

**SUMMARY OF PROPOSAL #28**  
*for consideration by the*  
**ARKANSAS TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE**

**TOPIC: To Increase the Gaming Winnings Tax from 3% to 3.5%**

**Summary of Proposal for Consideration**

To increase the gaming winnings tax from three percent (3%) to three and one-half percent (3.5%) under Arkansas Code § 26-51-1309, effective for tax years beginning January 1, 2019.

**Fiscal Analysis**

According to the Department of Finance and Administration, the three percent (3%) tax on electronic games of skill net wagering receipts provides \$60,100,000 in general revenue. If raised to three and five-tenths percent (3.5%), assuming no decline in utilization of electronic games of skill, the expected revenue would be \$70,100,000, for a net revenue increase of \$10,000,000.

**Legal Analysis**

***Background***

Arkansas levies a gaming winnings tax of three percent (3%) on any single payment of winnings from electronic games of skill of one thousand two hundred dollars (\$1,200) or more paid on a single electronic game of skill wager. Gaming winnings are not includable as income on the payee's regular Arkansas income tax return.

ACT 732 of 2007 created the gaming winning tax and has not been amended since.

***Potential Legal Issues***

None.

***Other States***

- Iowa: Iowa does not distinguish between electronic games of skill and other games of skill. Iowa requires withholding at a flat rate of five percent (5%) for games-of-skill winnings that exceed six hundred dollars (\$600). These winnings are considered to be income and are subject to the appropriate amount of income tax, which may or may not be satisfied by the withholding tax. Winnings from electronic games of skill are considered to be income. (IA St. § 422.16; IAC 701-46.1(422))
- Louisiana: Louisiana does not distinguish between electronic games of skill and other forms of gambling for tax purposes. Louisiana requires withholding at a flat rate of six percent (6%) of the gambling winnings if income taxes are required to be withheld under federal law for the winnings. Under federal law, proceeds of

more than five thousand dollars (\$5,000) from a wagering transaction are subject to withholding tax if the proceeds are at least three hundred (300) times as large as the amount wagered. Gambling winnings are considered to be income. (LAC 61, pt. I § 1525)

- Mississippi: Mississippi does not distinguish between electronic games of skill and other forms of gambling for tax purposes. Gambling winnings reported from Mississippi casinos are subject to a three percent (3%) non-refundable withholding tax. Gambling winnings are not included as income. (MS St. §27-7-901)
- Missouri: Electronic gaming device winnings of one thousand two hundred dollars (\$1,200) or more are subject to a withholding tax of four percent (4%) of the winnings. Gambling winnings are considered to be income. (MO St. § 313.826)
- Oklahoma: Oklahoma does not distinguish between electronic games of skill and other forms of gambling for tax purposes. Oklahoma requires withholding at a flat rate of four percent (4%) of the gambling winnings if income taxes are required to be withheld under federal law for the winnings. Under federal law, proceeds of more than five thousand dollars (\$5,000) from a wagering transaction are subject to withholding tax if the proceeds are at least three hundred (300) times as large as the amount wagered. Gambling winnings are included as taxable income. (OK St. 68 §§ 2362 and 2385.2)
- Tennessee: Gambling winnings are not included as taxable income under Tennessee's income tax on dividends and interest.
- Texas: No individual income tax.