



# **WEST VIRGINIA CHARITABLE RAFFLE AND ONLINE RAFFLE OPERATORS HANDBOOK**

A Handbook for Raffle Operators

Revised February 2025

## **DISCLAIMER**

The information contained in this Handbook is intended as a plain-English summary of West Virginia's Charitable Raffle laws to be used as a reference guide for licensed operators of charitable raffles in the State of West Virginia. It is not intended as a substitute for the law, and if any conflict or inconsistency arises as between this Handbook and the West Virginia Code or Legislative Rules, the Code or Rules will be determinative. Raffle operators should familiarize themselves with the provisions of the West Virginia Code and the West Virginia Code of State Rules.

# TABLE OF CONTENTS

<b>Topic</b>	<b>Page</b>
<b>CHARITABLE RAFFLES</b>	
WHO MAY HOLD CHARITABLE RAFFLE OCCASIONS	4
CERTAIN RAFFLES MAY BE CONDUCTED WITHOUT A LICENSE	5
TYPES AND COSTS OF VARIOUS CHARITABLE RAFFLE LICENSES	5
HOW TO OBTAIN A CHARITABLE RAFFLE LICENSE	6
INSTRUCTIONS FOR COMPLETING A CHARITABLE RAFFLE APPLICATION	6
MODIFICATION OF LICENSE	10
RAFFLE OPERATORS (WORKERS)	10
MISCELLANEOUS PROVISIONS	11
GROSS PROCEEDS; PRIZES; EXPENSES	12
PRORATING EXPENSES	15
HOW TO CALCULATE NET PROCEEDS	17
DISBURSEMENT OF NET PROCEEDS	17
RECORDKEEPING	18
FINANCIAL REPORTS	18
INSTRUCTIONS FOR COMPLETING FINANCIAL REPORTS	19
ADMINISTRATIVE PENALTIES FOR VIOLATIONS OF CHARITABLE RAFFLE LAWS	22
CRIMINAL VIOLATIONS	23
<b>CHARITABLE ONLINE RAFFLES</b>	
WHO MAY HOLD CHARITABLE ONLINE RAFFLE OCCASIONS	24
CERTAIN ONLINE RAFFLES MAY BE CONDUCTED WITHOUT A LICENSE	25
TYPES AND COSTS OF VARIOUS CHARITABLE ONLINE RAFFLE LICENSES	25
HOW TO OBTAIN A CHARITABLE ONLINE RAFFLE LICENSE	26
MODIFICATION OF LICENSE	27
ONLINE RAFFLE OPERATORS (WORKERS)	27
MISCELLANEOUS PROVISIONS	28
GROSS PROCEEDS; PRIZES; EXPENSES	29
PRORATING EXPENSES	31
HOW TO CALCULATE NET PROCEEDS	33
DISBURSEMENT OF NET PROCEEDS	34
RECORDKEEPING	34
FINANCIAL REPORTS	35
ADMINISTRATIVE PENALTIES FOR VIOLATIONS OF CHARITABLE ONLINE RAFFLE LAWS	35
CRIMINAL VIOLATIONS	36

# CHARITABLE RAFFLE

## WHO MAY HOLD CHARITABLE RAFFLE OCCASIONS

Any charitable or public service organization which has been in existence in this state two years prior to filing an application for a raffle license may hold raffle occasions during the time it holds a valid license. W. Va. Code § 47-20-3. Typically, this means that the organization must have a business registration certificate from the West Virginia Tax Division and be registered as a business organization with the West Virginia Secretary of State.

Organizations may also be required to register as charities under the Solicitation of Charitable Funds Act. For information, call the Secretary of State, Charities Division, at: (304) 558-8000 or [charities@wvsos.com](mailto:charities@wvsos.com).

The applicant **MUST** be a "charitable or public service organization." West Virginia Code defines a "charitable or public service organization" as:

"Charitable or public service organization" means a bona fide, not for profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, religious, fraternal, or eleemosynary incorporated or unincorporated association or organization; or a volunteer fire department, rescue unit or other similar volunteer community service organization or association; but does not include any nonprofit association or organization, whether incorporated or not, which is organized primarily for the purposes of influencing legislation or supporting or promoting the campaign of any candidate for public office. W.Va. Code §47-21-2(b)

To qualify as a "charitable or public service organization" under state law, the applicant **MUST** be:

- (1) Bona Fide. "Bona Fide" means legitimate. The organization must legally exist under State law.
- (2) Not for profit. "Not for profit" means that the organization **MUST** not realize a profit for itself from its activities.
- (3) Tax exempt. An organization or association is tax exempt if it is, and has received a determination letter from the IRS stating that the organization is exempt from federal income tax under subsection 501(a), and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), and 501(d) of the Internal Revenue Code.

- 501(c)(3) Organizations that are organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes; to foster national or international amateur sports competition; or for the prevention of cruelty to children or animals.
- 501(c)(4) Civil leagues, social welfare organizations, and local associations of employees.
- 501(c)(8) Fraternal beneficiary societies and associations.
- 501(c)(10) Domestic fraternal societies and associations.
- 501(c)(19) Veteran's organizations.
- 501(d) Religious and apostolic associations.

Additionally, volunteer fire departments, rescue units, other similar volunteer community service organizations or associations, churches, or government subdivisions are eligible to apply for a charitable raffle license, even though they may not be required to have an I.R.S. exemption letter.

### **CERTAIN RAFFLES MAY BE CONDUCTED WITHOUT A LICENSE**

Any charitable or public service organization which has been in existence in this State for at least one year may conduct charitable raffles without a license. In order to conduct an “exempt” charitable raffle, the raffle MUST satisfy the following requirements:

1. Any one prize awarded in any single raffle cannot exceed four thousand dollars in value.
2. The cumulative gross proceeds derived from all raffle occasions during any calendar year cannot exceed fifteen thousand dollars.

W.Va. Code §47-21-3.

The WV Tax Division will issue, on request, an “Exempt Raffle License” to organizations wishing to conduct an exempt raffle, but no certificate is required by law.

### **TYPES AND COSTS OF CHARITABLE RAFFLE LICENSES**

#### **Annual License. W.Va. Code §47-21-5**

**Annual license -- \$500**

W.Va. Code §47-21-7

An annual license is good for one year from the date of issue. However, the first year will be prorated in order to keep all renewals on a calendar year basis.

Raffle licenses are not transferable. An organization CANNOT conduct a raffle occasion on another organization’s license.

No two or more organizations may hold a joint raffle occasion under any annual license. Joint occasions may be held under a limited occasion license (see below).

#### **Limited Occasion License. W.Va. Code §47-21-6.**

**Limited License Fee -- \$50**

W.Va. Code §47-21-7

A limited occasion license is valid ONLY for the time period specified in the application.

A limited occasion license entitles ONLY the licensee to hold two raffle occasions during the time period specified, which may not exceed six months from the date of issuance of the license.

Two or more organizations may hold a joint raffle occasion provided EACH participating organization has been granted a limited occasion raffle license for the jointly held occasion.

An annual license holder may obtain one limited occasion license during the period its annual license is valid.

No more than three limited occasion licenses per year may be granted to an organization that does not hold an annual license.

### **State Fair Raffle License. W.Va. Code §47-21-28.**

#### **State Fair License Fee -- \$500**

The West Virginia State Fair Board may apply annually for a state fair raffle license to provide for the conduct of raffle occasions at the State Fair.

The license allows the West Virginia State Fair Board to allow one or more persons to conduct raffle occasions at the State Fair. The persons conducting these state fair raffle occasions shall have conducted raffle occasions on a regular basis for at least one year prior to the date of the State Fair application. A copy of any lease or agreement entered into between the state fair board and the persons who are to conduct raffle occasions at the state fair MUST be included with the raffle application.

Several statutory provisions do not apply to state fair licenses: §§ 47-21-11, 12, 15 and 26.

### **HOW TO OBTAIN A CHARITABLE RAFFLE LICENSE**

**An application shall be filed not less than 60 days before the date when the applicant intends to hold its first raffle occasion.** The date the application is received by the Tax Commissioner shall begin the sixty day filing period. No raffle occasion may be held until an application has been approved by the Tax Commissioner and the raffle license has been received. W.Va. Code §47-21-4.

Renewals are not subject to the sixty-day filing period but should be filed prior to the expiration of the current license in order to avoid an interruption in the licensee's raffle activities.

An application for a charitable raffle license can be downloaded from the State Tax Division website at [tax.wv.gov/Business/BusinessRegistration/Pages/BusinessRegistration.aspx](http://tax.wv.gov/Business/BusinessRegistration/Pages/BusinessRegistration.aspx) or by contacting the West Virginia Tax Division at (304) 558-3333.

### **INSTRUCTIONS FOR COMPLETING A CHARITABLE RAFFLE LICENSE APPLICATION**

**No one may legally conduct a raffle game in West Virginia without first obtaining a charitable raffle license from the West Virginia Tax Division. If the application is for a new license, there is a mandatory 60-day filing period that must be observed before any raffle activities may be**

conducted.

### **Heading**

Complete the name and address of the organization applying for the license. You will need to include the account number issued to the organization by the WV Tax Division.

### **IS THIS A RENEWAL APPLICATION?**

If the application is for a new license, there is a mandatory 60-day filing period that must be observed before any raffle activities may be conducted. This period applies regardless of when the license is approved and issued. If the application is for a license renewal, the mandatory 60-day filing period may be waived. However, licensees are urged to file their renewal applications prior to the expiration of their current license, to avoid interruption in their raffle activities.

### **Phone Number**

If the organization has a telephone number, it must be provided. If the organization has no telephone, then the address and telephone number of the person applying for the license must be provided.

### **NAME AND ADDRESS OF STATE OR NATIONAL ORGANIZATION**

If the applicant is a local branch or lodge of a state or national organization, it must provide the name and headquarters address of the state or national organization with which it is affiliated.

### **SECTION 1 - TAX-EXEMPT STATUS:**

A copy of the organization's IRS determination letter must accompany the application. Exempt organizations that do not have an IRS determination letter must attach a letter explaining the nature of their exempt status.

For example: volunteer fire departments, rescue units, other similar volunteer community service organizations or associations, churches, or government subdivisions are eligible to apply for a charitable raffle license, even though they may not be required to have an I.R.S. exemption letter.

You should consult the I.R.S. if you have questions about the tax exempt status of your organization.

### **SECTION 2 - TYPE OF LICENSE:**

Select the type of license that best suits your organization's needs:

- **ANNUAL LICENSE - \$500.00:** An annual license entitles an organization to conduct unlimited raffles year-round.
- **LIMITED LICENSE - \$50.00:** A limited occasion license is issued for a specified period of time, and entitles the organization to conduct two raffles within a six-month period. If two or more organizations wish to conduct a joint raffle occasion, each participating organization must obtain a limited occasion license. An organization that does not hold an annual license may obtain up to three limited occasion licenses per year. An organization that holds an annual license may obtain one limited occasion license per year.
- **STATE FAIR LICENSE - \$500.00:** (Issued only to the West Virginia State Fair Board).
- **EXEMPT RAFFLE LICENSE::** An organization that is authorized to conduct raffles without a

license under the provisions of W.Va. Code §47-21-3 may apply for an “Exempt Raffle License” without charge. See page 5 of the Handbook for further information regarding exempt raffles. The 60-day filing period does not apply to exempt raffles.

### **AMOUNT ENCLOSED**

Applications will not be processed unless the appropriate fee is paid.

### **SECTION 3 – LOCATION OF RAFFLE OCCASIONS**

List the address or location of the premises where raffle games will be held.

Indicate whether you own the premises, or are renting or leasing the premises. If you are renting or leasing the premises, copies of all rental or lease agreements must be attached. Rental agreements that are not reflective of the fair market value may be disapproved by the Tax Commissioner.

List the name of the owner of the premises.

### **SECTION 4 – NAMES OF OFFICERS OF ORGANIZATION**

List the names, home addresses and home telephone numbers of all of the officers, members of the board of directors, governors, or trustees of the organization. All officers must be over 18 years of age. If necessary, attach a separate sheet.

### **SECTION 5 – PERSONS IN CHARGE OF RAFFLE**

List the names, titles, home addresses and home telephone numbers of three or more bona fide active members of the organization who will be responsible for the raffle operations. At least one of these persons must be present at all times raffles are conducted. For a limited occasion license, only two names are required.

### **SECTION 6 – NAME OF HIGHEST ELECTED OFFICER AND DESIGNEE**

List the names, titles, home addresses and home telephone numbers of the highest elected officer of the licensee and his or her officially appointed designee. One of these persons must be present at all times raffles are conducted.

### **SECTION 7 – MANDATORY INFORMATION**

Indicate by circling the appropriate answer whether the organization has ever been denied a raffle license, or whether any previous license issued to the organization has been revoked or suspended. If the answer is “yes,” attach an explanation on a separate sheet.

Indicate whether any member of the organization who will participate in any way in the conduct of raffles has been convicted of a felony, or a misdemeanor for a gambling offense within the previous ten years. If the answer is “yes,” attach an explanation on a separate sheet.

### **SECTION 8- NAME OF RAFFLE DISTRIBUTOR**

List the names, addresses and telephone numbers of the distributor from whom the licensee will purchase raffle boards and games.

### **SECTION 9 – DISPOSITION OF PROCEEDS**

Indicate the organization or organizations to which proceeds will be donated, using a separate sheet if



necessary.

Indicate the intended charitable or public service purposes for which the raffle proceeds will be expended.

### **SECTION 10 – PROOF OF EXISTENCE**

In order to qualify for a raffle license, your organization must provide proof that it has been in existence in West Virginia for two years prior to the date of filing. Documentary proof may include a copy of your organization's Certificate of Registration issued by the Secretary of State. These documents are not required from organizations that are applying to renew their license, and have previously provided them.

### **SECTION 11 – CONCESSIONS**

If a concession is to be operated by someone other than the licensee, a copy of any written agreement, or an explanation of any oral agreement, between the licensee and the concession operator must be attached to the application.

### **SECTION 12 – AGREEMENT**

By signing the application form, the authorized representative of the organization is affirming that the persons in charge of the organization's raffle operations and the officers of the applicant organization understand:

- (1) That it is a violation of the law to allow any unauthorized persons to conduct any part of the raffle games or concessions;
- (2) That the organization is required to file the reports and keep the records as provided by the law; and
- (3) That it is a crime to violate the provisions of the charitable raffle laws, and, in addition, that a violation may result in suspension or revocation of the organization's license and denial of future licenses.

The signature on the application form by the authorized representative of the organization is that person's certification that the information contained in the application is true to the best of his or her knowledge.

**Tip:** To avoid delays, make sure your application is complete, including your check for the appropriate fee, your IRS exemption letter (not required for renewals) and all other supporting documents, copies of all leases or rental agreements, and the signature of the person submitting the application. **If the application form is not complete, your license will be denied.**

The completed application form, along with a check for the applicable license fee, should be mailed to the Business Registration Unit, P.O. Box 2666, Charleston, West Virginia 25330-2666.

## **MODIFICATION OR AMENDMENT OF LICENSE**

If any of the information on the license application changes during the course of the license year, such as a change in officers or persons responsible for the conduct of raffle occasions, or a change in organizations to which proceeds are to be donated, the WV Tax Division should be informed, in writing, as soon as possible.

## **RAFFLE OPERATORS**

### **WHO QUALIFIES?**

ONLY persons who are residents of West Virginia and active members of a licensee organization may hold raffles. W.Va. Code §47-21-4(a).

Raffle operations may be staffed by either paid operators or volunteers. Volunteers must be residents of West Virginia who have been “meaningfully associated” with the licensee organization for a year or more.

### **COMPENSATION OF RAFFLE OPERATORS**

Raffle workers may accept tips or gratuities from patrons. They may not be compensated by the organization except as provided below. W.Va. Code §47-21-12.

Licensees may pay a salary to operators of raffle games who are either:

1. Active members of the licensee organization who have been active members in good standing for at least two years; or,
2. Employees of the licensee organization or its authorized auxiliary organization who are:
  - a. Residents of West Virginia;
  - b. Residents of a state bordering West Virginia if the county of residence is contiguous to the West Virginia county where the raffle operation is conducted; or,
  - c. Residents of a bordering state who reside within thirty-five miles of the West Virginia county where the raffle operation is conducted.

The number of allowable paid operators is based on the gross receipts as reported in the licensee’s most recent annual financial report.

<u>GROSS RECEIPTS</u>	<u>NUMBER OF PAID OPERATORS</u>
LESS THAN \$50,000	3
\$50,000 OR MORE, BUT LESS THAN \$100,000	5

\$100,000 OR MORE	8
-------------------	---

Organizations holding simultaneous raffle and bingo occasions must pay raffle workers from the raffle account. The number of raffle workers is in addition to the number of bingo workers.

Workers may be paid not less than \$7.25 per hour (the federal minimum wage) or more than \$10.50 per hour (120% of the State minimum wage).

Since wages paid to operators are part of the expense of conducting raffle occasions, these payments must be made by checks drawn on the licensee’s raffle account.

Concession workers cannot be paid more than \$10.50 per hour (120% of the State minimum wage).

Security workers may be paid a reasonable rate and must be licensed pursuant to the provisions of W.Va. Code §30-18-1 et seq.

**Concessions**

Concessions may be operated in conjunction with raffle occasions by other persons if the following conditions are met:

1. The licensee organization meets or holds functions other than raffle occasions on a regular basis.
2. The concession to be operated at the raffle occasion is operated regularly at the other meetings or functions of the licensee.
3. The person who operates the concessions at these other meetings and functions is the same person who operates the concession at the raffle occasions.
4. The terms of the agreement under which the person operates the concession at the raffle occasions are the same terms under which concessions are operated at other meetings and functions.

Any charitable or public service organization may operate a concession at a raffle occasion, provided that the net proceeds from the concession are used solely for the charitable or public service purposes of that organization. W.Va. Code §47-21-13.

**MISCELLANEOUS PROVISIONS**

**RESTRICTIONS ON USE OF RAFFLE EQUIPMENT**

A licensee may use only raffle equipment which it owns, or borrows without compensation, or leases for a reasonable and customary amount, from another licensee. W.Va. Code §47-21-26. A licensee may not use raffle equipment provided through a borrowing or leasing arrangement by a vendor or donor unless the vendor or donor has a charitable raffle license. A licensee is any organization or association

granted an annual or limited occasion licensee pursuant to W.Va. Code §47-21-1 et seq.

### **DISPLAY OF LICENSE**

A raffle license must be displayed conspicuously at the location where the raffle occasion is held.

### **WORKERS MAY NOT PLAY**

Raffle workers and operators may not play in or participate in the raffle games or occasions in which they are working or assisting. 110 CSR 37 – 3.1.5.

### **CHECKS**

A licensee may cash checks out of raffle funds not exceeding one hundred dollars per occasion per person. The check shall be made payable to the licensee and clearly marked on the face of the check with the term “raffle.” 110 CSR 37 – 3.1.7.

### **OTHER GAMES OF CHANCE**

No games of chance other than raffles or licensed bingo may be conducted or allowed at any raffle occasion. 110 CSR 37 – 3.1.2. However, licensed limited video lottery may be operated on the premises where raffles are sold. W.Va. Code §29- 22B-1902.

### **LICENSEE RULES**

A licensee organization may adopt any house rules it desires, as long as they are consistent with West Virginia Code. House rules should be available for inspection at all raffle occasions. W.Va. Code §47-21-10.

## **GROSS PROCEEDS; PRIZES; EXPENSES.**

### **GROSS PROCEEDS W.Va. Code §47-21-2(g)**

“Gross proceeds” means all moneys collected or received from the conduct of raffle at all raffle occasions held by a licensee during a license period. The face value of instant winning raffle tickets redeemed by the purchase of additional raffle tickets is gross proceeds the same as if the raffle tickets had been purchased with cash. “Gross proceeds” does not include moneys collected or received from the sale of concessions at raffle occasions.

### **PRIZES W.Va. Code §47-21-15(b)**

### **PRIZES**

Prizes may be money, real or personal property, or merchandise, but they may not be beer, wine, spirits or alcoholic liquor. W.Va. Code §47-21-11.

If prizes are real or personal property or merchandise, the value assigned to them is their fair market value at the time of acquisition or purchase. Redeeming winning raffle tickets for additional raffle tickets constitutes a prize payout and MUST be reported as such.

Prizes are considered taxable income, and may be subject to Federal withholding. Consult I.R.S. Publication 3079, *Gaming Publication for Tax-exempt Organizations*, for further information. There is no

West Virginia withholding tax on raffle prizes.

**EXPENSES. W.Va. Code § 47-21-15.**

**GENERAL RULE FOR EXPENSES**

The “reasonable, necessary and actual” expenses incurred in connection with the conduct of charitable raffle occasions may be paid out of the gross proceeds of the conduct of raffle.

To be considered **qualified operating expenses**, they must meet three criteria:

1. Expenses must be “reasonable,” that is, indicative of fair market value. The Tax Commissioner has the authority to disapprove any contract for sale of goods or services, or any lease of real or personal property used in connection with charitable raffle activities if it is unreasonable or not representative of fair market value.
2. Expenses must be “necessary,” that is, they must be related to the actual conduct of the charitable raffle activities.
3. Expenses must be “actual,” that is, the licensee organization must be able to prove the amounts it expended.

Total expenses for the conduct of raffle occasions may not exceed twenty-five percent of the gross proceeds collected during a license period.

**EXPENSES THAT CAN BE PAID FROM RAFFLE PROCEEDS**

Following are examples of qualified operating expenses that can be paid entirely from charitable raffle proceeds. These expenses must be reported in the annual financial return under “Expenses.”

- a. Salaries and related payroll taxes for personnel whose only duties are working in connection with the raffle occasion.
- b. Rent of a facility used solely for raffles. Rent must be indicative of fair market value.
- c. Utilities and insurance costs paid on a facility used solely for raffles.
- d. Accounting/bookkeeping services incurred solely in connection with raffles.
- e. Custodial services incurred solely in connection with raffles.
- f. The cost of equipment and supplies used solely in connection with raffles.
- g. Advertisement costs incurred solely in connection with raffles.
- h. Security personnel costs incurred solely in connection with raffles.
- i. The cost of providing child care services for raffle patrons

j. The cost of maintenance or repairs incurred solely in connection with raffles.

Examples of **qualified operating expenses** that can be prorated so that a portion may be paid from charitable raffle proceeds:

a. A portion of the rent for a facility that is used not only for raffles, but for other non-related purposes as well. A copy of the rental agreement **MUST** be filed with the license application. Rent **MUST** be indicative of “fair market value”.

b. A portion of the insurance paid on a facility where raffles are conducted as well as being used for other purposes.

c. A portion of the salaries and related payroll taxes of employees whose responsibilities include performing raffle related activities, in addition to other unrelated duties.

d. A portion of the utilities paid on a facility that is used not only for raffles, but for other purposes as well.

e. A portion of the total cost of security personnel and/or security system for a facility that houses raffles as well as serving other purposes.

f. A portion of the custodial service expenses for a facility that is used not only for raffles, but for other purposes as well.

g. A portion of repair and maintenance costs for a facility that houses raffles as well as being used for other purposes.

## **BINGO LOSSES**

Any reasonable necessary and actual expenses that arise from the conduct of a bingo occasion that result in a loss can be covered with money from your raffle account. The transfer of funds from raffle to bingo should be done on an occasion-by-occasion basis, with checks made payable to the charitable bingo account.

## **EXPENSES THAT CANNOT BE PAID FROM RAFFLE PROCEEDS**

Gross proceeds from any raffle operation may not be devoted or in any manner used by either a licensee organization or a qualified recipient organization for the construction, acquisition or improvement of real or personal property, except that which is used exclusively for charitable or public service purposes or, for equipment and supplies used to conduct the charitable raffle occasions. W.Va. Code §§47-21-15(d).

This prohibition includes mortgage payments on a facility, whether it is used for charitable raffle purposes or not. Unless the facility is used **exclusively** for charitable or public service purposes, charitable raffle proceeds cannot be used for its construction, acquisition or improvement.

Other expenses of the licensee organization that are not incurred in connection with the conduct of

charitable raffles cannot be paid, in whole or in part, with raffle proceeds. Also, the cost of refreshments sold or otherwise provided to patrons may not be paid out of raffle proceeds. W.Va. Code §47-21-15(c). If a question arises concerning whether proposed expenses are allowable or not, the licensee should contact the Business Registration Unit at (304)558-8683 for assistance.

### **PRORATING EXPENSES**

The portion of an organization's qualified operating expenses that is incurred in connection with the charitable raffle operation may be reimbursed from charitable raffle proceeds.

#### **METHOD ONE: TIME ALLOTMENT**

Utilization of this method requires that, during charitable raffle occasions, the expenses incurred must be related to raffle.

#### **EXAMPLE**

A licensed organization holds charitable bingo/raffle occasions two days a week. During these occasions, the building is not used for any other purpose. Each occasion lasts six hours, but the facility is actually utilized for ten hours for each occasion (this would include two hours before the raffle begins and two hours after the occasion ends). Therefore, the building is used twenty hours a week for bingo/raffle. During a one-month period there are eight bingo/raffle occasions representing eighty hours of bingo/raffle usage.

The building is used for non-bingo/raffle related activities for thirty hours each week (one hundred twenty hours a month). The total hours the building is used each month is two hundred hours (eighty hours for bingo/raffle usage plus one hundred twenty hours for non-bingo/raffle usage). Charitable raffle usage represents one-half of forty percent of the building's usage (eighty hours divided by two hundred divided by two). Therefore, twenty percent of the "qualified operating expenses" for the building may be paid from bingo proceeds and twenty percent of the "qualified operating expenses" for the building may be paid from raffle proceeds.

This method can be applied to salaries of workers who are paid for performing different jobs at different times. When working the raffle occasion, the worker cannot perform non-raffle-related duties. Further, it must be readily apparent what portion of the worker's salary (hours worked) is attributable to charitable raffle operations.

#### **METHOD TWO: PERCENTAGE OF TOTAL REVENUES**

If the organization conducts raffles at the same time it is carrying on non-raffle related activities, it must use this method to determine what percentage of its qualified operating expenses may be prorated from its raffle account.

1. Take **Raffle Gross Proceeds** (total sales of raffle tickets).
2. **Subtract** the **Prize payouts** (cash and the fair market value of non-cash prizes awarded) from Gross Proceeds. The difference is **Raffle Revenue**.

3. **Add the Raffle Revenue** to all other revenue (dues, bar sales, food sales, donations, vending machine income, special project revenue, rental income, etc.). This gives you the **Total Revenue** of the organization.

4. **Divide the Raffle Revenue by Total Revenue** (line 3 by line 5). This gives you the percentage of the organization's qualified operating expenses that can be paid from Raffle Revenue. Remember, total expenses paid from raffle funds cannot exceed 25% of Raffle Gross Proceeds (line 1).

**EXAMPLE 1**

Raffle Gross Proceeds	\$100,000
Less Prizes	<u>-80,000</u>
Raffle Revenue	\$ 20,000

Raffle Revenue	\$20,000
Other Revenue of the Organization	<u>+5,000</u>
Total Revenue of the Organization	\$25,000

**Then, \$20,000 divided by \$25,000 equals .80 or 80%.**

80% of the organization's qualified operating expenses can be paid from Raffle Revenue as expenses incurred in connection with raffle operations, as long as total raffle expenses do not exceed 25% of raffle gross proceeds (in this example, \$25,000). Since Raffle Revenue is only \$20,000, then expenses would be limited to \$20,000.

**EXAMPLE 2**

Raffle Gross Proceeds	\$100,000
Less Prizes	<u>-70,000</u>
Raffle Revenue	\$ 30,000

Raffle Revenue	\$30,000
Other Revenue of the Organization	<u>+70,000</u>
Total Revenue of the Organization	\$100,000

**Then, \$30,000 divided by \$100,000 equals .30 or 30%.**

30% of the organization's qualified operating expenses can be paid from Raffle Revenue as expenses incurred in connection with raffle operations, as long as total raffle expenses do not exceed 25% of raffle gross proceeds (in this example, \$25,000).

Since Raffle Revenue is \$30,000, at least \$5000 (\$30,000-\$25,000) must be distributed for charitable or public service purposes.

**EXAMPLE 3**

Raffle Gross Proceeds	\$100,000
Less Prizes	<u>-70,000</u>



Raffle Revenue	\$ 30,000
Raffle Revenue	\$30,000
Other Revenue of the Organization	<u>+20,000</u>
Total Revenue of the Organization	\$50,000

**Then, \$30,000 divided by \$50,000 equals .60 or 60%.**

60% of the organization’s qualified operating expenses can be paid from raffle revenue as expenses incurred in connection with raffle operations, as long as total raffle expenses do not exceed 25% of raffle gross proceeds (in this instance \$25,000).

Since Raffle Revenue is \$30,000, at least \$5000 (\$30,000-\$25,000) must be distributed for charitable or public service purposes.

### **HOW TO CALCULATE NET PROCEEDS**

After subtracting the expense of the prizes awarded and the qualified operating expenses from gross proceeds, the remainder is net proceeds.

GROSS PROCEEDS – PRIZES – QUALIFIED OPERATING EXPENSES = NET PROCEEDS.

Net proceeds from one license year cannot be used to cover expenses or prize payouts incurred during subsequent periods.

If a licensee, in good faith, finds itself unable to comply with this requirement, it may apply to the Tax Commissioner for permission to expend its net proceeds for charitable or public service purposes other than those stated in its license application or for permission to expend its net proceeds later than one-year time period. The request should be submitted in writing no later than sixty days before the end of the one-year time period. If the request is approved, the licensee may be required to file periodic reports with the Tax Commissioner until the proceeds are expended. W.Va. Code §47-21-15 (g).

### **DISBURSEMENT OF NET PROCEEDS**

W.Va. Code §47-21-2 (j)

All net raffle proceeds and any interest earned on them must be donated to the charitable or public service purposes stated in the organization’s license application within one year after the end of the license year in which the games were conducted. W.Va. Code §47-21-15 (c).

### **CHARITABLE OR PUBLIC SERVICE PURPOSES**

A “charitable or public service activity or endeavor” is any bona fide activity or endeavor that directly benefits a number of people by:

- Contributing to educational or religious purposes.

- Relieving them from disease, distress, suffering, constraint or the effects of poverty.
- Promoting patriotism and good citizenship.
- Publicizing issues of public concern (as long as the activity is not aimed at supporting or participating in any candidate's campaign for public office).
- Lessening the burdens borne by government or supporting, augmenting or supplementing services normally borne by government.
- Providing or supporting nonprofit community activities for youth, senior citizens or the disabled.
- Providing or supporting nonprofit cultural or artistic activities.
- Supporting any political party executive committee.

## **RECORDKEEPING**

A licensee must maintain a separate checking account and separate bookkeeping procedures for its raffle operations.

Expenses **MUST** be paid by checks having preprinted consecutive numbers and made payable to a specific person, firm or corporation. At no time may checks be written payable to "cash." Expenses cannot be paid in cash. Checks may be written to a payroll account if backup documentation, detailing the payroll expenses attributable to charitable raffle activities, and is submitted with the raffle financial report.

Bingo and raffle funds may not be commingled. Organizations holding simultaneous bingo and raffle occasions should pay raffle workers and other raffle expenses from the raffle account. However, the law allows money to be transferred from the raffle account to the bingo account to cover losses for a particular bingo occasion. The money must be transferred by check, as any other raffle expense.

All raffle records, including invoices of all games purchased or otherwise acquired by the licensee, must be maintained for at least three years.

If the Tax Commissioner has reasonable cause to believe the raffle laws have been violated, he or she may order an audit of the licensee's books and records. Whenever any licensee awards total prizes in excess of one hundred seventy five thousand dollars (\$175,000) during the license period, the licensee's books must be audited.

## **FINANCIAL REPORTS**

**Each licensee organization holding an annual, limited occasion, or state fair license must file with the Tax Commissioner a financial report summarizing its raffle operations for the period =covered by the report.** W.Va. Code §47-21-22. Failing to file a report when due is subject to a \$25 penalty for each month it is late, not to exceed \$100.

Financial reports must contain the names, addresses and social security numbers of all players who win prizes that total over one hundred dollars at one raffle occasion. Thus, a player who wins a \$75 raffle prize, then later that night wins a \$25 raffle prize, need not be reported, because the total prizes are not over one hundred dollars. However, if that player wins any more raffle prizes at that occasion, it

must be reported. Certain information on the financial reports may be disclosed to the public. However, social security numbers of prizewinners will not be disclosed.

**INSTRUCTIONS FOR FORM WV/RAF-3**  
**(CHARITABLE RAFFLE FINANCIAL REPORTS)**

Raffle financial reports must be filed within thirty days after the expiration of the license. Failing to file a report when due is subject to a \$25 penalty for each month it is late, not to exceed \$100.

**HEADING**

The heading of the financial report must include the name and address of the organization that holds the license, the identification number and account number issued to the organization by letter from the WV Tax Division, and the date that the letter was issued.

**REPORT PERIOD**

The same form is used for annual or limited occasion reports. Indicate the report period in the box provided. Check the box if the report is an annual report.

**CALCULATION OF ENDING BALANCE**

(Complete schedules A, B and C on page 2 before filling out this section. See instructions beginning on page 20.)

Line 1 - Total Gross Proceeds. Enter the amount from Schedule A, Line 4.

Line 2 - Total All Prizes. Enter the amount from Schedule B, Line 5.

Line 3 - Total Raffle Expenses. Enter the amount from Schedule C, Line 9.

Line 4 - Net Profit or Loss. Subtract Prizes (Line 2) and Expenses (Line 3) from Gross Proceeds (Line 1). Losses should be written in parentheses.

Line 5 - Beginning Balance. Enter the unexpended balance from the end of the previous license year. The licensee MUST distribute funds equal to or greater than this amount to charitable or public service purposes during the ensuing license year; e.g., funds earned in the year 2025 must be donated before the end of 2026.

Line 6 - Deposits in Raffle Account. Enter the dollar amount of all deposits into the raffle account during the license year.

Line 7 - Adjustments in Raffle Account. Include ALL other deposits or credits not reported on Line 6. For example: interest earned on deposits. A detailed explanation of any amounts reported on this line must be attached to the financial report.

Line 8 - Monies Transferred to Bingo Account to Cover Losses

Line 9 - Amounts Contributed to Organizations this Year. Includes donations to the licensee, if it is a qualified recipient organization, as well as other qualified organizations.

Line 10 - Ending Unexpended Balance. Add lines 4, 5, 6, and 7, then subtract lines 8 and 9. The unexpended balance reported here should be the same amount as reported in the raffle bank account at the end of the reporting period. This amount **MUST** be distributed for charitable or public service purposes during the 12-month period immediately succeeding the end of this reporting period.

Line 11 -Year End Inventory. Report the dollar amount paid for games on hand.

Line 12 - Percentage Used to Pro-Rate Expenses (If Applicable). See page 14 for further information on pro-rating expenses.

**NAME OF THE BANK AND RAFFLE CHECKING ACCOUNT NUMBER**

Enter the name of the bank where the raffle checking account is held, along with the account number.

**CONCESSIONS**

Enter the name of the concession operator, if it is not the licensee.

Calculate the net profit or loss (line 3) from concessions by subtracting the expenses (line 2) from the receipts (line 1).

**SCHEDULE A – GROSS PROCEEDS**

Line 1 - Enter the total revenue generated through raffle ticket sales during the reporting period.

Line 2 - Report the fair market value at the time of acquisition of all prizes donated to the licensee and awarded as prizes during the reporting period.

Line 3 - Enter any other receipts received by the licensee during the reporting period, including any moneys received by the licensee for providing child care services related to the raffle occasion.

Line 4 - Calculate the **Total Gross Proceeds** by adding lines 1 – 3. Enter this amount on line 4 and on Page 1, Line 1.

**SCHEDULE B – PRIZE PAYOUTS**

Line 1 - Report the amount of money awarded as prizes, either by cash or check.

Line 2 - Enter the fair market value of all merchandise purchased by the licensee and awarded as prizes.

Line 3 - Enter the fair market value of all prizes donated to the licensee and awarded as prizes.

Line 4 - Report the fair market value of any door prizes awarded during the reporting period.

Line 5 - Calculate the TOTAL value of ALL prizes awarded during the reporting period (the sum of lines 1 – 4). Enter the total here and on Page 1, Line 2.

### **SCHEDULE C – RAFFLE EXPENSES**

Line 1 - Report the amount paid for rental of the premises used for raffle occasions.

Line 2 - Include the salaries and related payroll taxes of raffle operators.

Line 3 - Enter any losses incurred from bad checks during the reporting period.

Line 4 - Report the cost of utilities incurred in connection with raffle activities during the reporting period.

Line 5 - Enter the amount of actual payments made for the cost of raffle supplies (boards and games) incurred during the reporting period.

Line 6 - Include the cost of custodial services, security and child care services incurred in connection with raffle activities during the reporting period.

Line 7 - Enter only the cost of maintenance and repairs incurred in connection with raffle activities during the reporting period.

Line 8 - Report ALL other expenses incurred in connection with raffle activities during the reporting period. This includes the license fee and any professional fees such as legal expenses and accounting fees related to the raffle operation.

Line 9 - Calculate **Total Expenses** of conducting raffle operations by adding lines 1 – 8. Enter this amount on line 9 and on Page 1, Line 3.

### **SIGN THE REPORT**

If total receipts (Schedule A, line 5) exceed \$50,000, the financial return must be signed by a Certified or Licensed Public Accountant.

The completed report should be mailed to the Business Registration Unit, P.O. Box 2666, Charleston, West Virginia 25320-2666 by the applicable due date.

Late reports are subject to a late fee of \$25 for each month or portion of a month that the report is past due, up to a maximum of \$100. After the maximum penalty is reached, the organization's charitable raffle license will be suspended or revoked.

### **LISTING OF CHECKS (Page 3)**

Provide a detailed list of all checks paid out of the raffle account. Use additional sheets if necessary.

### **LISTING OF WINNERS (Page 4)**

West Virginia Code §47-21-22 requires licensees to report the name, address and social security number of any individual who received prizes which valued in the aggregate more than one hundred dollars during the course of any raffle occasion. Failure to report this information, or reporting fraudulent information, may subject the licensee organization to administrative or criminal penalties.

## **ADMINISTRATIVE PENALTIES FOR VIOLATIONS OF CHARITABLE RAFFLE LAWS**

W.Va. Code §§ 47-21-21 and 47-21-30

### **REPRIMAND**

Any minor violation of the charitable raffle statutes or legislative rules may result in a reprimand being placed in the licensee's file. If the violation is corrected by the licensee, after being notified by the Tax Commissioner, then no further action will be taken.

For any material violation of the charitable raffle statutes or legislative rules, the Tax Commissioner may impose any one, or any combination, of the following administrative penalties:

### **ACTIONS AGAINST THE LICENSE:**

W.Va. Code §§47-21-21; 47-21-30)

- **SUSPENSION** for not less than one week nor more than twelve months.
- **REVOCAION**
- **REFUSAL TO RENEW**
- **DENIAL OF LICENSE**

### **ADDITIONAL PENALTIES:**

(W.Va. Code §47-21-30)

### **PROBATION**

The Tax Commissioner may place a licensee organization on probation for not less than six months nor more than five years. During that period, the licensee must pay a supervision fee of two percent of its gross raffle proceeds, but not less than two thousand dollars, to the Commissioner.

### **CIVIL MONEY PENALTY**

A licensee may be ordered to pay a civil money penalty of not less than one hundred dollars nor more than two times the annual gross proceeds derived by the licensee.

### **REMOVAL OF AN OFFICER**

The Tax Commissioner may require a licensee to replace an officer who knew or should have known of a material violation of the charitable raffle laws or legislative rules.

### **PROHIBITION OF PARTICIPATION IN FUTURE RAFFLE ACTIVITIES**

The Tax Commissioner may require a licensee to prohibit one or more members, supporters, volunteers or employees of the licensee involved in acts of material violation from all future raffle occasions held under the license, or for a period of time specified by the Commissioner.

### **CRIMINAL VIOLATIONS**

#### **FRAUD**

Any person who or licensee which knowingly conducts or participates in a fraudulently or deceptively conducted raffle game with intent to defraud is guilty of a felony, and, upon conviction thereof, shall be fined not less than five hundred nor more than ten thousand dollars, or imprisoned in the penitentiary not less than one, nor more than five years, or fined and imprisoned. W.Va. Code §47-21-18.

#### **OBTAINING LICENSE FRAUDULENTLY**

Any individual, association, organization or corporation which knowingly obtains or assists another in obtaining a raffle license under false, deceptive or fraudulent pretenses is guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five hundred nor more than ten thousand dollars. W.Va. Code §47-21-19.

#### **VIOLATIONS OF OTHER STATUTORY PROVISIONS**

Any person who knowingly violates any provision of the charitable raffle law (other than W.Va. Code §47-21-18 and 47-21-19) is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred or more than one thousand dollars. Upon a second or subsequent conviction, they shall be fined not less than one hundred or more than one thousand dollars or imprisoned not more than one year or both fined and imprisoned. W.Va. Code §47-21-20.

#### **PROHIBITED ACTS BY CONVICTED PERSONS**

Any person convicted of any felony, or of a misdemeanor gambling offense, is prohibited from participating in any way in the conduct of any bingo or raffle operations for a period of ten years from the date of conviction. W.Va. Code §47-21-5.

#### **VIOLATIONS OF ARTICLE 23**

The following offenses are criminal misdemeanors under the Charitable Boards and Games Act, Chapter 47, Article 23 of the West Virginia Code, and carry a penalty of a fine of one thousand to ten thousand dollars, confinement in the county or regional jail for up to one year, or both:

- Preventing or hindering the Commissioner from making a full inspection of any place where raffle boards or games are sold or stored;
- Selling any raffle boards or games on which the applicable fees and taxes have not been paid;
- Failure to produce on demand invoices and verification of all raffle boards and games purchased or received within the three years prior to such demand;
- Purchasing or otherwise acquiring raffle boards or games from any person other than a licensed

wholesaler or distributor,

Additionally, forging, altering, or counterfeiting any invoice or serial number is a felony, and may lead to a fine of five to ten thousand dollars and up to five years in prison.

## **CHARITABLE ONLINE RAFFLES**

### **WHO MAY HOLD CHARITABLE ONLINE RAFFLE OCCASIONS**

Any charitable or public service organization which has been in existence in this state two years prior to filing an application for an online raffle license may hold online raffle occasions during the time it holds a valid license. W. Va. Code § 47-21A-3. Typically, this means that the organization must have a business registration certificate from the West Virginia Tax Division and be registered as a business organization with the West Virginia Secretary of State.

Organizations may also be required to register as charities under the Solicitation of Charitable Funds Act. For information, call the Secretary of State, Charities Division, at: (304) 558-8000 or [charities@wvsos.com](mailto:charities@wvsos.com).

The applicant **MUST** be a "charitable or public service organization." West Virginia Code defines a "charitable or public service organization" as:

"Charitable or public service organization" means a bona fide, not for profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, religious, fraternal, or eleemosynary incorporated or unincorporated association or organization; or a volunteer fire department, rescue unit or other similar volunteer community service organization or association; but does not include any nonprofit association or organization, whether incorporated or not, which is organized primarily for the purposes of influencing legislation or supporting or promoting the campaign of any single candidate for public office. W.Va. Code §47-21A-2

To qualify as a "charitable or public service organization" under state law, the applicant **MUST** be:

- (1) Bona Fide. "Bona Fide" means legitimate. The organization must legally exist under State law.
- (2) Not for profit. "Not for profit" means that the organization **MUST** not realize a profit for itself from its activities.
- (3) Tax exempt. An organization or association is tax exempt if it is, and has received a determination letter from the IRS stating that the organization is exempt from federal income tax under subsection 501(a), and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), and 501(d) of the Internal Revenue Code.

501(c)(3) Organizations that are organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes; to foster national or international amateur sports competition; or for the prevention of cruelty to children or



- animals.
- 501(c)(4) Civil leagues, social welfare organizations, and local associations of employees.
- 501(c)(8) Fraternal beneficiary societies and associations.
- 501(c)(10) Domestic fraternal societies and associations.
- 501(c)(19) Veteran's organizations.
- 501(d) Religious and apostolic associations.

Additionally, volunteer fire departments, rescue units, other similar volunteer community service organizations or associations, churches, or government subdivisions are eligible to apply for a charitable raffle license, even though they may not be required to have an I.R.S. exemption letter

### **CERTAIN RAFFLES MAY BE CONDUCTED WITHOUT A LICENSE**

Any charitable or public service organization which has been in existence in this State for at least one year may conduct charitable online raffles without a license. In order to conduct an "exempt" charitable online raffle, the raffle MUST satisfy the following requirements:

1. Any one prize awarded in any single online raffle cannot exceed four thousand dollars in value.
2. The cumulative gross proceeds derived from all online raffle occasions during any calendar year cannot exceed fifteen thousand dollars.

W.Va. Code §47-21A-3.

The WV Tax Division will issue, on request, an "Exempt Online Raffle License" to organizations wishing to conduct an exempt online raffle, but no certificate is required by law.

### **TYPES AND COSTS OF CHARITABLE ONLINE RAFFLE LICENSES**

#### **Annual License. W.Va. Code §47-21A-5**

##### **Annual license -- \$500**

W.Va. Code §47-21A-7

An annual license is good for one year from the date of issue. However, the first year will be prorated in order to keep all renewals on a calendar year basis.

Online raffle licenses are not transferable. An organization CANNOT conduct an online raffle occasion on another organization's license.

No two or more organizations may hold a joint online raffle occasion under any annual license. Joint occasions may be held under a limited occasion license (see below).

#### **Limited Occasion License. W.Va. Code §47-21A-6.**

##### **Limited License Fee -- \$50**

W.Va. Code §47-21A-7

A limited occasion license is valid ONLY for the time period specified in the application.

A limited occasion license entitles ONLY the licensee to hold two online raffle occasions during the time period specified, which may not exceed six months from the date of issuance of the license.

Two or more organizations may hold a joint online raffle occasion provided EACH participating organization has been granted a limited occasion online raffle license for the jointly held occasion.

An annual license holder may obtain one limited occasion license during the period its annual license is valid.

No more than three limited occasion licenses per year may be granted to an organization that does not hold an annual license.

### **State Fair Online Raffle License. W.Va. Code §47-21A-28.**

#### **State Fair License Fee -- \$500**

The West Virginia State Fair Board may apply annually for a state fair online raffle license to provide for the conduct of online raffle occasions at the State Fair.

The license allows the West Virginia State Fair Board to allow one or more persons to conduct online raffle occasions at the State Fair. The persons conducting these state fair online raffle occasions shall have conducted online raffle occasions on a regular basis for at least one year prior to the date of the State Fair application. A copy of any lease or agreement entered into between the state fair board and the persons who are to conduct online raffle occasions at the state fair MUST be included with the online raffle application.

Several statutory provisions do not apply to state fair licenses: §§ 47-21A-11, 12, 13.

### **HOW TO OBTAIN AN ONLINE CHARITABLE RAFFLE LICENSE**

**Online Charitable Raffle License applications must be submitted electronically through MyTaxes and must use an approved Platform Provider to conduct the charitable raffle.**

**An application shall be filed not less than 60 days before the date when the applicant intends to hold its first online raffle occasion.** The date the application is received by the Tax Commissioner shall begin the sixty day filing period. No online raffle occasion may be held until an application has been approved by the Tax Commissioner and the online raffle license has been received. W.Va. Code §47-21A-4.

Renewals are not subject to the sixty-day filing period but should be filed prior to the expiration of the current license in order to avoid an interruption in the licensee's raffle activities.

## **MODIFICATION OR AMENDMENT OF LICENSE**

If any of the information on the license application changes during the course of the license year, such as a change in officers or persons responsible for the conduct of online raffle occasions, or a change in organizations to which proceeds are to be donated, the WV Tax Division should be informed, in writing, as soon as possible.

## **ONLINE RAFFLE OPERATORS**

### **WHO QUALIFIES?**

ONLY persons who are residents of West Virginia and active members of a licensee organization may hold online raffles. W.Va. Code §47-21A-4(a).

Online raffle operations may be staffed by either paid operators or volunteers. Volunteers must be residents of West Virginia who have been “meaningfully associated” with the licensee organization for a year or more.

### **COMPENSATION OF ONLINE RAFFLE OPERATORS**

Raffle workers may accept tips or gratuities from patrons. They may not be compensated by the organization except as provided below. W.Va. Code §47-21A-12.

Licensees may pay a salary to operators of online raffle games who are either:

1. Active members of the licensee organization who have been active members in good standing for at least two years; or,
2. Employees of the licensee organization or its authorized auxiliary organization who are:
  - a. Residents of West Virginia;
  - b. Residents of a state bordering West Virginia if the county of residence is contiguous to the West Virginia county where the raffle operation is conducted; or,
  - c. Residents of a bordering state who reside within thirty-five miles of the West Virginia county where the raffle operation is conducted.

The number of allowable paid operators is based on the gross receipts as reported in the licensee’s most recent annual financial report.

<u>GROSS RECEIPTS</u>	<u>NUMBER OF PAID OPERATORS</u>
LESS THAN \$50,000	3
\$50,000 OR MORE, BUT LESS THAN \$100,000	5

\$100,000 OR MORE	8
-------------------	---

Organizations holding simultaneous online raffle and bingo occasions must pay online raffle workers from the online raffle account. The number of online raffle workers is in addition to the number of bingo workers.

Workers may be paid not less than \$7.25 per hour (the federal minimum wage) or more than \$10.50 per hour (120% of the State minimum wage).

Since wages paid to operators are part of the expense of conducting online raffle occasions, these payments must be made by checks drawn on the licensee’s online raffle account.

Security workers may be paid a reasonable rate and must be licensed pursuant to the provisions of W.Va. Code §30-18-1 et seq.

**MISCELLANEOUS PROVISIONS**

**DISPLAY OF LICENSE**

An online raffle license must be displayed conspicuously at the location where the online raffle occasion is held.

**WORKERS MAY NOT PLAY**

Online raffle workers and operators may not play in or participate in the online raffle games or occasions in which they are working or assisting. 110 CSR 37 – 3.1.5.

**CHECKS**

A licensee may cash checks out of online raffle funds not exceeding one hundred dollars per occasion per person. The check shall be made payable to the licensee and clearly marked on the face of the check with the term “online raffle.” 110 CSR 37 – 3.1.7.

**OTHER GAMES OF CHANCE**

No games of chance other than raffles or licensed bingo may be conducted or allowed at any online raffle occasion. 110 CSR 37 – 3.1.2. However, licensed limited video lottery may be operated on the premises where online raffles are sold. W.Va. Code §29- 22B-1902.

**LICENSEE RULES**

A licensee organization may adopt any house rules it desires, as long as they are consistent with West Virginia Code. House rules should be available for inspection at all online raffle occasions by way of advertising these rules and regulations on its website and by being posted conspicuously at their place of operation that was provided on its application for a license. Any adopted rules and regulations are a part of the records required to be kept by W.Va Code §47-21A-14. W.Va. Code §47-21A-10.

## **GROSS PROCEEDS; PRIZES; EXPENSES**

### **GROSS PROCEEDS W.Va. Code §47-21A-2**

“Gross proceeds” means all moneys collected or received from the conduct of online raffle at all online raffle occasions held by a licensee during a license period. The face value of instant winning online raffle tickets redeemed by the purchase of additional online raffle tickets is gross proceeds the same as if the online raffle tickets had been purchased with cash. “Gross proceeds” does not include moneys collected or received from the sale of concessions at online raffle occasions.

### **PRIZES W.Va. Code §47-21A-11**

#### **PRIZES**

Prizes may be money, real or personal property, or merchandise, but they may not be beer, wine, spirits or alcoholic liquor. W.Va. Code §47-21A-11.

If prizes are real or personal property or merchandise, the value assigned to them is their fair market value at the time of acquisition or purchase. Redeeming winning online raffle tickets for additional online raffle tickets constitutes a prize payout and **MUST** be reported as such.

Prizes are considered taxable income, and may be subject to Federal withholding. Consult I.R.S. Publication 3079, *Tax-exempt Organizations and Gaming*, for further information. There is no West Virginia withholding tax on online raffle prizes.

### **EXPENSES. W.Va. Code § 47-21A-13**

#### **GENERAL RULE FOR EXPENSES**

The “reasonable, necessary and actual” expenses incurred in connection with the conduct of charitable online raffle occasions may be paid out of the gross proceeds of the conduct of online raffle.

To be considered **qualified operating expenses**, they must meet three criteria:

1. Expenses must be “reasonable,” that is, indicative of fair market value. The Tax Commissioner has the authority to disapprove any contract for sale of goods or services, or any lease of real or personal property used in connection with charitable online raffle activities if it is unreasonable or not representative of fair market value.
2. Expenses must be “necessary,” that is, they must be related to the actual conduct of the charitable online raffle activities.
3. Expenses must be “actual,” that is, the licensee organization must be able to prove the amounts it expended.

Total expenses for the conduct of online raffle occasions may not exceed twenty-five percent of the gross proceeds collected during a license period.

## **EXPENSES THAT CAN BE PAID FROM ONLINE RAFFLE PROCEEDS**

Following are examples of qualified operating expenses that can be paid entirely from charitable online raffle proceeds. These expenses must be reported in the annual financial return under “Expenses.”

- a. Salaries and related payroll taxes for personnel whose only duties are working in connection with the raffle occasion.
- b. Rent paid for the use of any premises. A copy of the rental agreement must be attached to the online raffle license application with any modifications to the rental agreement to be filed within 10 days of being made. The rent paid for the use of any premises cannot exceed the fair market value of rent for the premises.
- c. Utilities and insurance costs paid on a facility used solely for raffles.
- d. Accounting/bookkeeping services incurred solely in connection with raffles.
- c. The cost to the licensee organization for equipment and supplies used to conduct the online raffle occasion.
- d. The cost to the licensee organization for advertising the online raffle occasion.
- e. The costs involved in the licensee using technology, Internet service providers, servers, or other necessary infrastructure by which to advertise and conduct the online raffle or online raffle occasion;
- f. The cost charged by the approved platform provider that manages the website software system, web application, method, or process for collecting moneys related to the sale of online raffle tickets, securing and safekeeping all moneys collected related to the sale of online raffle tickets, disbursing moneys collected from the sale of online raffle tickets to the licensee before or after the online raffle or online raffle occasion, and conducting licensed online raffles over the Internet.
- g. The actual cost to the licensee for prizes, not to exceed fair market value.

Examples of **qualified operating expenses** that can be prorated so that a portion may be paid from charitable online raffle proceeds:

- a. A portion of the rent for a facility that is used not only for raffles, but for other non-related purposes as well. A copy of the rental agreement **MUST** be filed with the license application. Rent **MUST** be indicative of “fair market value”.
- b. A portion of the insurance paid on a facility where raffles are conducted as well as being used for other purposes.
- c. A portion of the salaries and related payroll taxes of employees whose responsibilities include performing raffle related activities, in addition to other unrelated duties.
- d. A portion of the utilities paid on a facility that is used not only for raffles, but for other purposes as

well.

f. A portion of the custodial service expenses for a facility that is used not only for raffles, but for other purposes as well.

g. A portion of repair and maintenance costs for a facility that houses raffles as well as being used for other purposes.

### **EXPENSES THAT CANNOT BE PAID FROM ONLINE RAFFLE PROCEEDS**

Gross proceeds from any online raffle operation may not be devoted or in any manner used by either a licensee organization or a qualified recipient organization for the construction, acquisition or improvement of real or personal property, except that which is used exclusively for charitable or public service purposes or, for equipment and supplies used to conduct the charitable raffle occasions. W.Va. Code §47-21A-13(d).

This prohibition includes mortgage payments on a facility, whether it is used for charitable online raffle purposes or not. Unless the facility is used **exclusively** for charitable or public service purposes, charitable online raffle proceeds cannot be used for its construction, acquisition or improvement.

Other expenses of the licensee organization that are not incurred in connection with the conduct of charitable online raffles cannot be paid, in whole or in part, with online raffle proceeds. If a question arises concerning whether proposed expenses are allowable or not, the licensee should contact the Business Registration Unit at (304)558-8683 for assistance.

### **PRORATING EXPENSES**

The portion of an organization's qualified operating expenses that is incurred in connection with the charitable online raffle operation may be reimbursed from charitable online raffle proceeds.

### **METHOD ONE: TIME ALLOTMENT**

Utilization of this method requires that, during charitable online raffle occasions, the expenses incurred must be related to online raffle.

### **EXAMPLE**

A licensed organization holds charitable bingo/raffle occasions two days a week. During these occasions, the building is not used for any other purpose. Each occasion lasts six hours, but the facility is actually utilized for ten hours for each occasion (this would include two hours before the raffle begins and two hours after the occasion ends). Therefore, the building is used twenty hours a week for bingo/raffle. During a one-month period there are eight bingo/raffle occasions representing eighty hours of bingo/raffle usage.

The building is used for non-bingo/raffle related activities for thirty hours each week (one hundred twenty hours a month). The total hours the building is used each month is two hundred hours (eighty hours for bingo/raffle usage plus one hundred twenty hours for non-bingo/raffle usage).

Charitable raffle usage represents one-half of forty percent of the building's usage (eighty hours divided by two hundred divided by two). Therefore, twenty percent of the "qualified operating expenses" for the building may be paid from bingo proceeds and twenty percent of the "qualified operating expenses" for the building may be paid from raffle proceeds.

This method can be applied to salaries of workers who are paid for performing different jobs at different times. When working the online raffle occasion, the worker cannot perform non-online-raffle-related duties. Further, it must be readily apparent what portion of the worker's salary (hours worked) is attributable to charitable online raffle operations.

**METHOD TWO: PERCENTAGE OF TOTAL REVENUES**

If the organization conducts online raffles at the same time it is carrying on non-online raffle related activities, it must use this method to determine what percentage of its qualified operating expenses may be prorated from its online raffle account.

1. Take **Online Raffle Gross Proceeds** (total sales of raffle tickets).
2. **Subtract** the **Prize payouts** (cash and the fair market value of non-cash prizes awarded) from Gross Proceeds. The difference is **Online Raffle Revenue**.
3. **Add** the **Online Raffle Revenue** to all other revenue (dues, bar sales, food sales, donations, vending machine income, special project revenue, rental income, etc.). This gives you the **Total Revenue** of the organization.
4. **Divide** the **Online Raffle Revenue** by **Total Revenue** (line 3 by line 5). This gives you the percentage of the organization's qualified operating expenses that can be paid from Online Raffle Revenue. Remember, total expenses paid from raffle funds cannot exceed 25% of Online Raffle Gross Proceeds (line 1).

**EXAMPLE 1**

Online Raffle Gross Proceeds	\$100,000
Less Prizes	<u>-80,000</u>
Online Raffle Revenue	\$ 20,000

Online Raffle Revenue	\$20,000
Other Revenue of the Organization	<u>+5,000</u>
Total Revenue of the Organization	\$25,000

**Then, \$20,000 divided by \$25,000 equals .80 or 80%.**

80% of the organization's qualified operating expenses can be paid from Online Raffle Revenue as expenses incurred in connection with raffle operations, as long as total raffle expenses do not exceed 25% of online raffle gross proceeds (in this example, \$25,000). Since Online Raffle Revenue is only \$20,000, then expenses would be limited to \$20,000.



### EXAMPLE 2

Online Raffle Gross Proceeds	\$100,000
Less Prizes	<u>-70,000</u>
Online Raffle Revenue	\$ 30,000
Online Raffle Revenue	\$30,000
Other Revenue of the Organization	<u>+70,000</u>
Total Revenue of the Organization	\$100,000

**Then, \$30,000 divided by \$100,000 equals .30 or 30%.**

30% of the organization's qualified operating expenses can be paid from Online Raffle Revenue as expenses incurred in connection with online raffle operations, as long as total online raffle expenses do not exceed 25% of online raffle gross proceeds (in this example, \$25,000).

Since Online Raffle Revenue is \$30,000, at least \$5000 (\$30,000-\$25,000) must be distributed for charitable or public service purposes.

### EXAMPLE 3

Online Raffle Gross Proceeds	\$100,000
Less Prizes	<u>-70,000</u>
Online Raffle Revenue	\$ 30,000
Online Raffle Revenue	\$30,000
Other Revenue of the Organization	<u>+20,000</u>
Total Revenue of the Organization	\$50,000

**Then, \$30,000 divided by \$50,000 equals .60 or 60%.**

60% of the organization's qualified operating expenses can be paid from online raffle revenue as expenses incurred in connection with online raffle operations, as long as total online raffle expenses do not exceed 25% of online raffle gross proceeds (in this instance \$25,000).

Since Online Raffle Revenue is \$30,000, at least \$5000 (\$30,000-\$25,000) must be distributed for charitable or public service purposes.

### HOW TO CALCULATE NET PROCEEDS

After subtracting the expense of the prizes awarded and the qualified operating expenses from gross proceeds, the remainder is net proceeds.

GROSS PROCEEDS – PRIZES – QUALIFIED OPERATING EXPENSES = NET PROCEEDS.

Net proceeds from one license year cannot be used to cover expenses or prize payouts incurred during

subsequent periods.

If a licensee, in good faith, finds itself unable to comply with this requirement, it may apply to the Tax Commissioner for permission to expend its net proceeds for charitable or public service purposes other than those stated in its license application or for permission to expend its net proceeds later than one-year time period. The request should be submitted in writing no later than sixty days before the end of the one-year time period. If the request is approved, the licensee may be required to file periodic reports with the Tax Commissioner until the proceeds are expended. W.Va. Code §47-21A-13 (f).

### **DISBURSEMENT OF NET PROCEEDS**

W.Va. Code §47-21A-2

All net online raffle proceeds and any interest earned on them must be donated to the charitable or public service purposes stated in the organization's license application within one year after the end of the license year in which the games were conducted. W.Va. Code §47-21A-13 (c).

### **CHARITABLE OR PUBLIC SERVICE PURPOSES**

A "charitable or public service activity or endeavor" is any bona fide activity or endeavor that directly benefits a number of people by:

- Contributing to educational or religious purposes.
- Relieving them from disease, distress, suffering, constraint or the effects of poverty.
- Promoting patriotism and good citizenship.
- Publicizing issues of public concern (as long as the activity is not aimed at supporting or participating in any candidate's campaign for public office).
- Lessening the burdens borne by government or supporting, augmenting or supplementing services normally borne by government.
- Providing or supporting nonprofit community activities for youth, senior citizens or the disabled.
- Providing or supporting nonprofit cultural or artistic activities.
- Supporting any political party executive committee.

### **RECORDKEEPING**

W.Va. Code §47-21A-14

A licensee must maintain a separate checking account and separate bookkeeping procedures for its online raffle operations.

Expenses **MUST** be paid by checks having preprinted consecutive numbers and made payable to a specific person, firm or corporation. At no time may checks be written payable to "cash." Expenses cannot be paid in cash. Checks may be written to a payroll account if backup documentation, detailing the payroll expenses attributable to charitable online raffle activities, and is submitted with the online raffle financial report.

Bingo, raffle, and online raffle funds may not be commingled. Organizations holding simultaneous bingo,

raffle, and online raffle occasions should pay online raffle workers and other online raffle expenses from the online raffle account.

All online raffle records, including invoices of all games purchased or otherwise acquired by the licensee, must be maintained for at least three years.

If the Tax Commissioner has reasonable cause to believe the online raffle laws have been violated, he or she may order an audit of the licensee's books and records. Whenever any licensee awards total prizes in excess of one hundred seventy five thousand dollars (\$175,000) during the license period, the licensee's books must be audited.

## **FINANCIAL REPORTS**

**Each licensee organization holding an annual, limited occasion, or state fair license must file with the Tax Commissioner a financial report summarizing its raffle operations for the period covered by the report.** W.Va. Code §47-21A-24. Reports are due 30 days after the expiration date of the license. Failing to file a report when due is subject to a \$25 penalty for each month it is late, not to exceed \$100.

Financial reports must contain the names, addresses and social security numbers of all players who win prizes that total over one hundred dollars at one online raffle occasion. Thus, a player who wins a \$75 online raffle prize, then later that same online raffle occasion wins a \$25 online raffle prize, need not be reported, because the total prizes are not over one hundred dollars. However, if that player wins any more online raffle prizes at that occasion, it must be reported. Certain information on the financial reports may be disclosed to the public. However, social security numbers of prizewinners will not be disclosed.

## **ADMINISTRATIVE PENALTIES FOR VIOLATIONS OF CHARITABLE RAFFLE LAWS**

W.Va. Code §§ 47-21A-23 and 47-21A-29

### **REPRIMAND**

Any minor violation of the charitable raffle statutes or legislative rules may result in a reprimand being placed in the licensee's file. If the violation is corrected by the licensee, after being notified by the Tax Commissioner, then no further action will be taken.

For any material violation of the charitable raffle statutes or legislative rules, the Tax Commissioner may impose any one, or any combination, of the following administrative penalties:

### **ACTIONS AGAINST THE LICENSE:**

- **SUSPENSION** for not less than one week nor more than twelve months.
- **REVOCATION**
- **REFUSAL TO RENEW**

## ■ **DENIAL OF LICENSE**

### **ADDITIONAL PENALTIES:**

#### **PROBATION**

The Tax Commissioner may place a licensee organization on probation for not less than six months nor more than five years. During that period, the licensee must pay a supervision fee of two percent of its gross online raffle proceeds, but not less than two thousand dollars, to the Commissioner.

#### **CIVIL MONEY PENALTY**

A licensee may be ordered to pay a civil money penalty of not less than one hundred dollars nor more than two times the annual gross proceeds derived by the licensee.

#### **REMOVAL OF AN OFFICER**

The Tax Commissioner may require a licensee to replace an officer who knew or should have known of a material violation of the charitable online raffle laws or legislative rules.

#### **PROHIBITION OF PARTICIPATION IN FUTURE RAFFLE ACTIVITIES**

The Tax Commissioner may require a licensee to prohibit one or more members, supporters, volunteers or employees of the licensee involved in acts of material violation from all future online raffle occasions held under the license, or for a period of time specified by the Commissioner.

## **CRIMINAL VIOLATIONS**

### **FRAUD**

Any person who or licensee which knowingly conducts or participates in a fraudulently or deceptively conducted online raffle game with intent to defraud is guilty of a felony, and, upon conviction thereof, shall be fined not less than five hundred nor more than ten thousand dollars, or imprisoned in the penitentiary not less than one, nor more than five years, or fined and imprisoned. W.Va. Code §47-21A-20

### **OBTAINING LICENSE FRAUDULENTLY**

Any individual, association, organization or corporation which knowingly obtains or assists another in obtaining an online raffle license under false, deceptive or fraudulent pretenses is guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five hundred nor more than ten thousand dollars. W.Va. Code §47-21A-21

### **VIOLATIONS OF OTHER STATUTORY PROVISIONS**

Any person who knowingly violates any provision of the charitable raffle law (other than W.Va. Code §47-21-18 and 47-21-19) is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than one thousand dollars. Upon a second or subsequent conviction, they shall be fined not less than one hundred or more than one thousand dollars or imprisoned not more than one year or both fined and imprisoned. W.Va. Code §47-21A-22

Any person, licensed or unlicensed to conduct an online raffle, who violates any provisions of the charitable online raffle law or who fails to perform any of the duties or obligations of the charitable

online raffle law (other than W.Va. Code §47-21A-20 or 47-21A-21), is subject to a civil penalty in an amount to be determined by the Tax Commissioner, not to exceed \$10,000. This civil penalty is in addition to any other penalty provided by law.

### **PROHIBITED ACTS BY CONVICTED PERSONS**

Any person convicted of any felony, or of a misdemeanor gambling offense, is prohibited from participating in any way in the conduct of any bingo, raffle or online raffle operations for a period of ten years from the date of conviction. W.Va. Code §47-21A-26

### **VIOLATIONS OF ARTICLE 23**

The following offenses are criminal misdemeanors under the Charitable Boards and Games Act, Chapter 47, Article 23 of the West Virginia Code, and carry a penalty of a fine of one thousand to ten thousand dollars, confinement in the county or regional jail for up to one year, or both:

- Preventing or hindering the Commissioner from making a full inspection of any place where raffle boards or games are sold or stored;
- Selling any raffle boards or games on which the applicable fees and taxes have not been paid;
- Failure to produce on demand invoices and verification of all raffle boards and games purchased or received within the three years prior to such demand;
- Purchasing or otherwise acquiring raffle boards or games from any person other than a licensed wholesaler or distributor,

Additionally, forging, altering, or counterfeiting any invoice or serial number is a felony, and may lead to a fine of five to ten thousand dollars and up to five years in prison.