

Fantasy Contests in Connecticut

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Issue

Summarize how [PA 17-2](#), June Special Session (JSS), legalizes, regulates, and taxes fantasy contests in Connecticut.

Summary

Once certain conditions are met, [PA 17-2](#), JSS, (§§ 649-652) specifically legalizes fantasy contests in Connecticut (e.g., daily fantasy sports) by exempting the contests and devices used to play them from the definition of gambling and gambling device, respectively. These conditions include an amendment to the current tribal-state gaming agreements, which must be approved by the state legislature and the federal Department of the Interior (DOI).

After all the conditions have been met, the act (1) requires fantasy contest operators to provide certain consumer protections to players; (2) requires operators to register and pay an initial and annual registration fee of \$15,000 to the Department of Consumer Protection (DCP), unless the commissioner reduces it; and (3) imposes a 10.5% tax on each operator's gross receipts.

The act took effect on October 31, 2017, but the tax provisions take effect on July 1, 2019 and apply to income and taxable years commencing on or after that date.

Fantasy Contests

Under the act, “fantasy contest” does not include lottery games and is any online fantasy or simulated game or contest in which:

1. players pay an entry fee;
2. the value of all prizes and awards offered to winners is established and made known to players before the game or contest;
3. all winning outcomes reflect the knowledge and skill of the players and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in sporting events; and
4. the winning outcome is not based on the score, point spread, or any performance of any single actual team or combination of teams or solely on any single performance of an individual athlete or player in a single actual sporting event.

A “fantasy contest operator” is a person or entity that operates and offers fantasy contests to members of the general public in the state.

Conditions to be Met Before Authorization is Effective

Under the federal Indian Gaming Regulatory Act (IGRA), the Mashantucket Pequot and Mohegan tribes currently operate the Foxwoods and Mohegan Sun casinos, respectively, on their reservations. Gambling at the Foxwoods Casino is conducted under federal procedures, which are a legal substitute for an IGRA-negotiated gaming compact. Gambling at the Mohegan Sun Casino is conducted under a legally negotiated IGRA tribal-state compact. Both the compact and procedures are like federal regulations. As such, they supersede state law.

Under the federal procedures and the compact, the tribes may operate video facsimile machines (e.g., slot machines) only pursuant to a (1) state-tribal agreement (e.g., memoranda of understanding (MOU)); (2) court order; or (3) change in state law that allows the operation of video facsimile machines by any person, organization, or entity. Currently, both tribes are able to operate video facsimile machines at the casinos because of a MOU that each has with the state.

The MOU gives the tribes the exclusive right to operate video facsimile machines and casino gaming in Connecticut in exchange for 25% of the gross operating revenue from the video facsimile machines.

Before the legalization, consumer protection regulations, and tax provisions take effect, the act requires the governor to enter into agreements with the tribes to amend the federal procedures, the compact, and MOUs.

Amendments to Procedures, Compact, and MOU

Under the act, the amendments to the procedures and compact must include a provision stating that the authorization to conduct fantasy contests in the state does not terminate the moratorium against operating video facsimile games.

Under the act, the amendments to the MOUs must include a provision stating that the authorization to conduct fantasy contests in the state does not relieve the tribes of their obligation to contribute a percentage of the gross operating revenues of video facsimile games to the state under the MOUs.

Legislative and Federal Approval

Once the tribes and state reach an agreement on the amendments to the procedures, compact, and MOUs, the amendments must be approved by the state legislature under the statutory process for approving tribal-state compacts. They must also be approved or deemed approved by the DOI secretary, pursuant to IGRA and its implementing regulations. If a court overturns DOI's approval in a final judgment that is not appealable, the act's authorization ceases to be effective.

Consumer Protection Regulations

The act requires the DCP commissioner to adopt regulations, by July 1, 2018, governing fantasy contests in Connecticut. The regulations must protect players who pay an entry fee to play fantasy contests from unfair or deceptive acts or practices. They must include the following:

1. a prohibition on participation by anyone under age 18,
2. protections for players' funds on deposit with the operators,
3. requirements on truthful advertising by operators,
4. procedures to ensure the integrity of contests,
5. procedures to ensure operators provide players with (a) information on responsible playing and where they can seek assistance for addictive or compulsive behavior and (b) protections against compulsive behavior, and
6. reporting requirements and procedures to demonstrate eligibility for reducing the initial registration fee and annual registration renewal fee (see below).

Registration

Under the act, within 60 days after DCP adopts its regulations, and annually thereafter, each operator in the state must register with the DCP commissioner on a form she prescribes. Operators must generally pay an initial \$15,000 registration fee and a \$15,000 annual registration fee thereafter. But the commissioner must reduce the initial or annual registration fee so that such fees do not exceed 10% of the operator's gross receipts for the registration period.

In order to demonstrate eligibility for a reduced initial or annual registration fee, the operator must provide the commissioner with an estimate of the gross receipts he or she expects to receive in the upcoming registration period. Before renewing a registration where the operator paid or should have paid a reduced registration fee, the operator must submit to the commissioner the actual amount of gross receipts in the previous registration period. Both the submission of the estimate and actual gross receipts must be done in a manner the DCP commissioner prescribes.

The commissioner must calculate the difference, if any, between the estimated and actual gross receipts and determine if the registration fee the operator previously paid was the correct amount. If the operator paid more than the amount determined, the commissioner must refund the amount to the operator or credit the amount against the registration fee for the upcoming registration period, as long as the operator renews his or her registration. If the operator did not pay enough, he or she must pay the commissioner the difference.

Penalty

Anyone who violates the consumer protections or registration requirements, including the payment portions, must be fined up to \$1,000 for each violation.

Tax

The act imposes a 10.5% tax on the gross receipts of each operator. "Gross receipts" means the total of all entry fees an operator collects from all players less the total amount paid out as prizes to players, multiplied by the location percentage. "Location percentage" means the percentage rounded to the nearest tenth of a percent of the total entry fees collected from players located in Connecticut, divided by the total entry fees collected from all players in fantasy contests.

Under the act, each operator must report and remit such tax to the Department of Revenue Services (DRS) commissioner in a form and manner he prescribes. Any tax due and unpaid is subject to (1) a penalty equal to 10% of the amount due and unpaid or \$50, whichever is greater,

and (2) 1% interest per month, or fraction thereof, from the due date. Such tax, penalty, or interest, due and unpaid, may be collected under the procedures the state uses to collect such money (e.g., warrant on real or personal property).

In addition, the act applies the same enforcement, liability, and appeal process requirements established in statute for the admissions and dues taxes to the fantasy contest tax and requires them to be adapted accordingly unless they are inconsistent with the act's tax provisions. Under these requirements, the DRS commissioner can, among other things, (1) assess tax deficiencies where necessary; (2) require the operators to keep certain records and examine all of their records; (3) administer oaths, subpoena witnesses, and receive testimony; and (4) require a security deposit to insure compliance in some cases. The operators can file for a refund for tax overpayments, request a hearing on the amount of taxes they are required to pay, and appeal the hearing decision if aggrieved. Lastly, an additional penalty may be imposed on operators for willful violations or filing fraudulent returns.

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