

110TH CONGRESS
2D SESSION

H. R. 5523

To amend the Internal Revenue Code of 1986 to regulate and tax Internet gambling.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2008

Mr. McDERMOTT introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to regulate and tax Internet gambling.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Internet Gambling Regulation and Tax Enforcement Act
6 of 2008”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-
9 ment is expressed in terms of an amendment a section
10 or other provision, the reference shall be considered to be

1 made to a section or other provision of the Internal Rev-
 2 enue Code of 1986.

3 **SEC. 2. LICENSE FEE ON INTERNET GAMBLING OPERA-**
 4 **TORS; LICENSEE INFORMATION REPORTING.**

5 (a) IN GENERAL.—Chapter 36 (relating to certain
 6 other excise taxes) is amended by adding at the end the
 7 following new subchapter:

8 **“Subchapter E—Internet Gambling Operators**

“Sec. 4491. Imposition of Internet gambling license fee.

9 **“SEC. 4491. IMPOSITION OF INTERNET GAMBLING LICENSE**
 10 **FEE.**

11 “(a) IN GENERAL.—Each Internet gambling operator
 12 licensed by the Director in accordance with subchapter V
 13 of chapter 53 of title 31, United States Code, shall be re-
 14 quired to pay to the Director by the end of each month
 15 an Internet gambling license fee.

16 “(b) INTERNET GAMBLING LICENSE FEE.—For pur-
 17 poses of this section, the Internet gambling license fee is
 18 an amount equal to 2 percent of all funds deposited during
 19 the preceding month with or on behalf of such Internet
 20 gambling operator into an account that can be used for
 21 the purpose of placing a bet or wager. Deposits made by
 22 or on behalf of any such operator of Internet gambling
 23 winnings shall not be treated as a deposit for purposes
 24 of this section.

1 “(c) DISPOSITION.—Amounts paid to the Director as
2 Internet gambling license fees under this section shall be
3 deposited in the general fund of the Treasury and treated
4 as revenue.

5 “(d) DIRECT AND EXCLUSIVE OBLIGATION OF LI-
6 CENSEE.—The Internet gambling license fee shall be the
7 direct and exclusive obligation of the Internet gambling
8 operator and may not be deducted from the amounts avail-
9 able as deposits to the person placing a bet.

10 “(e) DIRECTOR.—For purposes of this subchapter,
11 the term ‘Director’ shall have the meaning given such
12 term by section 5382 of chapter 53 of title 31, United
13 States Code.

14 “(f) ADMINISTRATIVE PROVISIONS.—To the extent
15 the Secretary shall by regulations prescribe, the Internet
16 gambling license fee shall be treated as an excise tax for
17 purposes of the administrative provisions of this title ap-
18 plicable to excise taxes imposed by chapter 35.”.

19 (b) INFORMATION RETURNS.—Subpart A of part III
20 of subchapter A of chapter 61 (relating to information
21 concerning persons subject to special provisions) is amend-
22 ed by adding at the end the following new section:

1 **“SEC. 6039J. RETURNS OF INTERNET GAMBLING OPERA-**
2 **TORS.**

3 “(a) REQUIREMENT.—Every person who is an Inter-
4 net gambling operator subject to section 4491 during a
5 taxable year shall furnish, at such time and in such man-
6 ner as the Secretary shall by regulations prescribe, the in-
7 formation described in subsection (b), and such person
8 shall maintain (in the location, in the manner, and to the
9 extent prescribed in regulations) such records as may be
10 appropriate to the information described in subsection (b).

11 “(b) REQUIRED INFORMATION.—For purposes of
12 subsection (a), the information described in this sub-
13 section is such information as the Secretary may prescribe
14 by regulations relating to—

15 “(1) the Internet gambling operator’s name, ad-
16 dress, and tax information number,

17 “(2) the name, address, and tax information
18 number of each person placing a wager with the
19 Internet gambling operator during the calendar year,

20 “(3) the gross winnings, gross wagers, and
21 gross losses of each such person during the year,

22 “(4) the amount of tax withheld with respect to
23 each such person,

24 “(5) beginning and end-of-year account bal-
25 ances for each such person, and

1 “(6) amounts deposited and withdrawn by each
2 such person during the calendar year.

3 “(c) STATEMENT TO BE FURNISHED TO PERSONS
4 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—
5 Every person required to make a return under subsection
6 (a) shall furnish to each person whose name is required
7 to be set forth in such return a written statement show-
8 ing—

9 “(1) the name, address, and phone number of
10 the information contact of the person required to
11 make such return, and

12 “(2) the information required to be shown on
13 such return with respect to such person.

14 The written statement required under the preceding sen-
15 tence shall be furnished to the person on or before Janu-
16 ary 31 of the year following the calendar year for which
17 the return under subsection (a) was required to be made.”.

18 (c) CLERICAL AMENDMENTS.—

19 (1) The table of subchapters for chapter 36 is
20 amended by adding at the end the following new
21 item:

 “SUBCHAPTER E. INTERNET GAMBLING OPERATORS.”.

22 (2) The table of sections for subpart A of part
23 III of subchapter A of chapter 61 is amended by in-

1 serting after the item relating to section 6039I the
 2 following new item:

“Sec. 6039J. Returns of Internet gambling operators.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
 4 this section shall apply to wagers made after December
 5 31, 2008.

6 **SEC. 3. WITHHOLDING FROM CERTAIN GAMBLING**
 7 **WINNINGS.**

8 (a) **NET INTERNET GAMBLING WINNINGS.**—Para-
 9 graph (3) of section 3402(q) (relating to extension of with-
 10 holding to certain gambling winnings) is amended by add-
 11 ing at the end thereof the following new subparagraph:

12 “(D) NET INTERNET GAMBLING
 13 WINNINGS.—Proceeds of net Internet gambling
 14 winnings of more than \$5,000 in any one cal-
 15 endar year.”.

16 (b) **NO EXEMPTION FOR CERTAIN WINNINGS.**—
 17 Paragraph (5) of section 3402(q) is amended by inserting
 18 “(other than winnings described in paragraph (3)(D))”
 19 after “winnings”.

20 (c) **DEFINITIONS.**—Subsection (q) of section 3402 is
 21 amended by redesignating paragraph (7) as paragraph (8)
 22 and by inserting after paragraph (6) the following new
 23 paragraph:

24 “(7) **PROCEEDS OF NET INTERNET GAMBLING**
 25 **WINNINGS.**—For purposes of this subsection—

1 “(A) IN GENERAL.—The term ‘proceeds of
 2 net Internet gambling winnings’ means
 3 amounts of net Internet gambling winnings
 4 withdrawn from an account established for the
 5 purpose of Internet gambling.

6 “(B) NET INTERNET GAMBLING
 7 WINNINGS.—The term ‘net Internet gambling
 8 winnings’ means gross winnings from a wager
 9 placed over the Internet with a person required
 10 to be licensed under section 5382 of chapter 53
 11 of title 31, United States Code, less the amount
 12 wagered.

13 “(C) INTERNET; WAGER.—The terms
 14 ‘Internet’ and ‘wager’ shall have the respective
 15 meanings given such terms by section 5382 of
 16 chapter 53 of title 31, United States Code.”.

17 (d) BACKUP WITHHOLDING.—Section 3406 (relating
 18 to backup withholding) is amended by redesignating sub-
 19 section (i) as subsection (j) and by adding the following
 20 new subsection:

21 “(i) For purposes of this section, net Internet gam-
 22 bling winnings shall be treated as other reportable pay-
 23 ments, an Internet gambling operator shall be treated as
 24 payor, and the person placing a wager with an Internet
 25 gambling operator shall be treated as payee. For purposes

1 of the preceding sentence, terms used in such sentence
 2 which are also used in section 3402(q)(7) shall have the
 3 meanings given such terms by such section.”.

4 (e) EFFECTIVE DATE.—The amendment made by
 5 this section shall apply to wagers placed with a licensee
 6 after December 31, 2008.

7 **SEC. 4. WITHHOLDING OF TAX ON NONRESIDENT ALIENS.**

8 (a) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—
 9 Subparagraph (A) of section 871(a)(1) (relating to income
 10 not connected with United States business—30 percent
 11 tax) is amended—

12 (1) by striking “and other fixed” and inserting
 13 “, other fixed”, and

14 (2) by adding “and net Internet gambling in-
 15 come,” at the end.

16 (b) EXEMPTION FOR CERTAIN GAMBLING
 17 WINNINGS.—Section 871(j) (relating to exemption for cer-
 18 tain gambling winnings) is amended by inserting before
 19 the period at the end the following: “or to any wagers
 20 placed over the Internet (as such terms are defined in sec-
 21 tion 3402(q)(7))”.

22 (c) WITHHOLDING OF TAX ON NONRESIDENT ALIEN
 23 INDIVIDUALS.—The first sentence of subsection (b) of sec-
 24 tion 1441 (relating to withholding of tax on nonresident
 25 aliens) is amended—

1 (1) by striking “and gains on transfers” and in-
2 serting “gains on transfers”, and

3 (2) by inserting before the period at the end the
4 following: “, and proceeds of net Internet gambling
5 winnings (as defined in section 3402(q)(7)) of more
6 than \$5,000 in any one calendar year”.

7 (d) **EFFECTIVE DATE.**—The amendments made by
8 this section shall apply to wagers placed with a licensee
9 after December 31, 2008.

10 **SEC. 5. TAX ON WAGERS.**

11 (a) **PERSONS LIABLE FOR TAX.**—Subsection (c) of
12 section 4401 (relating to persons liable for tax on wagers)
13 is amended by adding at the end thereof the following sen-
14 tence: “Any person placing a wager with a person who
15 is required to obtain a license within the meaning of sec-
16 tion 4491 but who has failed to obtain such license shall
17 be liable for and pay the tax under this subchapter on
18 all such wagers.”.

19 (b) **TERRITORIAL EXTENT.**—Paragraph (2) of sec-
20 tion 4404 is amended to read as follows:

21 “(2) placed within the United States or any
22 Commonwealth, territory, or possession thereof by a
23 United States citizen or resident.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to wagers made after December
3 31, 2008.

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