

TITLE 26 - FINANCE

CHAPTER 1 - FINANCE CODE

ARTICLE 3 - GAMING REVENUE DISTRIBUTION FORMULA AND DISTRICT ALLOCATION GUIDELINES

Legislative History: The formula for distributing the Nation's gaming revenues was established pursuant to Resolution No. 94-098, "Authorizing Gaming Revenue Distribution Formula," as amended; codified by Resolution No. 06-535 as Section 1301 of Tohono O'odham Code Title 26, Chapter 1, Article 3; amended by Resolution No. 08-060 (approving incremental reductions in "Host District Share" portion of Formula); amended by Resolution No. 13-267 (amending Gaming Revenue Formula allocation under subsections 1301(A) and (B) for fiscal years 2014 and 2015 effective August 1, 2013; amendments are set to expire September 30, 2015 and subsections 1301(A) and (B) of the Gaming Revenue Formula allocation shall revert to the allocation percentages in effect on May 1, 2013); amended by Resolution No. 14-345 (extending the expiration date of the amendments made by Resolution No. 13-267 to the Gaming Revenue Formula allocation under Section 1301 through fiscal year 2017 and from September 30, 2015 to September 30, 2017, provided that on October 1, 2017 Section 1301 of the Gaming Revenue Distribution Formula allocation shall revert to the allocation percentages in effect on May 1, 2013); amended by Resolution No. 17-009 (amends Gaming Revenue Distribution Formula to restore subsection 1301(A) allocation for long-term investments from 0% to 12% and to reduce subsection 1301(B) allocation from 100% to 88% effective October 1, 2017; supersedes provisions of Resolution No. 14-345); amended by Resolution No. 21-426 (amending Section 1301 to reflect the allocation to the Permanent Trust Fund).

Pursuant to Resolution No. 08-060, the Host District Share percentage under Section 1301(B)(ii)(a) was amended to 25% for the period from August 1, 2008 through July 31, 2009. The Host District Share percentage effective August 1, 2009 through July 31, 2010 shall be amended from 25% to 20%. The Host District Share percentage effective August 1, 2010 shall be amended from 20% to 15%.

The guidelines for expenditure of the District Allocation portion of the Nation's gaming revenues were established by Resolution No. 95-397, "Re-establishing Guidelines for Expenditure of the District Allocation of Gaming Revenue"; codified by Resolution No. 06-535 as Sections 1302-1307 of Tohono O'odham Code Title 26, Chapter 1, Article 3.

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Section 1301 Formula.

The following formula is hereby established for purposes of allocating all revenue from Gaming Facilities paid to the Nation by the Gaming Enterprise pursuant to Section 7(e) of the Gaming Enterprise Charter (hereinafter referred to as ‘Gaming Revenues’):

- (A) Six percent (6%) of all Gaming Revenues shall be allocated to the Permanent Trust Fund established by 26 Tohono O’odham Code Chapter 3.
- (B) Twelve percent (12%) of all Gaming Revenues shall be allocated to a separate account, and segregated from all other sources of revenue, for purposes of making long-term investments in accordance with the Nation’s Financial Investment Policy. All interest derived therefrom shall be reinvested in like manner. Following consultation with the Districts, the Legislative Council may, by resolution or ordinance, authorize disbursement of funds from such long-term investment accounts.
- (C) Eighty-two percent (82%) of all Gaming Revenues shall be allocated as follows:
 - (1) Seventy (70%) of such amount shall be allocated to the Nation’s general fund for purposes of appropriation as authorized by the Nation’s Constitution and in accordance with the Gaming Ordinance.
 - (2) Thirty percent (30%) of such amount shall be allocated to the Districts (hereinafter referred to as the ‘District Allocation’) in the following manner:
 - (a) Fifteen percent (15%) of the District Allocation shall be allocated to the District where the Gaming Facility which generated such revenue is located.
 - (b) The remainder of the District Allocation shall be divided among all eleven Districts of the Nation.

Section 1302 District Allocation.

The District Allocation shall be allocated to a separate account and segregated from all other sources of revenue, shall be held for the benefit of the respective Districts, and shall only be made available for expenditure by authorization of the Legislative Council in accordance with Article IX, Section 7 of the Nation’s Constitution.

Section 1303 Guidelines.

The Budget and Finance Committee and the Commerce Committee shall develop guidelines for approved expenditures of the District Allocation for Gaming Revenues for purposes of providing guidance to the Districts in developing budgets and appropriate audit and internal control procedures required for all Districts expending Gaming Revenues, in accordance with the Indian Gaming Regulatory Act, the Nation's Gaming Ordinance, and the Nation's Constitution.

Section 1304 District Allocation Expenditures.

Annually, on August 1, the District Allocation (as that term is used in Article 3 of this Chapter) shall be apportioned to the separate District accounts in accordance with the allocation formula established by the Legislative Council and shall be made available for expenditure subject to:

- (A) budgets approved in accordance with Article VI, Section 1(d)(2) of the Nation's Constitution and Section 302 of the Gaming Ordinance;
- (B) actual expenditures which have been budgeted for, and expended in compliance with, Article IX, Section 7 of the Nation's Constitution and Section 302 of the Gaming Ordinance;
- (C) an annual audit of each District's books of accounts and activities for compliance with the requirements of this Article, the Nation's Constitution and Section 302 of the Gaming Ordinance, as more fully identified below; and
- (D) the establishment and maintenance of a system of internal controls, as more fully identified below.

Section 1305 Annual Audits.

Each District's book of accounts and activities shall be audited annually by the independent certified public accountants retained by the Nation to prepare the Nation's annual audit. To facilitate the completion of such audits, each District shall make and maintain complete, accurate and legible records of all financial transactions of the District. Each District shall maintain general accounting records on a double-entry system of accounting with detailed, supporting subsidiary records sufficient to furnish the information required for the standard financial reports to adequately reflect gross income and expenses. Such records as well as all original entry transaction records shall be maintained for at least five years from the date on which they are made. The auditors shall submit to the Chairperson of the Nation an audit report expressing an unqualified or qualified opinion, or, if appropriate, disclaim an opinion of the statement taken as a whole in accordance with generally accepted auditing standards of the accounting profession. The examination and audit shall disclose whether the accounts, records, expenditures and internal controls and accounting procedures maintained by the District are in compliance with this Article, Section 302 of the Gaming Ordinance, and the Nation's Constitution.

Section 1306 Internal Controls.

Each District shall establish and maintain a system of internal controls to safeguard assets, check the accuracy and reliability of accounting data, and promote operational efficiency. Such system of internal controls must provide for an appropriate segregation of functional responsibilities and sound practices to be followed in the performance of those duties by competent and qualified personnel. Such system of internal controls must permit reasonable assurance the following objectives will be maintained:

- (A) safeguarding of assets;
- (B) reliability of financial records;
- (C) execution of transactions in accordance with the District Council’s general or specific authorization;
- (D) recording of transactions as necessary to permit recording of revenue and to maintain accountability for assets;
- (E) access to assets only in accordance with the lawful authorization of District Council;
- (F) comparison of records of assets with existing assets at reasonable intervals with provision for appropriate action with respect to any differences; and
- (G) compliance with this Article, Section 302 of the Gaming Ordinance and the Nation’s Constitution.

Section 1307 Reporting Distributions to Nation.

The Gaming Enterprise is hereby directed to separately report by Gaming Facility location all sums paid to the Nation pursuant to Section 7(e) of the Gaming Enterprise Charter.

Section 1308 Interpretation.

- (A) Section 1301 of this Article formerly appeared within Resolution No. 94-098, as amended, and any references within the Tohono O’odham Code or the other laws of the Nation to the provisions of Resolution No. 94-098 or its amendments shall be construed as referring to the corresponding, renumbered provisions of Section 1301.
- (B) Sections 1302-1307 of this Article formerly appeared within Resolution No. 95-397 and any references within the Tohono O’odham Code or the other laws of the Nation to the provisions of Resolution No. 95-397 shall be construed as referring to the corresponding, renumbered provisions of Sections 1302-1307.