



BINGO-RAFFLE EQUIPMENT EXEMPTION

EVALUATION SUMMARY | JANUARY 2022 | 2022-TE3

| | | | |
|------------------------|---------------|----------------------|---------------------|
| TAX TYPE | Sales and use | REVENUE IMPACT | Minimal |
| YEAR ENACTED | 2001 | (CALENDAR YEAR 2019) | |
| REPEAL/EXPIRATION DATE | None | NUMBER OF TAXPAYERS | Could not determine |

KEY CONCLUSION: The exemption appears to be infrequently used because most qualifying organizations do not purchase their own equipment when they conduct bingos and raffles. However, it can occasionally provide a substantial benefit to qualifying organizations that purchase their own equipment. Additionally, we found that the exemption may not be consistently applied by equipment vendors.

WHAT DOES THE TAX EXPENDITURE DO?

The Bingo-Raffle Equipment Sales and Use Tax Exemption [Section 39-26-720, C.R.S.] exempts bingo-raffle licensees from sales and use tax on purchases, storage, use, or consumption of equipment related to games of bingo or raffles. Bingo-raffle licensees are qualified organizations that have been issued a bingo-raffle license by the Colorado Secretary of State's Office, which allows them to conduct charitable gaming in the state. Qualified organizations must have been in existence for 5 years to obtain a license and include religious, charitable, labor, fraternal, educational, voluntary firefighters', and veterans' organizations, as well as political parties and the Colorado State Fair Authority.

WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

Statute and the enacting legislation for the Bingo Exemption do not explicitly state its purpose; therefore we could not definitively determine the General Assembly's original intent. Based on the operation of the exemption and Department of

Revenue staff, we considered a potential purpose: to clarify that bingo and raffle equipment purchased by eligible nonprofit and tax-exempt bingo-raffle licensees is exempt from sales and use tax since bingo games and raffles are generally used by the organizations for fundraising.

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

The General Assembly may want to consider amending statute to establish a statutory purpose and performance measures.



BINGO-RAFFLE EQUIPMENT SALES AND USE TAX EXEMPTION

EVALUATION RESULTS

WHAT IS THE TAX EXPENDITURE?

The Bingo-Raffle Equipment Sales and Use Tax Exemption [Section 39-26-720, C.R.S.] (Bingo Exemption) exempts bingo-affle licensees from sales and use tax on purchases, storage, use, or consumption of equipment related to games of bingo or raffles. Bingo-affle licensees are qualified organizations that have been issued a bingo-affle license by the Colorado Secretary of State's Office, which allows them to conduct charitable gaming in the state. Qualified organizations must have been in existence for 5 years to obtain a license and include religious, charitable, labor, fraternal, educational, voluntary firefighters', and veterans' organizations, as well as political parties and the Colorado State Fair Authority. These organizations are also allowed to rent bingo locations to run games. However, equipment purchased by gaming establishments and rented to qualified organizations is not exempt from state sales tax.

According to statute [Sections 39-26-720 and 24-21-602(16), C.R.S.], bingo and raffle equipment eligible under the exemption includes "the receptacle and numbered objects drawn from it, the master board upon which such objects are placed as drawn, the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them, the board or signs, however operated, used to announce or display the numbers or designations as they are drawn, public address system, and all other articles essential to the operation, conduct, and playing of bingo...[and] implements, devices, and machines designed, intended, or used for the conduct of raffles and the identification of the winning number or unit and the ticket or other evidence or right to participate in raffles."

House Bill 01-1223 created the Bingo Exemption in 2001, and it has remained substantively unchanged since then. In 2008, House Bill 08-1273 added political parties to the definition of qualified organizations allowed to be licensed to conduct charitable gaming in the state, which also made them eligible for the Bingo Exemption.

To claim the exemption, qualified organizations must report to retailers that they have a charitable gaming license from the Secretary of State. Retailers then report sales to which the exemption applies on Line 12 of Schedule A of the Colorado Retail Sales Tax Return (Form DR 0100).

WHO ARE THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURE?

Statute does not directly state the intended beneficiaries of the Bingo Exemption. We considered the intended beneficiaries of the exemption to be all qualified organizations, as defined in statute [Section 24-21-602(37), C.R.S.], that have received a license to operate a bingo game or raffle by the Colorado Secretary of State. As of the first quarter of Calendar Year 2021, there were 809 bingo and raffle licensees in the state that conducted 1,209 bingo and raffle events that brought in about \$21 million in profits for licensees. EXHIBIT 1 shows the number of licensees, the number of bingo or raffle events, and the profit from charitable games from 2018 through the first quarter of Calendar Year 2021.

EXHIBIT 1. CHARITABLE BINGO AND RAFFLE LICENSEES, EVENTS, AND PROFITS CALENDAR YEARS 2018-2021

| YEAR | NUMBER OF LICENSEES | NUMBER OF BINGO OR RAFFLE EVENTS | PROFIT FROM BINGOS AND RAFFLES ² |
|-------------------|---------------------|----------------------------------|---|
| 2018 | 1,140 | 15,430 | \$29,177,000 |
| 2019 | 1,081 | 15,164 | \$30,149,000 |
| 2020 | 961 | 7,066 | \$24,428,000 |
| 2021 ¹ | 809 | 1,209 | \$20,840,000 |

SOURCE: Office of the State Auditor analysis of Colorado Secretary of State Quarterly Charitable Gaming Report.

¹ Calendar Year 2021 only contains results from the 1st quarter of the year.

² Profit total is before administrative costs of the licensed organization.

To the extent that tax-exempt entities increase purchases of bingo or raffle equipment, retailers that sell and manufacturers that produce this equipment also likely benefit from the exemption.

WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

Statute and the enacting legislation for the Bingo Exemption do not explicitly state its purpose; therefore, we could not definitively determine the General Assembly's original intent. Based on the operation of the exemption and conversations with Department of Revenue (Department) staff, we considered a potential purpose: to clarify that bingo and raffle equipment purchased by eligible nonprofit and tax-exempt bingo-raffle licensees is exempt from sales and use tax since bingo games and raffles are generally used by the organizations for fundraising. Specifically, most of these organizations also qualify as charitable organizations under Section 39-26-718(1)(a), C.R.S., which provides a broader exemption for charitable organizations from sales tax on all purchases as long as they are related to their charitable functions and activities. Therefore, for these organizations, the Bingo Exemption may have been intended to clarify that although bingo games and raffles provide entertainment that may fall outside of the organizations' charitable mission, because they help raise funds that support the organizations, they should still receive a sales tax exemption for related purchases. Additionally, while many of the eligible organizations are income tax exempt, some nonprofit organizations (e.g., fraternal organizations, labor organizations) are not charitable and therefore, not eligible for the broader sales tax exemption for charitable organizations; this exemption may have been intended to extend the exemption to these organizations, which also use bingo and raffles for fundraising purposes.

IS THE TAX EXPENDITURE MEETING ITS PURPOSE AND WHAT PERFORMANCE MEASURES WERE USED TO MAKE THIS DETERMINATION?

We could not definitively determine whether this tax expenditure is meeting its purpose because no purpose is provided for it in statute or its enacting legislation. We determined that the Bingo Exemption may

be meeting the potential purpose we considered to conduct this evaluation, but only to a limited extent because it appears to be infrequently used and may not be consistently applied by equipment vendors.

PERFORMANCE MEASURE: To what extent are bingo-raffle licensees aware of and using the exemption when purchasing bingo and raffle equipment?

RESULT: Based on conversations with eligible organizations and bingo and raffle equipment suppliers, we determined that eligible organizations appear to use the exemption infrequently and that equipment suppliers may not consistently apply it to eligible sales. Specifically, we spoke with six eligible organizations and only one of the organizations was aware of the exemption and had used it when purchasing raffle equipment in the past. The other five organizations we spoke to were either not aware of the exemption or had not used it because they rent equipment instead of purchasing their own equipment. Additionally, we spoke with two bingo and raffle suppliers in the state and one reported that they apply the exemption to sales to eligible organizations, and the other reported that it had not been applying it. Although exempt organizations can apply to the Department for a refund if they are charged sales taxes on eligible purchases, we lacked data necessary to determine whether any had done so.

WHAT ARE THE ECONOMIC COSTS AND BENEFITS OF THE TAX EXPENDITURE?

It is likely that the Bingo Exemption had only a minimal revenue impact to the State in Calendar Year 2019 and likely only provides benefits to a few beneficiaries that purchase bingo or raffle equipment instead of renting it. The Department was not able to provide comprehensive data on the Bingo Exemption because retailers report the exemption on the “other exempt sales” line of the Schedule A of the Colorado Retail Sales Tax Return (Form DR 0100), which aggregates several other exemptions and cannot be disaggregated for analysis. However, we

were able to assess its usage based on sales tax return information we obtained from GenTax, the Department's tax processing and information system, for suppliers and some manufacturers of bingo and raffle equipment in the state. Specifically, suppliers and manufacturers that distribute bingo and raffle equipment in Colorado are required to be licensed with the Colorado Secretary of State, and we were able to examine the Calendar Year 2019 sales tax returns of four of the six suppliers licensed in Colorado to distribute bingo and raffle equipment (we could not find a sales tax return for two suppliers in GenTax). Those suppliers reported a minimal amount of exempt sales on the Schedule A of the Colorado Retail Sales Tax Return, though we cannot report the amount in order to protect confidential taxpayer information. Additionally, we were able to find sales tax returns for three of the 12 manufacturers licensed to distribute bingo and raffle equipment in the state, and none of the three reported exempt sales. Based on our discussions with stakeholders, it is uncommon for eligible organizations to purchase equipment directly from manufacturers, so it appears that there are few exempt sales made by manufacturers.

To quantify the potential impact of the exemption we discussed the typical cost of equipment with stakeholders. One supplier reported that the price of one bingo machine generally ranges from \$5,000 to \$15,000, which could result in a state revenue impact of \$145 to \$435 for each bingo machine sold. Therefore, based on information from stakeholders, the revenue impact of the Bingo Exemption is likely to remain relatively small.

Additionally, statute [Section 29-2-105(1)(d)(I), C.R.S.] mandates that local governments that have their sales taxes collected by the State apply most of the State's sales tax exemptions, including the Bingo Exemption. Therefore, this exemption could reduce local sales and use tax revenue to a small extent, although we also lacked the data necessary to estimate this impact. Furthermore, home rule cities and counties established under Article XX, Section 6 of the Colorado Constitution that collect their own sales and use taxes have the authority to set their own tax policies independent from the State and

are not required to exempt bingo and raffle equipment from their local sales and use taxes.

WHAT IMPACT WOULD ELIMINATING THE TAX EXPENDITURE HAVE ON BENEFICIARIES?

Although the Bingo Exemption appears to be used infrequently, eliminating the expenditure could occasionally have some financial impacts on the qualifying organizations that make purchases of bingo or raffle equipment. Charitable organizations told us that they typically rent equipment and for these organizations, eliminating the exemption would have no impact. For those that choose to purchase the equipment, however, the exemption can provide a substantial savings during the initial purchase of equipment or when replacing old equipment. For example, one organization told us that they made a large initial purchase of around \$45,000 for computer equipment to start conducting raffle games, for which the exemption would have provided a \$1,305 reduction in their after-tax cost, based on the 2.9 percent state sales tax rate. An organization would also receive a reduction of the same or similar amount when replacing old or broken computer equipment used for raffle games. Every licensed organization we spoke to stated that they believed that the exemption was important, even if they had not previously used it. However, organizations and retailers we spoke to confirmed that purchases are infrequent for the organizations that purchase rather than rent equipment from for-profit bingo businesses. Further, if the exemption was eliminated, organizations would no longer receive the exemption from local sales taxes in jurisdictions for which the State collects sales taxes.

ARE THERE SIMILAR TAX EXPENDITURES IN OTHER STATES?

We examined the tax laws of the seven states that surround Colorado and found that only Nebraska has a similar expenditure. In Nebraska, all licensed bingo organizations must pay Nebraska sales and use tax, unless they are a nonprofit or religious organization, educational institution, or governmental entity. The other states impose specific bingo taxes on charitable organizations or do not allow charitable

organizations to be exempt from state sales tax when purchasing bingo equipment. For example, Kansas imposes a 3 percent enforcement tax on all reusable cards or hand-held bingo monitors for all charitable gaming organizations, and Oklahoma imposes a \$0.01 tax on every bingo card and a 10 percent tax on any other bingo equipment sold for all organizations, except for veterans' organizations or group homes for mentally disabled individuals. In Arizona, New Mexico, and Wyoming, bingo purchases are not tax exempt, and bingo games are illegal in Utah.

ARE THERE OTHER TAX EXPENDITURES OR PROGRAMS WITH A SIMILAR PURPOSE AVAILABLE IN THE STATE?

The Sales to Charitable Organizations Sales and Use Tax Exemption [Section 39-26-718(1)(a) and 713(2)(d), C.R.S.] exempts charitable organizations from sales and use tax on tangible personal property used in the conduct of the organizations' regular charitable functions and activities. For purposes of the exemption, charitable organizations are entities organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes; organizations that foster national or international amateur sports competition or prevent cruelty to animal or children; and veterans' organizations registered under section 501(c)(19) of the Internal Revenue Code [Section 39-26-102(2.5), C.R.S.].

WHAT DATA CONSTRAINTS IMPACTED OUR ABILITY TO EVALUATE THE TAX EXPENDITURE?

The Department was not able to provide data on the amount claimed for the Bingo Exemption. Retailers are required to report the value of the purchases made by licensed qualified organizations on the Colorado Retail Sales Tax Return (Form DR 0100). However, they report the exemption on Line 12 of Schedule A, which is also used to report 15 other exemptions. Although we were able to assess the revenue impact by looking up sales tax returns filed by licensed bingo suppliers and manufacturers in GenTax, we could not find returns for all of the potential vendors of exempt equipment in the state.

In order to more accurately determine the exemption's revenue impact, the Department would have to create a new reporting line on the Colorado Retail Sales Tax Return and then capture and house the data collected on that line, which would require additional resources (see the Tax Expenditures Overview section of the *Office of the State Auditor's Tax Expenditures Compilation Report* for additional details on the limitations of Department data and the potential costs of addressing the limitations).

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

THE GENERAL ASSEMBLY MAY WANT TO CONSIDER AMENDING STATUTE TO ESTABLISH A STATUTORY PURPOSE AND PERFORMANCE MEASURES FOR THE BINGO EXEMPTION. As discussed, statute and the enacting legislation for the exemption do not state the exemption's purpose or provide performance measures for evaluating its effectiveness. Therefore, in order to conduct our evaluation, we considered a potential purpose for the deduction: to clarify that bingo and raffle equipment purchased by eligible nonprofit and tax-exempt bingo-raffle licensees is exempt from sales and use tax since bingo games and raffles are generally used by the organizations for fundraising. We identified this purpose based on the operation of the exemption and discussions with Department staff. We also developed a performance measure to assess the extent to which the exemption is meeting its potential purpose. However, the General Assembly may want to clarify its intent for the exemption by providing a purpose statement and corresponding performance measure(s) in statute. This would eliminate potential uncertainty regarding the exemption's purpose and allow our office to more definitively assess the extent to which the exemption is accomplishing its intended goal(s).