

## Chapter Tax 63

### NONPROFIT ORGANIZATION RETAILERS

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**Note:** Chapter LOT 8 was created as an emergency rule effective May 26, 1989. Chapter LOT 8 was renumbered chapter WGC 63 and corrections made under s. 13.93 (2m) (b) 1. and 6., Stats., Register, March, 1995, No. 471. Chapter WGC 63 was renumbered chapter Tax 63 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 7., Stats., Register, October, 2000, No. 538.

**Tax 63.01 Purpose.** The purpose of this chapter is to provide the administrator with the procedures and criteria for contracting with nonprofit organizations to sell break-open lottery tickets for a higher rate of compensation, to establish the nonprofit organization retailer's duties and obligations under the contract, to provide the administrator with the procedures and criteria to terminate or suspend the retailer's contract and to provide the applicant and nonprofit organization retailer an appeal procedure if a contract is denied or a contract is terminated or suspended.

**Note:** Section Tax 63.01 interprets ss. 565.10 (14) and 565.12, Stats.

**History:** Cr. Register, December, 1989, No. 408, eff. 1-1-90; CR 01-088: am., Register February 2002 No. 554, eff. 3-1-02.

**Tax 63.02 Definitions.** In this chapter:

(1) "Administrator" has the meaning specified in s. Tax 61.02 (1).

(2) "Break-open ticket" means a ticket issued by the Wisconsin lottery that is made of laminated paper, partially perforated to permit strips to be torn from one side to reveal play symbols beneath, from which it can be immediately determined whether the ticket is a winner.

(3) "Location" means the place at which the nonprofit organization has been granted the authority to sell lottery tickets or shares by the administrator.

(4) "Nonprofit organization" has the meaning specified in s. 565.10 (14), Stats.

(5) "Wisconsin lottery" has the meaning specified in s. Tax 61.02 (9).

**Note:** Section Tax 63.02 interprets ss. 565.10 and s. 565.12, Stats.

**History:** Cr. Register, December, 1989, No. 408, eff. 1-1-90; CR 01-088: r. and rec., Register February 2002 No. 554, eff. 3-1-02.

**Tax 63.03 Application to become a nonprofit organization retailer.** (1) Any nonprofit organization may apply for a contract to sell break-open tickets by completing the application for a nonprofit organization retailer sales contract prescribed by the administrator and submitting it to the Wisconsin lottery. Applications are available upon request by contacting the Wisconsin lottery. A nonrefundable check for \$25.00 made payable to the Wisconsin lottery shall accompany each application for a contract.

**Note:** Applications and application fees should be mailed or delivered to Wisconsin Lottery, 2135 Rimrock Road, PO Box 8941, Madison WI 53708-8941.

(2) The administrator shall examine the completed application, and based on criteria under s. 565.10 (2) to (5) and (14), Stats., shall either grant a contract or deny the application. The administrator shall grant the contract or deny the application

within 35 business days after the Wisconsin lottery receives the completed application and application fee under sub. (1).

**Note:** Section Tax 63.03 interprets s. 565.10(2) to (5) and (14), Stats.

**History:** Cr. Register, December, 1989, No. 408, eff. 1-1-90; CR 01-088: am., Register February 2002 No. 554, eff. 3-1-02.

**Tax 63.04 Temporary nonprofit organization retailer certificate of authority.** (1) When a nonprofit organization is awarded a contract or a contract renewal under this chapter, the organization shall pay \$10.00 to the Wisconsin lottery for a nonassignable and nontransferable certificate of authority. Included as an addendum to the certificate shall be a list from the contract document, specifying the locations at which the nonprofit organization retailer is authorized to sell break-open tickets. Except as otherwise provided in this section, a certificate of authority may authorize sales at more than one location.

(2) The certificate of authority shall be temporary, limiting nonprofit organization retailer sales to specified locations. A certificate of authority and any amendment of it may authorize a nonprofit organization retailer to sell Wisconsin lottery break-open tickets at more than one location, provided the contract document and certificate indicate a single permanent primary location from which the contract and certificate may not be transferred, in accordance with s. 565.10 (10) and (12), Stats. Any other locations that are subsequently amended to the contract and certificate may not be considered as permanent primary locations.

(3) If the certificate is lost, mutilated or destroyed, the nonprofit organization retailer shall within 15 calendar days request in writing and submit a completed application for a duplicate certificate.

(4) A mutilated certificate shall be surrendered to the administrator upon issuance of a duplicate. A lost certificate, when found, shall be surrendered to the administrator within 15 calendar days of its recovery.

(5) If an organization wishes to sell Wisconsin lottery break-open tickets at a location not specified in its retailer contract, it shall apply to the Wisconsin lottery for an amendment to its retailer contract. The application for an amendment must be approved by the Wisconsin lottery at least 15 calendar days before the nonprofit organization begins selling break-open tickets at the new location.

**Note:** Section Tax 63.04 interprets s. 565.10 (8) to (12), Stats.

**History:** Cr. Register, December, 1989, No. 408, eff. 1-1-90; CR 01-088: am. (1), (3), (4) and (5), renum. and am. (2) (intro.) to be (2) and r. (2) (a) and (b), Register February 2002 No. 554, eff. 3-1-02.

**Tax 63.05 Contract denial procedure.** The procedures prescribed under s. Tax 61.07 shall apply to contract denials under this chapter.

**Note:** Section Tax 63.05 interprets s. 565.10 (1) to (5), Stats.

**History:** Cr. Register, December, 1989, No. 408, eff. 1-1-90; correction made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1995, No. 471.

**Tax 63.06 Nonprofit organization retailer contract terms and conditions.** The nonprofit organization retailer contract under this chapter shall include all of the following terms and conditions:

(1) **CONTRACT PERIOD AND SALES AUTHORIZATION.** The contract shall remain in effect for no less than one year and shall expire on the date shown on the certificate of authority. The retailer does not have a substantial interest in, or a vested or equitable right to, a contract renewal.

(2) **CONTRACT NOT ASSIGNABLE OR TRANSFERABLE.** The contract may not be assigned or transferred from one organization or permanent primary location to another. The list of contract locations may be amended by the administrator using the amendment process under s. Tax 63.04 (5), provided that any amendment is consistent specifically with s. Tax 63.04 (2) and all other applicable administrative rules.

(3) **NONPROFIT ORGANIZATION RETAILER IS NOT AN EMPLOYEE OR AGENT OF THE STATE.** The nonprofit organization retailer is not an employee or agent of the state of Wisconsin and is not entitled to any right, privilege or benefit that would accrue to an employee or agent of the state of Wisconsin.

(4) **INDEMNIFICATION.** The nonprofit organization retailer shall indemnify and hold harmless the state of Wisconsin, the Wisconsin lottery, and the Wisconsin lottery's employees and agents from and against all claims, suits, or action arising from any willful or negligent act or omission of the retailer or its agents while performing under the terms of the retailer contract.

(5) **COMPLIANCE WITH STATE LAW AND RULES.** During the term of the nonprofit organization retailer contract, the retailer shall comply with ch. 565, Stats., the Wisconsin lottery's administrative rules and any other applicable state law and administrative rules.

(6) **CERTIFICATE OF AUTHORITY.** The certificate of authority is not assignable or transferable and shall be conspicuously displayed at every location where there are sales authorized by the certificate.

(7) **NOTIFICATION OF CHANGES IN THE NONPROFIT ORGANIZATION RETAILER'S APPLICATION.** (a) The nonprofit organization retailer shall notify the administrator, in writing, within 15 calendar days of every change of its organizational structure, including but not limited to changes from unincorporated to incorporated status.

(b) The nonprofit organization retailer shall notify the administrator, in writing, at least 30 calendar days in advance of any change in the nonprofit organization retailer's official mailing address.

(c) The nonprofit organization retailer shall notify the administrator, in writing, within 15 calendar days if the retailer, or any of the retailer's officers or directors, as described under s. 565.10 (3), Stats., has been convicted of or pleaded guilty or no contest to a felony, a gambling related offense, or fraud or misrepresentation in any connection.

(8) **SALE OF LOTTERY BREAK-OPEN TICKETS.** The nonprofit organization retailer:

- (a) Shall accept only cash for break-open lottery tickets.
- (b) May not intentionally sell a break-open ticket to a person under 18 years of age.
- (c) May not exchange break-open tickets with any other person or organization, including other Wisconsin lottery retailers.
- (d) May not sell any break-open ticket at a price different than the price authorized by the Wisconsin lottery, condition the sale of a ticket upon the purchase of any other item or service or im-

pose any restriction upon the sale of a ticket unless specifically authorized by the administrator.

(e) May not play the lottery games by using any method other than random, fair chance, or by any method contrary to the principle that every ticket has an equal and random chance of winning.

(f) Shall explain the game rules to potential ticket customers when requested.

(g) May stamp each ticket with the retailer's identification number assigned by the Wisconsin lottery.

(9) **SALES AT UNAUTHORIZED LOCATIONS.** The retailer may not sell tickets purchased from the Wisconsin lottery under this chapter at locations that are not specified in its contract, consistent with s. Tax 63.04 (1).

(10) **RESPONSIBILITY FOR TICKETS.** (a) The nonprofit organization retailer shall be responsible for the condition and security of lottery tickets received. If the retailer's lottery tickets are lost, stolen, mutilated, damaged, unaccountable or otherwise unsalable, the retailer shall be solely responsible for those tickets. The administrator may not reimburse the retailer for those losses.

(b) The nonprofit organization retailer shall report by telephone within 24 hours any stolen tickets to the administrator of security in Madison, Wisconsin.

(11) **PAYMENT FOR BREAK-OPEN TICKETS.** (a) The nonprofit organization retailer shall elect either of the following 2 payment options in its contract:

1. Payment by check or money order upon delivery of tickets to the retailer.
2. Payment through an electronic fund transfer account that shall be debited once a week by the Wisconsin lottery for tickets received the previous week.

(b) All tickets received by the nonprofit organization retailer shall be deemed to have been purchased by the retailer.

(c) The administrator may accept returned tickets for credit only under the following circumstances:

1. If the tickets are defective, the administrator may allow the nonprofit organization retailer to make a return. The retailer shall return as many of the suspected defective tickets as is possible, using packaging that is opaque and can be readily sealed.
2. If the order was filled incorrectly by the Wisconsin lottery, the administrator may allow the nonprofit organization retailer to make a return. The retailer shall return any incorrectly shipped break-open tickets using packaging that is opaque and can be readily sealed.
3. If the shipment of tickets is unopened by the nonprofit organization retailer, the administrator may allow the retailer to make a return. To be considered unopened, the package shall contain all the tickets that it contained when delivered to the retailer and have the shipping seals intact and unopened.

(d) The administrator may assess the retailer a surcharge, an interest penalty, or both, for each dishonored check or electronic fund transfer. The surcharge shall be equal to the costs incurred, incident to such dishonor. Interest may be charged only in the event that a retailer account is referred for overdue collection, and may be assessed at a rate not to exceed 8.5% of the overdue amount.

(12) **PRIZE REDEMPTION.** The nonprofit organization retailer shall redeem all prizes from break-open tickets purchased from that retailer, on the day of sale and at the location of sale.

(13) **RIGHT TO APPEAL SUSPENSION OR TERMINATION.** In the event the administrator suspends or terminates the nonprofit organization retailer's contract, the retailer is entitled to an appeal in accordance with the provisions set forth under s. Tax 61.10.

**(14) SUSPENSION OR TERMINATION PROCEDURE.** The nonprofit organization retailer, upon notice of suspension or termination, shall immediately stop selling lottery tickets. Within 2 weeks of the suspension or termination, the retailer shall make payment on any money owed to the Wisconsin lottery and surrender all unsold tickets and all state owned lottery property.

**(15) GROUNDS FOR SUSPENSION OR TERMINATION.** The nonprofit organization retailer's contract may be suspended or terminated without prior notice by the Wisconsin lottery for any of the following reasons:

(a) The retailer fails to meet one or more of the qualifications for being a retailer under s. 565.10, Stats., or under the Wisconsin lottery's administrative rules.

(b) The retailer violates a provision of ch. 565, Stats., or of this chapter.

(c) The retailer sells break-open tickets at times or locations not authorized by the certificate of authority.

(d) The retailer intentionally sells a break-open ticket to a person under 18 years of age.

(e) The retailer endangers the security of the Wisconsin lottery.

(f) The retailer engages in fraud, deceit, misrepresentation or other conduct prejudicial to public confidence in the Wisconsin lottery.

(g) The retailer fails to remit money owed to the Wisconsin lottery or fails at least 3 times to have sufficient funds available resulting in the electronic fund transfer, check or money order not clearing the bank.

(h) The retailer engages in telecommunication or printed advertising that in the administrator's determination is false, deceptive or misleading.

(i) The retailer fails to follow instructions and procedures for the conduct of any particular lottery game.

**Note:** Section Tax 63.06 interprets ss. 565.10 (7) to (15) and 565.12, Stats.

**History:** Cr. Register, December, 1989, No. 408, eff. 1-1-90; r. and recr. (11) (a), am. (11) (d) and (15) (g), Register, October, 1990, No. 418, eff. 11-1-90; correction in (13) made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1995, No. 471; CR 01-088: am. (1) (2), (3), (5), (6), (7), (8) (b), (c), (d), (g), (9), (10), (11) (a), (d), (12), (13), (14), (15) (intro.), (a), (e), (f), (g) and (h) and r. and recr. (11) (c), Register February 2002 No. 554, eff. 3-1-02; CR 07-087: am. (11) (c) 1. to 3. and (d) Register April 2008 No. 628, eff. 5-1-08.

**Tax 63.07 Limitation on length of suspension.** A suspension shall be limited to a maximum of 45 calendar days, during which time the administrator shall consider the appropriate permanent action to be taken, including, but not limited to, termination of the nonprofit organization retailer contract.

**Note:** Section Tax 63.07 interprets s. 565.12, Stats.

**History:** Cr. Register, December, 1989, No. 408, eff. 1-1-90; CR 01-088: am., Register February 2002 No. 554, eff. 3-1-02.

**Tax 63.08 Prize structure of nonprofit organization retailer break-open ticket games.** The administrator shall offer nonprofit organization retailers under this chapter a selection of at least 2 break-open ticket games with prize structures ranging from not less than 50% of sales to not more than 80% of sales.

**Note:** Section Tax 63.08 interprets s. 565.30, Stats.

**History:** Cr. Register, December, 1989, No. 408, eff. 1-1-90; CR 01-088: am., Register February 2002 No. 554, eff. 3-1-02.

**Tax 63.09 Ticket cost to nonprofit organization retailer and nonprofit organization retailer compensation.** The cost to the nonprofit organization retailer of break-open lottery tickets under this chapter shall be 10% of the face price of the tickets. The retailer shall be entitled to retain all proceeds from sales less redeemed prizes.

**Note:** Section Tax 63.09 interprets s. 565.10 (14) and (15), Stats.

**History:** Cr. Register, December, 1989, No. 408, eff. 1-1-90.