

**Title 11—DEPARTMENT OF
PUBLIC SAFETY
Division 45—Missouri Gaming
Commission
Chapter 11—Taxation Regulations**

PROPOSED AMENDMENT

11 CSR 45-11.110 Refund—Claim for Refund. The commission is amending section (1).

PURPOSE: This amendment removes the requirement of duplicates from copies for filing claims.

(1) If a tax or fee, penalty or interest has been paid by a licensee that is in excess of the amount owed, the licensee may file a claim for refund or credit. No such claim for refund or credit shall be allowed unless *[duplicate copies]* **a copy** of the claim *[are]* **is** filed within three (3) years from the date of overpayment. The three (3) year period of limitation for the credit or refund begins with the date the licensee pays taxes to the commission on account of the adjusted gross receipts in question or with the date the licensee pays fees to the commission on account of the tickets of admission in question.

(2) Every claim for refund or credit must include the following:

(A) Claim For Refund Or Credit Form provided by the commission, which must be in writing, signed by an authorized agent of the licensee, and state the specific grounds upon which the claim is founded; and

(B) Amended returns for all periods involved in the overpayment of the tax or fee, penalty or interest that has been paid by the licensee.

(3) Any refund or credit, or any portion of refund or credit, which is erroneously allowed by the commission or which is erroneously taken by the licensee, may be recovered in any action brought by the commission against the licensee. In the event that a tax or fee has been illegally imposed against a licensee, the commission shall authorize the cancellation of the tax or fee upon its record.

(4) A claim for credit or refund shall be approved only after the commission has determined the claim to be valid and recorded its approval on the Claim For Refund Or Credit Form filed by the licensee. The commission may authorize the director, or the director's designated representative, to make the initial determination as to the validity of any claim for credit or refund filed with the commission and to approve or deny the claim; provided, however, that this section shall not limit any other authorization of the director. The authorization granted herein shall not include the authority to review findings of a hearing officer under the provisions of 11 CSR 45-13.

(5) In cases where a claim for credit or refund is denied by the commission, the licensee may submit a request for a hearing, in accordance with 11 CSR 45-13, to review the commission's decision to deny the claim.

(6) In cases where a claim for credit is approved, the commission will issue a credit memorandum for the amount of the overpayment. The credit may be applied by the licensee in satisfaction of subsequent tax or fee liability. A copy of the approved credit memorandum must be attached to the return to which it is being applied.

(A) A refund is made rather than a credit when the approved credit cannot be taken as a credit on the next return filed with the commission. The refund shall be made with interest as determined by section 32.065, RSMo.

(B) Any approved credit of the gaming tax or admission fee shall be made without interest.

(C) Taxes or fees which are claimed to have been unconstitutionally imposed or collected are subject to the same requirements as other claims for refund or credit.

(7) All claims for credit or refund filed with the commission and any documents filed in support of such claims or introduced in a hearing to contest the denial of a claim shall be deemed by the commission to be open records.

(8) The Claim For Refund Or Credit Form shall be made available on the commission's website at www.mgc.dps.mo.gov and may be requested by writing to Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102.

AUTHORITY: sections 313.004, 313.800, [RSMo Supp. 2006] 313.805, and 313.822, RSMo [2000] 2016. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Feb. 19, 1998, effective Aug. 30, 1998. Emergency amendment filed June 5, 2000, effective June 16, 2000, expired Feb. 22, 2001. Amended: Filed June 23, 2000, effective Jan. 30, 2001. Amended: Filed Aug. 30, 2006, effective March 30, 2007. Amended: Filed May 30, 2019.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for Tuesday, July 30, 2019 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*