



BULLETIN

No. 2021-8

November 1, 2021

Subject: NIGC Fee Rate and Fingerprint Processing Fee

This Bulletin explains the National Indian Gaming Commission's annual fee rates.¹ The annual fee rates being adopted here are effective November 1, 2021 and will remain in effect until new rates have been adopted by the Commission.

The National Indian Gaming Commission (NIGC) has adopted its annual fee rates of 0.00% for tier 1 and 0.08% (.0008) for tier 2. These rates shall apply to all assessable gross revenues from each gaming operation under the jurisdiction of the Commission. If a tribe has a certificate of self-regulation under 25 CFR part 518, the fee rate on Class II revenues shall be 0.04% (.0004), which is one-half of the annual fee rate.

Although the FY22 fee rate increase may seem significant, the Commission anticipates receiving approximately \$21M in fees for FY22. Even with the 0.08% fee rate, the NIGC projects the fee collections for FY22 would come in at approximately \$0.8M higher than the total fees of \$20.2M received in FY21. This additional \$0.8M will cover the NIGC's FY22 Budget, allowing the Agency to fill positions that were frozen during FY21, resume necessary travel, and ensure that the Agency is able to fully meet its statutory and regulatory responsibilities as the gaming industry continues to emerge from the Pandemic.

Gaming Revenue

Pursuant to 25 C.F.R. Part 514.4, the amount of annual fees owed shall be computed using the most recent fee rate adopted by the Commission and the assessable gross revenues (AGR) for the gaming operation's assessed fiscal year. According to our regulation, assessed fiscal year means the gaming operation's fiscal year ending prior to January 1 of the year the Commission adopted fee rates. As such, FY20's gaming revenue will be the basis for the tribes to calculate their FY22 quarterly fee payment to the NIGC. As announced earlier in the year, FY20's gaming revenue was significantly impacted by the

¹ On January 22, 2018, the Commission published changes to the fees regulations 25 C.F.R. Part 514 in the Federal Register (83 FR 2903) which simplify the fee rate analysis and publication process by providing that the Commission will adopt a fee rate no later than November 1st of each year

lingering effect of the pandemic. As a result, raising the fee rate to 0.08% is necessary to ensure the continuous funding of the agency's operations throughout FY22.

Transition Balance

Unlike other federal agencies, the NIGC does not receive Congressionally appropriated funding. Instead, the Agency receives quarterly payments from Tribes equal to one quarter of their gaming operation's reported annual fee assessment. Because of its unique funding structure, the NIGC maintains a transition balance to cover any cash flow variations resulting from the timing difference of fee receipt and operational payments. The transition carryover balance is essential for the agency's continuity of operations. As evidenced by the current fee rate of 0.062%, adopted since 2016, the Commission has been utilizing the transition balance to fund a portion of our operational expenditure each year. As the transition balance has been gradually depleted over the past few years, it is necessary for the Commission to raise the fee rate this year to ensure the continuous funding of the Agency's operation. Even with the fee rate increase for FY22, the NIGC will end the fiscal year with less than half of the transition balance that the agency has consistently identified as a prudent transition balance and a fiduciary practice at the NIGC for over a decade.

NIGC Budget

The Commission understands the pandemic's impact on the tribal gaming operations' financial standing and the NIGC has been mindful of how we utilize the fees we collect while doing everything in its power to fulfill the statutory duties and provide necessary services. While over 95% of all Indian gaming operations remain open today, unique regulatory needs and challenges face tribal law makers, tribal gaming regulatory authorities, and gaming operations. These challenges have been and continue to be an important consideration in how the NIGC is meeting its statutory mission. To assist tribal leaders with understanding how the NIGC is balancing its responsibilities, the Commission has held periodic reports on its operations and provided opportunities for tribal feedback on the NIGC's budget objectives starting with the FY21 NIGC budget. This new outreach effort by the NIGC has helped to communicate and explain the impacts of how the NIGC is managing ongoing uncertainty for the pandemic and addressing emerging needs.

As communicated to the tribal leaders during our recent [NIGC Fiscal Year 2022 Budget Briefing Video](#), the Commission made strategic deferrals in approving the FY22 budget to keep the budget consistent with agency budgets from recent years. The Commission is dedicated to good governance practices when carrying out its planning and assessing or communicating its operation's focus. The Commission also understands the value that a well regulated Indian gaming industry brings to tribal communities' ability to improve lives and build strong regional economies.

Payments

The NIGC has implemented an electronic payment system through Pay.gov in 2014. The system can be used for the quarterly payment of annual fees and submission of associated worksheets. Tribes interested in using the new Pay.gov electronic payment system should visit www.pay.gov and select the NIGC using the tab Find an Agency. Additionally, tribes can visit the Commission's website at www.nigc.gov for details on how to sign into the system, what information is required to be submitted and how to handle changes or corrections to submissions. Use of this system is optional and paper worksheets and fee payments by check will still be accepted. Please provide the following identifying information: name, address, and telephone number of the gaming operation; name of licensing tribe; and the name, telephone number, and email address of contact person, and remit quarterly fee payments to:

National Indian Gaming Commission
Attn.: Division of Finance
1849 C Street NW Mail Stop #1621
Washington, DC 20240

Pursuant to 25 C.F.R. 514.4, please be sure to use the appropriate fiscal year as the base period for determining fee payments. Please note the new regulations define the fiscal year used in calculating the annual fee so that one fee rate is applied consistently to a gaming operation's assessable gross revenues for one fiscal year.

NIGC Fingerprint Fee Rate

Pursuant to 25 C.F.R. § 514.16, the National Indian Gaming Commission has adopted its annual fingerprint processing fee for the coming year. For Fiscal Year 2022, the Commission has adopted its annual fingerprint processing fee at \$35 per card for FY22 which represents a decrease of \$10 per card from the current fee of \$45. The decrease this year is a result of the one-time capital investment on updating the NIGC's fingerprint system and network for which the fund has been committed in FY21 and the system is currently in its design stage. FY22 costs allocated for processing fingerprints continues to reflect the Commission's commitment on taking additional measures necessary to ensure compliance with the Federal Bureau of Investigation (FBI) requirements including funding compliance efforts by hiring new Criminal Justice Information Services (CJIS) Auditors/Officers in FY22 to meet FBI CJIS requirements and to remediate findings from an FBI CJIS audit. Taking these necessary measures are not only required but critical to ensure the NIGC and participating tribes can continue to utilize the FBI's criminal history report information (CHRI) to determine a key employee or primary management official's eligibility for a gaming license.

The annual fingerprint processing fee being adopted here is effective November 1, 2021 and will remain in effect until the Commission adopts a new rate.

The announcement of the fee rate and fingerprint fees will be published in the Federal Register and the notice will be posted to the NIGC website as soon as it is available.

Should you have any questions, please contact Yvonne Lee, National Indian Gaming Commission, 1849 C Street NW, Mail Stop #1621, Washington, DC 20240; telephone (202) 632-7003; fax (202) 632-7066; email fee_questions@nigc.gov.