

**KWAZULU-NATAL
GAMING AND BETTING TAX BILL, 2009**

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BILL

To provide for the payment of tax by persons licensed in terms of the KwaZulu-Natal Gaming and Betting Act, 2009; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

Definitions

1. In this Act any word or expression to which a meaning has been assigned in the KwaZulu-Natal Gaming and Betting Act, 2009, must, unless clearly inappropriate, bear that meaning, and, unless the context indicates otherwise –

"bet" or **"a bet"** means an agreement between two persons whereby one person stakes money or a valuable thing with the other person on the outcome of a horse race, sporting event or other event or contingency, or on the cumulative outcome of a combination of horse races, sporting events or other events or contingencies and that outcome or cumulative outcome determines the financial benefit, if any, which accrues to either of those persons, and **"to bet"** and **"betting"** have a corresponding meaning;

"bettor" means any person who makes a bet;

"bingo" means a game, including a game played in whole or in part by electronic means –

- (a) that is played for consideration, using cards or other devices –
 - (i) that are divided into spaces each of which bears a different number, picture or symbol; and
 - (ii) with numbers, pictures or symbols arranged randomly such that each card or similar device contains a unique set of numbers, pictures or symbols;
- (b) in which an operator or announcer calls or displays a series of numbers, pictures or symbols in random order and the players match

each such number, picture or symbol on the card or device as it is called or displayed; and

(c) in which the player who is first to match all the spaces on the card or device, or who matches a specified set of numbers, pictures or symbols on the card or device, wins a prize,

or any other substantially similar game declared to be bingo in accordance with section 6(4)(b) of the National Gambling Act, 2004 (Act No. 7 of 2004): Provided that for the purposes of this Act, the game of bingo does not include any game in which the process of calling or displaying a series of randomly generated numbers, pictures or symbols is automated in a manner that causes the time interval between the calling or displaying of each individual randomly generated number, picture or symbol to be less than three seconds;

"bingo licence" means a bingo licence issued by the Board in terms of the KwaZulu-Natal Gaming and Betting Act, 2009;

"Board" means the KwaZulu-Natal Gaming and Betting Board established in terms of the KwaZulu-Natal Gaming and Betting Act, 2009;

"bookmaker" means a person who is licensed, in terms of the KwaZulu-Natal Gaming and Betting Act, 2009 or in terms of the provisions of the legislation of the other provinces of South Africa, to accept offers or stakes in the process of transacting bets on horse races, sports, sporting events or any other events or contingencies, or on a combination of such horse races, sports, sporting events, other events or contingencies;

"casino" means premises where casino games, bingo and gaming machines are played, or are available to be played, but does not include premises in which –

(a) only bingo is played or available to be played;

(b) only limited payout machines are available to be played; or

(c) only limited payout machines and bingo are played or available to be played;

"casino game" means any game played for money, property, cheques, credit or

anything of value, excluding an opportunity to play a further game, with –

(a) playing-cards or dice; or

(b) any other machine or device used to determine win or loss;

and includes, without derogating from the generality of the foregoing, roulette, keno, twenty-one, blackjack, poker, *chemin de fer*, baccarat, but excludes any lottery;

"**casino licence**" means a casino licence issued by the Board in terms of the KwaZulu-Natal Gaming and Betting Act, 2009;

"**gambling**" means engaging in any activity whereby money or any other thing of value is staked on the unknown result of a future event at the risk of losing all or a portion of the money or valuable thing so staked for the sake of a return and is the generic term encompassing all forms of "gaming" and "betting" as defined in this section, but excludes –

(a) any lawful lottery; and

(b) any recognised investment activity undertaken with a recognised financial institution,

and "**gamble**" and "**gambling activity**" have a corresponding meaning;

"**gaming**" means playing any casino game, bingo or any gaming machine or limited payout machine;

"**gaming machine**" means a "**gaming machine**" defined in section 1 of the KwaZulu-Natal Gaming and Betting Act, 2009;

"**Gazette**" means the official *Provincial Gazette* of KwaZulu-Natal;

"**horse race**" means any horse, pony or galloway race over a defined or agreed course held for the entertainment of the public: Provided that the term does not include –

(a) a horse race in the nature of a public trial gallop at which no betting takes place, held under the management and control of a racecourse operator; or

(b) a horse race or contest of a private nature at which no betting takes place,
and "**horse racing**" has a corresponding meaning;

"**independent site operator**" means a site operator who is not linked to a route operator and is licensed in terms of the KwaZulu-Natal Gaming and Betting Act, 2009, to own and operate limited payout machines on a single site and is responsible for maintaining the machines, effecting the collection of money and paying the applicable taxes and levies;

"**independent site operator licence**" means an independent site operator licence issued by the Board in terms of the KwaZulu-Natal Gaming and Betting Act, 2009;

"**limited payout machine**" means a gaming machine outside of a casino in respect of the playing of which the stakes and prizes are limited as prescribed by regulations made in terms of the National Gambling Act, 2004 (Act No. 7 of 2004);

"**Member of the Executive Council responsible for finance**" means the member of the Executive Council of the Province of KwaZulu-Natal responsible for finance;

"**multiple bet**" means a bet comprising more than one selection, in which all selections must be correctly chosen by the bettor, in order that the bet be won by the bettor;

"**other event or contingency**" means any event or contingency, other than a horse race or a sporting event, determined by the responsible Member of the Executive Council by notice in the *Gazette* to be an event or contingency on which a bet may be taken or laid in accordance with the KwaZulu-Natal Gaming and Betting Act, 2009;

"**person**" means a natural or juristic person, a group of such persons or a corporate body unless the context indicates a contrary intention;

"**Provincial Revenue Fund**" means the fund established for the Province of

KwaZulu-Natal by section 226 of the Constitution of the Republic of South Africa, 1996;

"race meeting" means any gathering of the public to watch a horse race or horse races;

"responsible Member of the Executive Council" means the member of the Executive Council of the Province of KwaZulu-Natal responsible for finance;

"route operator" means a person who is licensed in terms of the KwaZulu-Natal Gaming and Betting Act, 2009, to provide limited payout machines to site operators and to conduct any other activity prescribed under the KwaZulu-Natal Gaming and Betting Act, 2009;

"route operator licence" means a route operator licence issued by the Board in terms of the KwaZulu-Natal Gaming and Betting Act, 2009;

"site operator" means a person who is authorised to keep limited payout machines on his or her premises in terms of a licence issued in accordance with the KwaZulu-Natal Gaming and Betting Act, 2009;

"sports" or **"sporting event"** means any football, rugby, cricket, golf, hockey, tennis or baseball match; any boxing, wrestling, shooting or swimming contest; any foot, cycle, motor, boat or dog race; or any other sporting or athletic contest, competition, tournament or game other than a horse race, usually attended by the public, and **"sport"** has a corresponding meaning;

"this Act" includes the Schedule thereto;

"totalisator" means any electronic or mechanical device commonly known by that name and used in connection with betting on horse races, sporting events and any other event or contingency for registering or indicating or registering and indicating the number or value or number and value of –

- (a) bets on horses in any horse race or any combination of horse races;

- (b) bets on any sporting event;
- (c) bets on any other event or contingency; or
- (d) bets on any combination of horse races, sporting events and other events or contingencies,

and which is operated in accordance with a system of betting in which the aggregate amount staked on any one of the aforementioned categories of bets after deduction from such aggregate of any amounts which may lawfully be deducted therefrom in terms of the KwaZulu-Natal Gaming and Betting Act, 2009, is divided amongst those persons who have taken winning bets on such categories of bets in terms of the relevant totalisator rules, and includes any scheme, form or system of betting, whether mechanically operated or not, which is operated on similar principles;

"totalisator licensee" means a person licensed by the Board, in terms of the KwaZulu-Natal Gaming and Betting Act, 2009, to conduct a totalisator on a horse race, sporting event or other event or contingency; and

"totalisator operator" means a natural or juristic person appointed by a totalisator licensee in terms of the KwaZulu-Natal Gaming and Betting Act, 2009, and who is in charge of and responsible for the day to day conduct and operation of the relevant totalisator.

Application of Act and other laws

2. This Act –

- (a) applies to all persons licensed in terms of the KwaZulu-Natal Gaming and Betting Act, 2009; and
- (b) must be read together with the KwaZulu-Natal Gaming and Betting Act, 2009, in relation to the payment of tax by persons licensed in terms of the said Act.

Payment of tax by persons licensed in terms of KwaZulu-Natal Gaming and Betting Act, 2009

3. All persons licensed in terms of the KwaZulu-Natal Gaming and Betting Act, 2009,

must pay the tax as set out in the Schedule to this Act.

Offences and penalties

4. The provisions of sections 78, 135 and 145 of the KwaZulu-Natal Gaming and Betting Act, 2009, apply with the necessary changes to a person licensed in terms of the said Act, who by the date tax becomes due and payable, underpays or fails to pay tax as prescribed in terms of this Act.

Short title and commencement

5. This Act is called the KwaZulu-Natal Gaming and Betting Tax Act, 2009, and comes into operation simultaneously with the KwaZulu-Natal Gaming and Betting Act, 2009, on the date determined for the coming into operation of that Act.

SCHEDULE
Taxes
(Section 3)

A. Casinos

Gaming tax

1.(1) Casino gaming tax must be paid by the holder of a casino licence at the rate prescribed in the table hereunder:

<i>Monthly gross gaming revenue</i>	<i>Tax rate</i>
Up to R30 million.	9.5%
Over R30 million.	12.5%

(2) For each table game, gross gaming revenue equals the closing bankroll plus credit slips for cash, chips or tokens returned to the casino cage, plus drop, less opening bankroll and fills to the table.

(3) For each gaming machine, gross gaming revenue must be calculated using the appropriate electronic meters of the machine so as to determine both the amount of money gambled on the gaming machine and the amount of money won by persons using the gaming machine.

(4) For each card game and any other game in which the licensee is not party to a wager, gross gaming revenue equals all money received by the licensee as compensation for conducting the game.

(5) If, in any taxation period, the amount of gross gaming revenue is less than zero, the licensee may deduct the excess in the succeeding tax periods, until the excess is fully offset against gross gaming revenue.

Gross gaming revenue

2. For the purposes of this part of the Schedule –

"gross gaming revenue" means the difference between the amount of money gambled by persons while gaming with a casino licensee and the amount of money returned to persons by the casino licensee, as direct winnings from the

gambling activity in which the persons participated.

B. Limited payout machines

Gaming tax

1. Limited payout machine gaming tax must be paid by the holder of a route operator licence or an independent site operator licence at the rate of 15 percent of gross gaming revenue, where gross gaming revenue must be calculated using the appropriate electronic meters of the machine so as to determine the amount of money gambled on the limited payout machine and the amount of money won by persons using the limited payout machine.

Gross gaming revenue

2. For the purposes of this part of the Schedule –

"**gross gaming revenue**" means the difference between the amount of money gambled by persons while gaming with a licensed route operator or a licensed independent site operator and the amount of money returned to persons by such licensee, as direct winnings from the gambling activity in which the persons participated.

C. Bingo

Gaming tax

Bingo gaming tax must be paid by the holder of a bingo licence, at the rate of 3 percent of the licensee's bingo revenue, where bingo revenue equals the total amount of money staked by players on a bingo game, including participation fees, less the total amount returned to players by way of prizes.

D. Betting

Fixed-odds bets on horse races

1. The tax deductions and their distribution referred to in section 128 of the KwaZulu-Natal Gaming and Betting Act, 2009, in respect of fixed-odds bets on horse races placed with a bookmaker or a bookmaker's manager, at a racecourse and in premises other than a racecourse, are as prescribed in the table hereunder:

<i>Beneficiaries</i>	<i>Bets placed with a bookmaker or manager at a racecourse</i>	<i>Bets placed with a bookmaker or manager in premises other than at a racecourse</i>	
Provincial Revenue Fund	3%	3%	
Racecourse operator	3%	3%	
	6%	6%	Total

Fixed-odds bets on sporting events or other events or contingencies

2.(1) A bookmaker must pay into the Provincial Revenue Fund a betting tax equal to 6.5% of such bookmaker's gross profits on all betting transactions entered into by that bookmaker on –

- (a) sporting events;
- (b) other events or contingencies; or
- (c) any combination thereof.

(2) For the purposes of this Schedule, the gross profits on betting transactions on sporting events or other events or contingencies is calculated to be the difference between the total amount –

- (a) due to the bookmaker in respect of such betting transactions; and
- (b) the total amount of winnings paid out to bettors on such betting transactions, during each calendar month of the year.

(3) Any betting transaction which constitutes a multiple bet and which multiple bet includes any selection involving the outcome of a horse race, does not constitute a betting transaction on a sporting event or other event or contingency and the taxation prescribed in Part D.1 of this Schedule is therefore applicable to such multiple bet.

Pari-mutuel bets on horse races, sporting events or other events or contingencies

3.(1) In respect of pari-mutuel bets placed with a totalisator on horse races, sporting events or other events or contingencies—

- (a) the minimum amount to be returned to persons who have taken winning pari-mutuel bets on horse races, sporting events or other events or contingencies with a totalisator must, in aggregate, not be less than:

- (i) 65 percent of all monies bet on the totalisator on the bet type referred to as the Super 8; or
 - (ii) 75 percent of all monies bet on the totalisator at any one race meeting, or on any sporting event or other event or contingency, excluding the bet type referred to as the Super 8;
- (b) the amount of the tax payable to the Provincial Revenue Fund as referred to in this Act and section 130 of the KwaZulu-Natal Gaming and Betting Act, 2009, must be calculated at the rate of 1,5 percent of all monies bet on the totalisator; and
- (c) the totalisator licensee may retain from the amount that is not returned to persons who have taken winning pari-mutuel bets on horse races, sporting events or other events or contingencies with a totalisator, in accordance with paragraph (a), such amount as remains after deduction of the 1,5 percent tax contemplated in paragraph (b): Provided that when a totalisator licensee offers bets on commingled betting pools, the totalisator rules applicable to the host totalisator must apply: Provided, further, that the totalisator rules of the host totalisator must be advertised to bettors by the guest totalisator in the manner prescribed by the Board.

(2) For the purposes of this Schedule –

- (a) “**commingling**” means the process whereby a guest totalisator betting pool is combined with a host totalisator betting pool and "commingle", "commingled", and "commingles" have a corresponding meaning;
- (b) "**guest totalisator**" means a totalisator operator licensed in KwaZulu-Natal;
- (c) "**host totalisator**" means a totalisator operator licensed in a province, state or country outside of KwaZulu-Natal; and
- (d) “**totalisator rules**” means the rules applicable to a totalisator operator which include, *inter alia*, betting rules and rules authorising deductions other than tax deductions from betting pools.