



BULLETIN

No. 2020-4

November 30, 2020

Subject: NIGC Fee Rate

This Bulletin explains the National Indian Gaming Commission's annual fee rates.¹ This year the annual fee rate remains the same as last year. The annual fee rates being adopted here are effective November 23, 2020 and will remain in effect until new rates are adopted.

The National Indian Gaming Commission has adopted its annual fee rates of 0.00% for tier 1 and 0.062% (.00062) 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 0.031% (.00031), which is one-half of the annual fee rate.

The Commission is mindful that the coronavirus pandemic has impacted the Indian gaming industry in an unprecedented way by causing financial hardship to tribes and gaming operations. The Commission decided to keep the fee rate the same at this point and may need to reassess the rates during the year, as well as the fee collection processes laid out in its regulations. This reassessment includes the Commission considering actions to potentially increase fee rates before November 2021, promulgate changes to the provisions described in 25 CFR part 514, and/or other potential measures to address the agency's budget planning. These potential measures will not be implemented before the third quarter payment due date, will comply with the Indian Gaming Regulatory Act's existing requirements, and will be done in consultation with tribal governments as outlined in the Agency's policies on government-to-government consultation.

In order to set the Commission's fee rate accurately each year, we consider the trending of the industry's gaming revenue, the agency's existing carryover transition balance, and the agency's budget requirements for the fiscal year before we determine the final fee rate.

Gaming Revenue

Because the NIGC's fees are calculated based on the Tribes' previous fiscal year's gaming revenue,

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. In order to ensure a complete and thorough assessment, the Commission voted to extend the November 1st deadline to December 31, 2020.

it is necessary for the Commission to take both FY19 and FY20's gaming revenue into consideration when setting its fee rate this year to ensure the continuous funding of the agency into FY22. Based on the Commission's fee calculation structure, FY19's gaming revenue will be the basis for the tribes to calculate their FY21 quarterly fee payment to the NIGC. While FY19's gaming revenue continued to reflect growth in the gaming industry, FY20's gaming revenue has been significantly impacted by the lingering effect of the pandemic. As a result, the Commission may need to reassess the above rates during the coming year as additional gaming revenue information becomes available.

Transition Balance

Unlike other federal agencies, the Commission does not receive Congressionally appropriated funding at the beginning of each fiscal year. Instead, the Commission 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 Commission 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 may be necessary for the Commission to adjust the fee rate this year to ensure the continuous operation of the Agency.

NIGC Budget

It's important to note that the NIGC has reduced its spending from the previous year in nearly all functional areas with the exception of capital technological expenditures that are required to meet statutory requirements. During the pandemic, the NIGC is doing everything in its power to fulfill our statutory duties and provide necessary services while being mindful of how we utilize the fees we collect. Since April 2020, we have taken cost reduction measures to cut our spending, wherever we can, which include: instituting hiring restrictions for non-statutory required positions, limiting promotion increases for employees, removing professional development allowances for employees, canceling the majority of in-person regional training conferences for 2020 and moving to an all virtual format, and limiting travel and purchase expenditures to only mission critical items that are subject to heightened scrutiny. However, the considerations around the impact of cost savings have been and continue to be part of the agency's decision making. Those considerations include the impact of cost savings on the NIGC's ability to provide services, maintain public confidence, respond to unique requests during a dynamic and unprecedented shutdown/reopening, and call to monitor and assist tribes with enhancing public health and safety measures. Moreover, ensuring the NIGC is appropriately staffed and able to function at the necessary capacity in order for the NIGC to carry out its statutory requirements will bring additional certainty to the industry and the public at large.

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.

The National Indian Gaming Commission has also adopted its fingerprint processing fees of \$45 per card effective November 13, 2020. For more information on the fingerprint processing fee, please see bulletin 2020-3.

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.