

the person or persons previously reported on Form 11-C. Such supplemental return shall be filed not later than 10 days after the date he is engaged to receive wagers and shall show the name, business address, or, if none, the residence address of the person or persons by whom he is engaged to receive wagers. As to a change of address, see § 44.4905-2.

(c) *Time and place for filing Form 11-C.* For provisions relating to the time for filing Form 11-C (other than Form 11-C marked "Supplemental"), see section 6071 and § 44.6071-1. For provisions relating to the place for filing Form 11-C, see section 6091 and § 44.6091-1.

**§ 44.4413-1 Certain provisions made applicable.**

For regulations under sections 4901, 4902, 4904, 4905, and 4906, as extended and made applicable to the special tax imposed by section 4411 and to the persons upon whom such tax is imposed, see Subpart D of this part.

**Subpart D—Miscellaneous and General Provisions Applicable to Taxes on Wagering**

MISCELLANEOUS PROVISIONS

**§ 44.4421-1 Definitions.**

(a) *Wager.* The term "wager" means:

(1) Any wager placed with a person engaged in the business of accepting wagers upon the outcome of a sports event or a contest;

(2) Any wager placed in a wagering pool with respect to a sports event or a contest, if such pool is conducted for profit; and

(3) Any wager placed in a lottery conducted for profit.

(b) *Lottery*—(1) *In general.* The term "lottery" includes the numbers game, policy, and similar types of wagering. In general, a lottery conducted for profit includes any scheme or method for the distribution of prizes among persons who have paid or promised a consideration for a chance to win such prizes, usually as determined by the numbers or symbols on tickets as drawn from a lottery wheel or other receptacle, or by the outcome of an event: *Provided,* Such lottery is conducted for profit. The term also in-

cludes enterprises commonly known as "policy" or "numbers" and similar types of wagering where the player selects a number, or a combination of numbers, and pays or agrees to pay a certain amount in consideration of which the operator of the lottery, policy, or numbers game agrees to pay a prize or fixed sum of money if the selected number or combination of numbers appear or are published in a manner understood by the parties. For example, the winning number or combination of numbers may appear or be published as a series of numbers in the payoff prices of a series of horse races at a certain race track, or in the United States Treasury balance reports, or the reports of a stock or commodity exchange. This description is not intended to be restrictive; hence, the substitution of letters or other symbols for numbers or a different arrangement for determining the winning number or combination of numbers, does not alter the fundamental nature of a game which otherwise would be considered a lottery. The operation of a punch board or a similar gaming device for profit is also considered to be the operation of a lottery.

(2) *Certain games excluded*—(i) *Cards, dice, etc.* Section 4421 specifically excludes from the term "lottery" any game of a type in which usually (a) the wagers are placed, (b) the winners are determined, and (c) the distribution of prizes or other property is made, in the presence of all persons placing wagers in such game. Thus, for example, no tax would be payable with respect to wagers made in a bingo or keno game since such a game is usually conducted under circumstances in which the wagers are placed, the winners are determined, and the distribution of prizes is made in the presence of all persons participating in the game. For the same reason, no tax would apply in the case of card games, dice games, or games involving wheels of chance, such as roulette wheels and gambling wheels of a type used at carnivals and public fairs.

(ii) *Drawings conducted by an organization exempt from tax under section 501 or 521.* Section 4421 specifically excludes from the term "lottery" any drawing conducted by an organization exempt from tax under section 501 or

521 if no part of the net proceeds derived from such drawing inures to the benefit of any private shareholder or individual. For provisions relating to exemption from income tax under section 501 or 521, see the Income Tax Regulations (Part 1 of this chapter).

(c) *Other terms used*—(1) *Wagering pool*. A wagering pool conducted for profit includes any scheme or method for the distribution of prizes to one or more winning bettors based upon the outcome of a sports event or a contest, or a combination or series of such events or contests, provided such wagering pool is managed and conducted for the purpose of making a profit.

(2) *Sports event*. A sports event includes every type of sports event, whether amateur, scholastic, or professional, such as horse racing, auto racing, dog racing, boxing and wrestling matches and exhibitions, baseball, football, and basketball games, tennis and golf matches, track meets, etc.

(3) *Contest*. A contest includes any type of contest involving speed, skill, endurance, popularity, politics, strength, appearances, etc., such as a general or primary election, the outcome of a nominating convention, a dance marathon, a log-rolling, wood-chopping, weight-lifting, corn-husking, beauty contest, etc.

(4) *Conducted for profit*. A wagering pool or lottery may be conducted for profit even though a direct profit will not inure from the operation thereof. A wagering pool or lottery operated with the expectancy of a profit in the form of increased sales, increased attendance, or other indirect benefits is conducted for profit for purposes of the wagering tax.

#### § 44.4422-1 Doing business in violation of Federal or State law.

Payment of any special tax within the scope of the regulations in this part in nowise authorizes the carrying on of any business in violation of a law of the United States or the law of any State. The special tax stamp is not a license or permit and affords no protection from prosecution for violation of any Federal or State law. See also section 4906.

#### GENERAL PROVISIONS RELATING TO OCCUPATIONAL TAXES

#### § 44.4901-1 Payment of special tax.

(a) *Condition precedent to carrying on business*. No persons shall engage in the business of accepting wagers subject to the tax imposed by section 4401 until he has filed a return on Form 11-C and paid the special tax imposed by section 4411. Likewise, no person shall engage in receiving wagers for or on behalf of any person engaged in the business of accepting wagers until he has filed a return on Form 11-C and paid the special tax imposed by section 4411. For provisions relating to the tax imposed by section 4401 and the special tax imposed by section 4411, see Subparts B and C of this part, respectively.

(b) *Computation of special tax*. (1) Section 4411 imposes a special tax of \$50 per year which is required to be paid by each person who is liable for the tax imposed by section 4401 (tax on wagers) or who is engaged in receiving wagers for or on behalf of any person who is liable for the tax imposed by section 4401. A person engaged both in accepting wagers on his own account and in receiving wagers for or on behalf of some other person is required to purchase but one special tax stamp.

(2) The tax year begins July 1 and ends June 30 of the following calendar year. Persons commencing business between August 1 and June 30 (both dates inclusive) shall pay a proportionate part of the annual tax. "Commencing business" means the initial acceptance by a person of a wager subject to the tax imposed by section 4401 or the initial receiving of a taxable wager by an agent or employee for or on behalf of some other person. Persons in business for only a portion of a month are liable for tax for the full month, i.e., a person first becoming subject to the special tax on, for example, the 20th day of a month, is liable for tax for the entire month.

(c) *Tax payment evidenced by special tax stamp*. (1) Upon receipt of a return on Form 11-C, together with remittance of the full amount of tax due, the district director will issue a special tax stamp as evidence of payment of the special tax.

(2) District directors will distinctly write or print on the stamp before it is delivered or mailed to the taxpayer the following information: (i) The taxpayer's registered name, and (ii) the business or office address of the taxpayer if he has one; if not, the residence address. Special tax stamps will be transmitted by ordinary mail, unless it is requested that they be transmitted by registered mail in which case additional cost to cover registry fee shall be remitted with the return.

(3) District directors and their collection officers are forbidden to issue receipts in lieu of stamps representing the payment of special taxes.

(d) *Cross references.* For provisions relating to registration and information required to be reported on Form 11-C, see § 44.4412-1. For other provisions relating to Form 11-C, see §§ 44.6011(a)-1 (relating to returns), 44.6071-1 (time for filing returns and other documents), and 44.6091-1 (place for filing returns or other documents).

**§ 44.4902-1 Partnership liability.**

Any number of persons doing business in copartnership shall be required to pay but one special tax. The district director may issue a special tax stamp to a copartnership in a firm or trade name, provided the names and addresses of all members of the partnership are disclosed on Form 11-C.

**§ 44.4905-1 Change of ownership.**

(a) *Changes through death.* Whenever any person who has paid the special tax imposed by section 4411 dies, the surviving spouse or child, or executor or administrator, or other legal representative, may carry on such business for the remainder of the term for which such special tax has been paid without any additional payment, subject to the conditions hereinafter stated. If the surviving spouse or child, or executor or administrator, or other legal representative of the deceased taxpayer continues the business, such person shall within 30 days after the date of the death of the taxpayer execute a return on Form 11-C. Such return shall show the name of the deceased taxpayer, together with all other data required to be reported on Form 11-C (see § 44.4412-1), and the stamp issued to

such taxpayer shall be submitted with the return for proper notation by the district director.

(b) *Changes from other causes.* A receiver or trustee in bankruptcy may continue the business under the stamp issued to the taxpayer at the place and for the period for which the special tax was paid. An assignee for the benefit of creditors may continue business under his assignor's special tax stamp without incurring additional special tax liability. In such cases the change shall be registered with the district director in a manner similar to that required by paragraph (a) of this section.

(c) *Changes in firm.* When one or more members of a firm partnership withdraw, the business may be continued by the remaining partner or partners under the same special tax stamp for the remainder of the period for which the stamp was issued to the old firm. The change shall, however, be registered in the same manner as required in paragraph (a) of this section. If new partners are taken into a firm the new firm so constituted may not carry on business under the special tax stamp of the old firm. The new firm shall make a return on Form 11-C and pay the special tax imposed by section 4411 reckoned from the first day of the month in which it began business, even though the name of such firm be the same as that of the old. If the members of a partnership, which has paid the special tax, form a corporation to continue the business a new special tax stamp must be obtained in the name of the corporation.

(d) *Change in corporation.* If a corporation changes its name, no additional tax is due, provided the change in name is registered with the district director in the manner required by paragraph (a) of this section. An increase in the capital stock of a corporation does not create a new special tax liability if the laws of the State under which it is incorporated permit such increase without the formation of a new corporation. A stockholder in a corporation, who after its dissolution continues the business, incurs liability for the special tax imposed by section 4411 unless he already has a special tax stamp obtained in respect of activities conducted as a sole proprietor.

**Internal Revenue Service, Treasury**

**§ 44.6001-1**

**§ 44.4905-2 Change of address.**

(a) *Procedure by taxpayer*—(1) *After June 30, 1963.* Whenever, after June 30, 1963, a taxpayer changes his business or residence address to a location other than that specified in his last return on Form 11-C, he shall register the change with the district director from whom the special tax stamp was purchased by filing a new return, Form 11-C, designated “Supplemental Return”, setting forth the new address and the date of change. He shall so register the change of address before:

(i) He engages in any wagering activity at the new address, or

(ii) The termination of a 30-day period which begins on the day after the date of such change,

whichever occurs first. The taxpayer’s special tax stamp shall accompany the supplemental return for proper notation by the district director. As to liability in case of failure to register a change of address, see § 44.4905-3.

(2) *Before July 1, 1963.* Whenever, before July 1, 1963, a taxpayer changes his business or residence address to a location other than that specified in his last return of Form 11-C, he shall, within 30 days after the date of such change, register the change with the district director from whom the special tax stamp was purchased by filing a new return, Form 11-C, designated “Supplemental Return”, setting forth the new address and the date of change. The taxpayer’s special tax stamp shall accompany the supplemental return for proper notation by the district director. As to liability in case of failure to register a change of address, see § 44.4905-3.

(b) *Procedure by district director; removal within district.* When registration of a change of address within the same district is made by a taxpayer in the manner specified in paragraph (a) of this section, the district director, if necessary, will enter on his records the new address and the date of change. If the information disclosed on the supplemental return is such as to require a change on the face of the special tax stamp, the district director will make the proper change and return the stamp to the taxpayer.

(c) *Procedure by district director; removal to another district.* In case of re-

moval of the taxpayer’s office or principal place of business (or residence address, if he has no office or principal place of business) to another district, the district director, after noting the transfer on his records, shall transmit the special tax stamp to the district director for the district to which such office or business was removed. The latter will make an entry on his records, as in the case of an original registration in his district, correct the address on the stamp, if necessary, and note also thereon his name, title, date, and district, and then forward the stamp to the taxpayer.

[T.D. 6656, 28 FR 5720, June 12, 1963, as amended by T.D. 7087, 36 FR 505, Jan. 14, 1971]

**§ 44.4905-3 Liability for failure to register change or removal.**

Any person succeeding to and carrying on a business for which the special tax imposed by section 4411 has been paid, and any taxpayer changing his residence address or his place of business, without registering such change as provided in §§ 44.4905-1 and 44.4905-2 shall be liable to an additional tax, and to the penalty prescribed in section 6651 for failure to make a return. (For regulations under section 6651, see the Regulations on Procedure and Administration (Part 301 of this chapter).)

**§ 44.4906-1 Cross reference.**

For provisions relating to the applicability of Federal and State laws, see section 4422 and § 44.4422-1.

**Subpart E—Administrative Provisions of Special Application to the Taxes on Wagering**

**§ 44.6001-1 Record requirements.**

(a) *In general.* (1) In addition to all other records required pursuant to § 44.4403-1, every person required to pay tax under section 4401 shall keep such records as will clearly show as to each day’s operation:

(i) Separately, the gross amount of wagers:

(a) Accepted directly by the taxpayer or at any registered place of business of the taxpayer (other than laid-off wagers),