

# STATE OF NEW YORK

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4645

2017-2018 Regular Sessions

## IN ASSEMBLY

February 3, 2017

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Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to video gaming machines and disposition of revenues

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 subdivision  
2 b of section 1612 of the tax law, as separately amended by section  
3 1 of part GG and section 2 of part SS of chapter 60 of the laws of 2016,  
4 is amended to read as follows:

5 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of  
6 this subparagraph, the track operator of a vendor track and in the case  
7 of Aqueduct, the video lottery terminal facility operator, shall be  
8 eligible for a vendor's capital award of up to four percent of the total  
9 revenue wagered at the vendor track after payout for prizes pursuant to  
10 this chapter, which shall be used exclusively for capital project  
11 investments to improve the facilities of the vendor track which promote  
12 or encourage increased attendance at the video lottery gaming facility  
13 including, but not limited to hotels, other lodging facilities, entertainment  
14 facilities, retail facilities, dining facilities, events  
15 arenas, parking garages and other improvements that enhance facility  
16 amenities; provided that such capital investments shall be approved by  
17 the division, in consultation with the state racing and wagering board,  
18 and that such vendor track demonstrates that such capital expenditures  
19 will increase patronage at such vendor track's facilities and increase  
20 the amount of revenue generated to support state education programs. The  
21 annual amount of such vendor's capital awards that a vendor track shall  
22 be eligible to receive shall be limited to two million five hundred  
23 thousand dollars, except for Aqueduct racetrack, for which there shall  
24 be no annual limit, provided, however, that any such capital award for  
25 the Aqueduct video lottery terminal facility operator shall be one

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

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1 percent of the total revenue wagered at the video lottery terminal  
2 facility after payout for prizes pursuant to this chapter until the  
3 earlier of the designation of one thousand video lottery devices as  
4 hosted pursuant to paragraph four of subdivision a of section sixteen  
5 hundred seventeen-a of this chapter or April first, two thousand nine-  
6 teen and shall then be four percent of the total revenue wagered at the  
7 video lottery terminal facility after payout for prizes pursuant to this  
8 chapter, provided, further, that such capital award shall only be  
9 provided pursuant to an agreement with the operator to construct an  
10 expansion of the facility, hotel, and convention and exhibition space  
11 requiring a minimum capital investment of three hundred million dollars.  
12 Except for tracks having less than one thousand ~~one~~ **nine** hundred video  
13 gaming machines, and except for a vendor track located west of State  
14 Route 14 from Sodus Point to the Pennsylvania border within New York,  
15 and except for Aqueduct racetrack each track operator shall be required  
16 to co-invest an amount of capital expenditure equal to its cumulative  
17 vendor's capital award. For all tracks, except for Aqueduct racetrack,  
18 the amount of any vendor's capital award that is not used during any one  
19 year period may be carried over into subsequent years ending before  
20 April first, two thousand seventeen. Any amount attributable to a capi-  
21 tal expenditure approved prior to April first, two thousand seventeen  
22 and completed before April first, two thousand nineteen; or approved  
23 prior to April first, two thousand twenty-one and completed before April  
24 first, two thousand twenty-three for a vendor track located west of  
25 State Route 14 from Sodus Point to the Pennsylvania border within New  
26 York, shall be eligible to receive the vendor's capital award. In the  
27 event that a vendor track's capital expenditures, approved by the divi-  
28 sion prior to April first, two thousand seventeen and completed prior to  
29 April first, two thousand nineteen, exceed the vendor track's cumulative  
30 capital award during the five year period ending April first, two thou-  
31 sand seventeen, the vendor shall continue to receive the capital award  
32 after April first, two thousand seventeen until such approved capital  
33 expenditures are paid to the vendor track subject to any required co-in-  
34 vestment. In no event shall any vendor track that receives a vendor fee  
35 pursuant to clause (F) or (G) of this subparagraph be eligible for a  
36 vendor's capital award under this section. Any operator of a vendor  
37 track which has received a vendor's capital award, choosing to divest  
38 the capital improvement toward which the award was applied, prior to the  
39 full depreciation of the capital improvement in accordance with general-  
40 ly accepted accounting principles, shall reimburse the state in amounts  
41 equal to the total of any such awards. Any capital award not approved  
42 for a capital expenditure at a video lottery gaming facility by April  
43 first, two thousand seventeen shall be deposited into the state lottery  
44 fund for education aid; and

45 § 2. This act shall take effect immediately.