
- 5) Other limited gaming activities were unknown; and
- 6) Monthly filing of Forms 3260 is manually submitted and inputted by DRT.

DRT exists to promote quality service to all taxpayers and increase voluntary compliance by helping taxpayers understand and meet their responsibilities by applying the tax law with integrity and fairness to all. Appropriate oversight and monitoring is needed to help collect the right amount and verify the LGT and the GMHA Trust Fund Fees from limited gaming related activities.

Self-reported limited gaming gross receipts require aggressive enforcement, since this is primarily a cash business. DRT is further hampered as this tax is manually filed and inputted, unlike the readily available data that electronic filing provides, and has not been provided the additional staff needed to properly analyze, review, monitor, and collect these new taxes. Audits of selected gaming entities and routine monitoring of reported gaming gross receipts should occur regularly.

### Recommendations

- 1) We made several recommendations to DRT as they address the gaming taxes as follows:
  - a) Reconcile with the DOA AS400 on a monthly basis;
  - b) Aggressively monitor gaming entities to issue Forms W-2G to gambling winners;
  - c) Explore electronic filing options for Form 3260 for monthly filings, even for zero gaming gross receipts, to ensure accountability of each entity's gaming activity and readily available data;
  - d) Review variances in GMHA Trust Fund Fees reporting in relation to LGT as part of their monitoring process; and
  - e) Properly classify limited gaming activity licenses to compile listing of potential filers.
- 2) We recommend that GMHA submit quarterly reports in compliance with P.L. 32-60 to ensure funds are used for their intended purpose.

## Classification of Monetary Amounts

	Finding Description	Other Financial Impact	Unrealized Revenue	Total Financial Impact
<b>1</b>	<b>LGT and GMHA Trust Fund Fees Collected Were Not Reconciled</b>			
	LGT variance from DRT to DOA	\$ 572,136	\$ -	\$ 572,136
	GMHA Trust Fund Fee variance from DRT to DOA	\$ 2,306,119	\$ -	\$ 2,306,119
	<b>Subtotal</b>	<b>\$ 2,878,255</b>	<b>\$ -</b>	<b>\$ 2,878,255</b>
<b>2</b>	<b>DRT Enforcement Efforts Need Improvement</b>			
	Noncompliant gaming entities owe penalties for failure to file	\$ -	\$ 189,306	\$ 189,306
	<b>Subtotal</b>	<b>\$ -</b>	<b>\$ 189,306</b>	<b>\$ 189,306</b>
<b>3</b>	<b>Liberty and Symbolix Gaming Entities Not Filing Form 3260</b>			
	Liberty and Symbolix gaming entities not consistently paying for LGT	\$ -	\$ 16,808	\$ 16,808
	<b>Subtotal</b>	<b>\$ -</b>	<b>\$ 16,808</b>	<b>\$ 16,808</b>
<b>4</b>	<b>Expired Cockfighting Licenses</b>			
	Cockfighting LGT transactions reported on Form 3260 during the unlicensed period of July 2013 to September 2015	\$ 32,022	\$ -	\$ 32,022
	<b>Subtotal</b>	<b>\$ 32,022</b>	<b>\$ -</b>	<b>\$ 32,022</b>
	<b>Totals</b>	<b>\$ 2,910,277</b>	<b>\$ 206,114</b>	<b>\$ 3,116,391</b>

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## Management Response and OPA Reply

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A draft report was transmitted to DRT management in July 2016 for their official response. We met with DRT management in August 2016 to discuss the audit findings and recommendation. During our exit meeting and in DRT's management response, DRT acknowledged that they were aware of the concerns prior to the audit and concur to the implementation of the following:

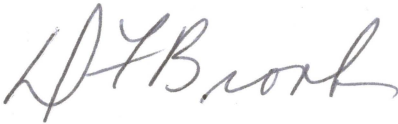
- Continue the reconciliation with DOA on the LGT and GMHA Trust Fund Fees;
- Review the classification of other limited gaming activities "universal unknown" to properly determine taxability and filing requirement; and
- Follow through with licensee requirements to enforce issuance of Tax Forms W-2G.

Refer to Appendix 8 for DRT's management response.

The legislation creating the Office of Public Accountability requires agencies to prepare a corrective action plan to implement audit recommendations, to document the progress in implementing the recommendations, and to endeavor to have implementation completed no later than the beginning of the next fiscal year. Accordingly, we will be contacting DRT to provide target dates for implementing the recommendations.

We appreciate the cooperation shown by DRT, DOA, and TOG during the course of this audit.

OFFICE OF PUBLIC ACCOUNTABILITY



Doris Flores Brooks, CPA, CGFM  
Public Auditor

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**Appendix 1:****Objective, Scope, and Methodology**

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The audit objective was to determine whether LGT and the GMHA Trust Fund Fees were accurately assessed and allocated in accordance with its intended purpose.

The scope of our audit is from July 2013 to September 2015 and other periods deemed necessary.

Our audit methodology included a review of local laws, local rules and regulations, internal policies, and other information pertinent to taxes on gaming activities. We also performed the following:

- Conducted meetings with key DRT and DOA personnel involved with the administration of the LGT and the GMHA Trust Fund Fee.
- Performed a walkthrough of the collection and reporting processes with DRT and DOA Accounting.
- Obtained and reviewed pertinent documents to include Forms 3260, gaming licenses, legal opinions, Forms 1096, financial statements and audit reports, and various correspondences from DRT and DOA Accounting.
- Obtained and examined data relative to LGT, GMHA Trust Fund Fee, and gaming winnings.
- Verified accuracy of the 4% LGT and 4% GMHA Trust Fund Fees paid by each entity that filed a Form 3260.
- Performed comparative analyses to determine any variances between DRT's Power 7 transactions to DOA's AS400 balances and financial audit.
- Inquired with GMHA and GDOE of their accounting and reporting processes for the GMHA Trust Fund Fee and LGT, respectively.
- Evaluated the internal controls of DRT and DOA's process for accounting P.L. 32-60 tax and fee.
- Identified a universe of entities who should be paying the LGT and GMHA Trust Fund Fee.
- Identified entities subject to both the LGT and GMHA Trust Fund Fee.
- Estimated penalty amounts for failure to file.

We conducted this audit in accordance with the standards for performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States of America. These standards require that we plan our audit objectives and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings, conclusions, and recommendations based on our audit objectives.

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**Appendix 2:****Prior Audit Coverage**

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The audit team did not identify any prior audits of DRT relative to LGT or GMHA Trust Fund Fee as this will be the first audit. However, the audit team identified three prior OPA reports relative to limited gaming activities:

- 1) OPA Report No. 03-04 *Liberation Day Committee (LDC) Funds and Activities (2001 and 2002)*;
- 2) OPA Report No. 07-06 *GovGuam Association of Retired Persons Servicio Para I Man'Amko Bingo Activities*; and
- 3) OPA Report No. 10-09 *LDC Funds and Activities (2004~2009)*.

Common themes noted were: 1) the lack of monitoring and oversight of funds; 2) payouts or net proceeds were not accurately accounted for; and 3) lack of non-profit status for organizations claiming to be a non-profit organization (NPO).

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**Appendix 3:****Limited Gaming Activities Definitions**

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**Bingo or Lottery**

According to 9 GCA §64.70(f), bingo games mean a specific game of chance, commonly known as bingo, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random.

Bingo or lottery are to be conducted by a tax-exempt non-profit organization. Other devices can be used to play and equipment is no longer limited to cards. Winning is determined by the card conforming to the randomly selected numbers or symbols.

Lottery or raffle tickets means a plan whereby prizes are distributed by chance among persons who have paid or promised to pay anything of monetary value for a chance to win a prize.

**Cockfighting**

Cockfighting is conducted at a licensed cockpit where all wagerers are present and are eighteen (18) years of age or more per 9 GCA §64.40. Cockfights may be held on Sundays; legal or church holidays; days approved by the majority of the Cockpit License Board; and on three-day weekends starting on a Friday for village fiestas, Discovery Day, and Fiestan Tasi.

**Carnival or Liberation Day**

Liberation Day is held every 21<sup>st</sup> of July to commemorate the anniversary of the liberation from the Japanese Occupancy and the inauguration of civil government on July 21, 1950. Every year, a carnival is held throughout the months of June to August.

**Other Gaming Activities**

Per 11 GCA §22202, the following are gaming activities presently authorized by statute: pinball, kiddie rides, children's video games, coin-activated music producing machine, video horse/greyhound racing, and "symbolic amusement" devices. Further, P.L. 32-60 also taxes licensed amusement devices according to Title 11 GCA Chapter 22, Article 2.

**Appendix 4:**  
**Form 3260**

**DEPARTMENT OF REVENUE AND TAXATION**  
GOVERNMENT OF GUAM  
**FORM 3260 MONTHLY RETURN**

NAME OF LICENSEE		MONTH / YEAR ENDING	FOR OFFICIAL USE ONLY
EIN/SSN		<input type="checkbox"/> ORIGINAL RETURN <input type="checkbox"/> AMENDED RETURN	
GRT ACCOUNT NUMBER			
ADDRESS		TELEPHONE NO.	

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**PART I. LIMITED GAMING TAX FUND**

LIMITED GAMING ACTIVITY	(A) GROSS RECEIPT QUANTITY	(B) TAX RATE	(C) TOTAL TAX
1. BINGO / LOTTERY	_____	X 4%	= _____
2. COCKFIGHTING	_____	X 4%	= _____
3. CARNIVAL / LIBERATION DAY	_____	X 4%	= _____
4. ELECTRONIC GAMING DEVICES	_____	X 4%	= _____
5. OTHER GAMING ACTIVITIES	_____	X 4%	= _____
6. TOTAL TAXES DUE (Add lines 1 through 5 in Column C)			_____
7. PENALTY			_____
8. INTEREST			_____
9. CREDIT OR ADJUSTMENT (Attach Statement)			_____
10. BALANCE DUE (Add lines 6 through 9 in Column C)			_____

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**PART II. GMHA TRUST FUND FEE**

ELECTRONIC GAMING DEVICES	(A) GROSS RECEIPT QUANTITY	(B) FEE ASSESSMENT RATE	(C) TOTAL FEE
11. LIBERTY, SYMBOLIX, MATCH PLAY	_____	X 4%	= _____
12. CREDIT OR ADJUSTMENT (Attach Statement)			_____
13. BALANCE DUE (Add lines 11 and 12 in Column C)			_____

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**PART III. SUMMARY**

14. TOTAL DUE (add lines 10 and 13) . . . . . \_\_\_\_\_

Under the penalties of perjury, I declare that I have examined this return, including accompanying schedule and statements, and to the best of my knowledge and belief it is true, correct and complete. If prepared by a person other than the taxpayer, his declaration is based on all information of which he has any knowledge.

SIGNATURE (TAXPAYER OR AUTHORIZED AGENT)	PRINT NAME	DATE
_____	_____	_____

DEPARTMENT OF REVENUE AND TAXATION FORM 3260 (JUL 2013)



*Dipårtamenton Kontribusion yan Adu'áná*

DEPARTMENT OF

**REVENUE AND TAXATION**

GOVERNMENT OF GUAM

*Gubetnamenton Guáhan*

*Eddie Baza Calvo, Governor / Mags'áñh/  
Ray Tenorio, Lt. Governor / Tifenie Gubetnsdot*

*John P. Camacho, Director  
Direktor  
Marie M. Benito, Deputy Director  
Segundo Direktor*

July 26, 2013

Hafa adai!

This letter is the first step of DRT's role in the implementation of P.L. 32-60. Since July 11, 2013, your organization/business has been required to file and pay the Limited Gaming Tax (LGT) and/or the GMHA Healthcare Trust and Development Assessment Fee (GMHA Trust Fund Fee). The details of the new tax and fee are as follows:

**P.L. 32-60, Sections 1 and 2, creates the Limited Gaming Fund:**

The Limited Gaming Fund will be funded by the Limited Gaming Tax (LGT) in the amount of 4% on the following gaming activities: Non-Profit Bingo or lottery; Cockfighting; Carnival or Liberation Day gaming; and other limited gaming activities under the Gaming Rules & Regulations, pursuant to 3GAR Sec. 7114 and Sec. 7102(n).

**P.L. 32-60, Sections 3-5 creates the GMHA Healthcare Trust and Development Fund:**

The GMHA Healthcare Trust and Development Fund will be funded by the GMHA Trust Fund Fee in the amount of 4% on the gaming devices, licensed prior to August 1, 2001, under the Gaming Rules & Regulations, pursuant to 3GAR sec. 7114(a)(5) AKA: Liberty, Symbolix and Match Play gaming devices.

**Reporting and Payment Requirements:**

Your first return will be for the period of July 11 – 31, 2013 and will be due *on or before August 20, 2013* and every 20<sup>th</sup> thereafter. Enclosed is Form 3260, which you will use to file both the LGT and the GMHA Trust Fund Assessment Fee.

**Penalties and Interest:**

Pursuant to 11GCA §5203 is as follows:

**Failure to File:** 15% of the tax due or \$1000 whichever is greater.

**Failure to Pay:** 2% per month or \$1000 whichever is greater.

**Interest:** currently at 3% subject to change biannually on January 1<sup>st</sup> and July 1<sup>st</sup> based on the adjusted prime rate charged by banks, rounded to the nearest full percent, during the six-month period ending September 30 of any calendar year, or during the six-month period ending on March 31 of any calendar year respectively.



A question and answer session will be scheduled from 10:00 to 11:00 AM on August 1, 2013 and again on August 6, 2013 at the Director's Conference room, 2<sup>nd</sup> floor, at the Department of Revenue and Tax building, Route 16, Barrigada. Our conference room can accommodate only 30 people so only 2 representatives from each organization/business will be allowed on a first come basis (RSVP encouraged). Also to expedite the process, you may email your questions by July 30, 2013 to: [rhallera@revtax.gov.gu](mailto:rhallera@revtax.gov.gu). Thank you.

Sincerely,

  
for: JOHN P. CAMACHO,  
Director

# Appendix 6: Form W-2G

3232 <input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED				OMB No. 1545-0238	
PAYER'S name, street address, city or town, province or state, country, and ZIP or foreign postal code		1 Gross winnings	2 Date won	<b>2015</b> <b>Form W-2G</b> <b>Certain Gambling Winnings</b>	
		\$			
		3 Type of wager	4 Federal income tax withheld		
			\$		
		5 Transaction	6 Race		
PAYER'S federal identification number    PAYER'S telephone number		7 Winnings from identical wagers	8 Cashier		
		\$			
WINNER'S name		9 Winner's taxpayer identification no.	10 Window		For Privacy Act and Paperwork Reduction Act Notice, see the <b>2015 General Instructions for Certain Information Returns.</b>
Street address (including apt. no.)		11 First I.D.	12 Second I.D.		
City or town, province or state, country, and ZIP or foreign postal code		13 State/Payer's state identification no.	14 State winnings		
			\$		
		15 State income tax withheld	16 Local winnings	File with Form 1096	
		\$	\$		
		17 Local income tax withheld	18 Name of locality	Copy A For Internal Revenue Service Center	
		\$			
Under penalties of perjury, I declare that, to the best of my knowledge and belief, the name, address, and taxpayer identification number that I have furnished correctly identify me as the recipient of this payment and any payments from identical wagers, and that no other person is entitled to any part of these payments.					
Signature ►		Date ►			
Form <b>W-2G</b>		Cat. No. 10138V		www.irs.gov/w2g    Department of the Treasury - Internal Revenue Service	
<b>Do Not Cut or Separate Forms on This Page – Do Not Cut or Separate Forms on This Page</b>					

# Appendix 7: Form 1096

Do Not Staple 6969

Form <b>1096</b> Department of the Treasury Internal Revenue Service	<b>Annual Summary and Transmittal of U.S. Information Returns</b>											OMB No. 1545-0108 <b>2016</b>		
FILER'S name														
Street address (including room or suite number)														
City or town, state or province, country, and ZIP or foreign postal code														
Name of person to contact						Telephone number			<b>For Official Use Only</b> 					
Email address						Fax number								
1 Employer identification number			2 Social security number			3 Total number of forms		4 Federal income tax withheld \$		5 Total amount reported with this Form 1096 \$				
6 Enter an "X" in only one box below to indicate the type of form being filed.											7 Form 1099-MISC with NEC in box 7, check <input type="checkbox"/>			
W-2G 32	1097-BTC 50	1098 81	1098-C 78	1098-E 84	1098-Q 74	1098-T 83	1099-A 80	1099-B 79	1099-C 85	1099-CAP 73	1099-DIV 91	1099-G 86	1099-INT 92	1099-K 10
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1099-LTC 83	1099-MISC 95	1099-OD 96	1099-PATR 97	1099-Q 31	1099-QA 1A	1099-R 98	1099-S 75	1099-SA 94	3921 25	3922 26	5498 28	5498-ESA 72	5498-QA 2A	5498-SA 27
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Return this entire page to the Internal Revenue Service. Photocopies are not acceptable.**

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature ▶ Title ▶ Date ▶

## Instructions

**Future developments.** For the latest information about developments related to Form 1096, such as legislation enacted after it was published, go to [www.irs.gov/form1096](http://www.irs.gov/form1096).

**Reminder.** The only acceptable method of filing the information returns listed on this form in box 6 electronically with the Internal Revenue Service is through the FIRE system. See Pub. 1220.

**Purpose of form.** Use this form to transmit paper Forms 1097, 1098, 1099, 3921, 3922, 5498, and W-2G to the Internal Revenue Service.

**Caution:** If you are required to file 250 or more information returns of any one type, you must file electronically. If you are required to file electronically but fail to do so, and you do not have an approved waiver, you may be subject to a penalty. For more information, see part F in the 2016 General Instructions for Certain Information Returns.

Forms 1099-QA and 5498-QA can be filed on paper only, regardless of the number of returns.

**Who must file.** The name, address, and TIN of the filer on this form must be the same as those you enter in the upper left area of Forms 1097, 1098, 1099, 3921, 3922, 5498, or W-2G. A filer is any person or entity who files any of the forms shown in line 6 above.

Enter the filer's name, address (including room, suite, or other unit number), and TIN in the spaces provided on the form.

**When to file.** File Form 1096 as follows.

- With Forms 1097, 1098, 1099, 3921, 3922, or W-2G, file by February 28, 2017.

**Caution:** File Form 1099-MISC by January 31, 2017, if you are reporting **nonemployee compensation** in box 7. Also, check box 7 above.

- With Forms 5498, file by May 31, 2017.

## Where To File

Send all information returns filed on paper with Form 1096 to the following.

**If your principal business, office or agency, or legal residence in the case of an individual, is located in**

**Use the following three-line address**

Alabama, Arizona, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Texas, Vermont, Virginia, West Virginia

Department of the Treasury  
Internal Revenue Service Center  
Austin, TX 73301

# Appendix 7: Form 1096

Form 1096 (2016)

Page 2

Alaska, California, Colorado, District of Columbia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Utah, Washington, Wisconsin, Wyoming

Department of the Treasury  
Internal Revenue Service Center  
Kansas City, MO 64999

If your legal residence or principal place of business is outside the United States, file with the Department of the Treasury, Internal Revenue Service Center, Austin, TX 73301.

**Transmitting to the IRS.** Group the forms by form number and transmit each group with a separate Form 1096. For example, if you must file both Forms 1098 and 1099-A, complete one Form 1096 to transmit your Forms 1098 and another Form 1096 to transmit your Forms 1099-A. You need not submit original and corrected returns separately. Do not send a form (1099, 5498, etc.) containing summary (subtotal) information with Form 1096. Summary information for the group of forms being sent is entered only in boxes 3, 4, and 5 of Form 1096.

**Box 1 or 2.** Make an entry in either box 1 or 2; not both. Individuals not in a trade or business must enter their social security number (SSN) in box 2; sole proprietors and all others must enter their employer identification number (EIN) in box 1. However, sole proprietors who do not have an EIN must enter their SSN in box 2. Use the same EIN or SSN on Form 1096 that you use on Forms 1097, 1098, 1099, 3921, 3922, 5498, or W-2G.

**Box 3.** Enter the number of forms you are transmitting with this Form 1096. Do not include blank or voided forms or the Form 1096 in your total. Enter the number of correctly completed forms, not the number of pages, being transmitted. For example, if you send one page of three-to-a-page Forms 1098 with a Form 1096 and you have correctly completed two Forms 1098 on that page, enter "2" in box 3 of Form 1096.


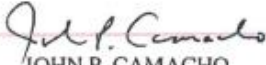
**Box 4.** Enter the total federal income tax withheld shown on the forms being transmitted with this Form 1096.

**Box 5.** No entry is required if you are filing Form 1098-T, 1099-A, or 1099-G. For all other forms, enter the total of the amounts from the specific boxes of the forms listed below.

Form W-2G	Box 1
Form 1097-BTC	Box 1
Form 1098	Boxes 1 and 6
Form 1098-C	Box 4c
Form 1098-E	Box 1
Form 1098-Q	Box 4
Form 1099-B	Boxes 1d and 13
Form 1099-C	Box 2
Form 1099-CAP	Box 2
Form 1099-DIV	Boxes 1a, 2a, 3, 8, 9, and 10
Form 1099-INT	Boxes 1, 3, 8, 10, 11, and 13
Form 1099-K	Box 1a
Form 1099-LTC	Boxes 1 and 2
Form 1099-MISC	Boxes 1, 2, 3, 5, 6, 7, 8, 10, 13, and 14
Form 1099-OID	Boxes 1, 2, 5, 6, and 8
Form 1099-PATR	Boxes 1, 2, 3, and 5
Form 1099-Q	Box 1
Form 1099-QA	Box 1
Form 1099-R	Box 1
Form 1099-S	Box 2
Form 1099-SA	Box 1
Form 3921	Boxes 3 and 4
Form 3922	Boxes 3, 4, and 5
Form 5498	Boxes 1, 2, 3, 4, 5, 8, 9, 10, 12b, 13a, and 14a
Form 5498-ESA	Boxes 1 and 2
Form 5498-QA	Boxes 1 and 2
Form 5498-SA	Box 1

**Corrected returns.** For information about filing corrections, see the 2016 General Instructions for Certain Information Returns. Originals and corrections of the same type of return can be submitted using one Form 1096.

**Appendix 8:**  
**Management Response**

 <p style="text-align: center;">Dipáttamenton Kontribusion yan Adu'ána</p> <p style="text-align: center;"><b>DEPARTMENT OF REVENUE AND TAXATION</b> GOVERNMENT OF GUAM      Gubetnamenton Guåhan</p>	<p>EDDIE BAZA CALVO, Governor Maga'åhåi RAY TENORIO, Lt. Governor Titante Gubetnadot</p> <p>JOHN P. CAMACHO, Director Direktor MARIE M. BENTO, Deputy Director Sigurda Direktor</p>
<p>August 12, 2016</p>	
<p>Doris Flores Brooks, CPA, CGFM Public Auditor Office of Public Accountability Suite 401, DNA Building 238 Archbishop Flores Street Hagatna, GU 96910</p>	
<p>Re: Draft Audit Report – Government of Guam Limited Gaming Tax and Guam Memorial Hospital Authority Trust Fee</p>	
<p>Buenas yan Saludas Mrs. Brooks,</p>	
<p>In response to the Performance Audit, the Department of Revenue &amp; Taxation (DRT) hereby submits its official response on your recommendations and acknowledges that we were aware of the issues of concern, prior to the audit, and hereby concurs to its implementation for the following:</p> <ul style="list-style-type: none"><li>- Continue the reconciliation with DOA on the LGT and GMHA Trust Fees,</li><li>- Review the classification of other limited gaming activities "universal unknown" to properly determine taxability and filing requirement, and</li><li>- Follow through with licensee requirements to enforce issuance of Tax Forms W-2G or 1099-Misc.</li></ul>	
<p>Immediately an assessment of resources to tackle the items above will be conducted by the Administrator of Taxpayer Services Division, Mr. Lawrence S. Terlaje. It is hopeful that issues will be addressed within 6 months.</p>	
<p>Lastly, DRT remains committed to all efforts to lessen any financial losses to the Government of Guam and appreciates your offices assistance towards this cause.</p>	
<p>Sincerely,</p> <p> JOHN P. CAMACHO Director</p>	<p style="text-align: center;"><b>RECEIVED</b> OFFICE OF PUBLIC ACCOUNTABILITY</p> <p>BY: <u>C. Roque</u></p> <p>DATE: <u>08/16/16</u></p> <p>TIME: <u>11:52</u>      <input checked="" type="checkbox"/> AM   <input type="checkbox"/> PM</p>
<p>1240 Army Drive, Post Office Box 23607, Barrigada, Guam 96921 • Tel. / Telfon: (671) 635-1763/1895/1897 • Fax / Faks: (671) 633-2643</p>	

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**Appendix 9:****Status of Audit Recommendations**

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<b>No.</b>	<b>Addressee</b>	<b>Audit Recommendation</b>	<b>Status</b>	<b>Action Required</b>
1	DRT	We recommend DRT to consider as they address the gaming taxes: <ul style="list-style-type: none"><li>a. Reconcile with the DOA AS400 on a monthly basis;</li><li>b. Aggressively follow-up with gaming entities to issue Forms W-2G to gambling winners;</li><li>c. Explore electronic filing options for Form 3260 for monthly filings, even for zero gaming gross receipts, to ensure accountability of each entity's gaming activity and readily available data;</li><li>d. Review variances in GMHA Trust Fund Fees reporting in relation to LGT as part of their monitoring process; and</li><li>e. Properly classify limited gaming activity licenses to compile listing of potential filers.</li></ul>	OPEN	Please provide target date for implementing the recommendation.
2	GMHA	We recommend that GMHA submit quarterly reports in compliance with P.L. 32-60 to ensure funds are used for their intended purpose.	OPEN	Please provide target date and title(s) of official(s) responsible for implementing the recommendation.



**Department of Revenue and Taxation  
Government of Guam Limited Gaming Tax and  
Guam Memorial Hospital Authority Trust Fund Fees  
Report No. 16-06, August 2016**

**ACKNOWLEDGEMENTS**

**Key contributions to this report were made by:**  
Yuka Hechanova, CPA, CIA, CGFM, CGAP, CGMA, Audit Supervisor  
Clariza Roque, Auditor-in-Charge  
Christian Rivera, Audit Staff  
Doris Flores Brooks, CPA, CGFM, Public Auditor

**MISSION STATEMENT**

**To ensure public trust and assure good governance,  
we conduct audits and administer procurement appeals,  
independently, impartially, and with integrity.**

**VISION**

**The Government of Guam is the model for good governance in the Pacific.  
OPA is a model robust audit office.**

**CORE VALUES**

**Objectivity: To have an independent and impartial mind.  
Professionalism: To adhere to ethical and professional standards.  
Accountability: To be responsible and transparent in our actions.**

**REPORTING FRAUD, WASTE, AND ABUSE**

- **Call our HOTLINE at 47AUDIT (472-8348)**
- **Visit our website at [www.opaguam.org](http://www.opaguam.org)**
- **Call our office at 475-0390**
- **Fax our office at 472-7951**
- **Or visit us at Suite 401, DNA Building in Hagåtña;**

**All information will be held in strict confidence.**