

7049

I N   S E N A T E

April 25, 2012

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Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming and Wagering

AN ACT to amend the tax law, in relation to capital awards to vendor tracks

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivi-  
2     sion b of section 1612 of the tax law, as amended by section 6 of part K  
3     of chapter 57 of the laws of 2010, is amended to read as follows:  
4     (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of  
5     this subparagraph, the track operator of a vendor track shall be eligi-  
6     ble for a vendor's capital award of up to four percent of the total  
7     revenue wagered at the vendor track after payout for prizes pursuant to  
8     this chapter, which shall be used exclusively for capital project  
9     investments to improve the facilities of the vendor track which promote  
10    or encourage increased attendance at the video lottery gaming facility  
11    including, but not limited to hotels, other lodging facilities, enter-  
12    tainment facilities, retail facilities, dining facilities, events  
13    arenas, parking garages and other improvements that enhance facility  
14    amenities; provided that such capital investments shall be approved by  
15    the division, in consultation with the state racing and wagering board,  
16    and that such vendor track demonstrates that such capital expenditures  
17    will increase patronage at such vendor track's facilities and increase  
18    the amount of revenue generated to support state education programs. The  
19    annual amount of such vendor's capital awards that a vendor track shall  
20    be eligible to receive shall be limited to two million five hundred  
21    thousand dollars, except for Aqueduct racetrack, for which there shall  
22    be no vendor's capital awards. Except for tracks having less than one  
23    thousand one hundred video gaming machines, each track operator shall be  
24    required to co-invest an amount of capital expenditure equal to its  
25    cumulative vendor's capital award. For all tracks, except for Aqueduct  
26    racetrack, the amount of any vendor's capital award that is not used  
27    during any one year period may be carried over into subsequent years

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD15440-01-2

1 ending before April first, two thousand [thirteen] FOURTEEN. Any amount  
2 attributable to a capital expenditure approved prior to April first, two  
3 thousand [thirteen] FOURTEEN and completed before April first, two thou-  
4 sand [fifteen] SIXTEEN shall be eligible to receive the vendor's capital  
5 award. In the event that a vendor track's capital expenditures, approved  
6 by the division prior to April first, two thousand [thirteen] FOURTEEN  
7 and completed prior to April first, two thousand [fifteen] SIXTEEN,  
8 exceed the vendor track's cumulative capital award during the five year  
9 period ending April first, two thousand [thirteen] FOURTEEN, the vendor  
10 shall continue to receive the capital award after April first, two thou-  
11 sand [thirteen] FOURTEEN until such approved capital expenditures are  
12 paid to the vendor track subject to any required co-investment. In no  
13 event shall any vendor track that receives a vendor fee pursuant to  
14 clause (F) or (G) of this subparagraph be eligible for a vendor's capi-  
15 tal award under this section. Any operator of a vendor track which has  
16 received a vendor's capital award, choosing to divest the capital  
17 improvement toward which the award was applied, prior to the full depre-  
18 ciation of the capital improvement in accordance with generally accepted  
19 accounting principles, shall reimburse the state in amounts equal to the  
20 total of any such awards. Any capital award not approved for a capital  
21 expenditure at a video lottery gaming facility by April first, two thou-  
22 sand [thirteen] FOURTEEN shall be deposited into the state lottery fund  
23 for education aid; and  
24 S 2. This act shall take effect immediately.