

The Two-Sided Coin: Casino Gaming and Casino Tax Revenue in Indiana

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Legal gambling in Indiana comprises various forms and venues ranging from large-scale commercial casinos with Vegas-like slot machines and table games to small stakes gaming on bingo, raffles, and pull-tab ticket games conducted by nonprofit organizations.

The array of legal gaming in Indiana has grown to include lotto drawings and instant ticket games operated by the Hoosier Lottery and pari-mutuel betting at horse racetracks and off-track betting facilities. A mere twenty years ago, these forms of gambling were illegal in Indiana. This changed on November 8, 1988, when voters repealed the state's constitutional

prohibition on lotteries. At that time, Article 15, Section 8 of the Indiana Constitution stated that, "[n]o lottery shall be authorized, nor shall the sale of lottery tickets be allowed." While this provision specifically prohibited lotteries and lottery ticket sales, it had been broadly interpreted over the years to prohibit other forms of gaming.¹ Thus, by repealing Article 15, Section 8, the voters gave the Indiana legislature the responsibility for deciding what forms of gaming, if any, could be conducted legally in Indiana.

In 1989, legislation was enacted to legalize the Hoosier Lottery and pari-mutuel betting on live horse races. The following year, legislation

was enacted authorizing nonprofit organizations to conduct bingo, raffles, and other small stakes gaming often referred to as charity gaming. The legislature expanded the pari-mutuel law in 1992 to allow off-track betting facilities and, in 1993, after several years of consideration, enacted legislation to allow gaming on riverboat casinos.

In the years since, the legislature has augmented gaming laws at various times for various reasons, including allowing dockside and round-the-clock gaming at the riverboat casinos, the Hoosier Lottery to participate in foreign lotteries, and to establish a casino at French Lick. In 2007, the legislature authorized

Racetrack Casinos

The legislature legalized gaming on electronic gaming devices (EGDs) at Indiana's two pari-mutuel horse racetracks in May 2007. The slot machine gaming law provides for only two such gaming facilities, one located at Hoosier Park in Anderson and one at Indiana Downs in Shelbyville. The law limits each facility to 2,000 EGDs and does not allow the facilities to operate table games. Both of the racetrack gaming facilities commenced operation in June 2008.

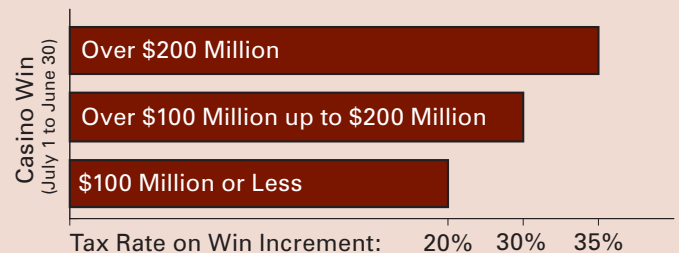
The slot machine gaming law imposes an initial license fee on the facility owners, a continuing annual license fee after the first five years of operation, state and county wagering taxes, and a funding requirement for certain horse racing purposes. The law requires each racetrack owner to pay an initial license fee of \$250 million to the state. The license fee was payable in two installments, with \$150 million due before November 1, 2007, and the balance due before November 1, 2008. The revenue from the initial license fee has been directed to property tax relief in 2007 and 2008. After the first five years of operation, the facility owner must pay an annual license fee equal to \$100 per EGD operated during the year. The revenue from this annual license will also be directed to property tax relief.

The slot machine gaming law also established three wagering taxes to be paid on the win generated by the EGDs at the racetrack facilities. However, the law does not require payment of an admission tax. The state wagering tax is imposed on the graduated rate structure specified in the adjoining figure. All revenue from this tax is dedicated to property tax relief.

The racetrack facilities began operations during the last month of Fiscal Year 2008, with the Hoosier Park Casino opening on June 1 and the Indiana Live Casino at Indiana Downs opening on June 9. The two facilities combined to generate approximately \$28.9 million in win during June, with the wagering tax liability totaling about \$6.5 million.

Two other wagering taxes are imposed by the slot machine gaming law. A county wagering tax is imposed at the rate of 3 percent of the win generated at each facility, with the annual tax liability for each limited to \$8 million. The revenue collected from each facility is distributed to local governments within Madison County and Shelby County where the facilities are located. A third wagering tax is imposed at the rate of 1 percent of the win generated at each facility, with the revenue from this tax being distributed as a subsidy to the French Lick Casino. The tax revenue generated from the June 2008 win was about \$195,000 for the county wagering tax, and about \$65,000 for the supplemental wagering tax.

GRADUATED WAGERING TAX STRUCTURE FOR RACETRACK SLOT MACHINES



Source: Indiana Revised Code Section 4-35-8-1(a)

slot machine gaming at the state's two horse racetracks (see Racetrack Casinos sidebar) and, in 2008, authorized small stakes gaming on pull-tabs and the like in bars and taverns around the state.

This article focuses on the thirteen years of operation of riverboat casinos in Indiana and the growth in the supply of casino games statewide and explains the state excise taxes imposed on the casino owners. It also provides a history of the revenue generated from these excise taxes and reports the purposes for which these revenues have been utilized. We pay particular attention to the state's riverboat wagering tax, which is imposed on the casino's gaming win. The win comprises the wagering dollars retained by the casinos after prize amounts have been paid to winning players. The other excise tax imposed on the riverboat casinos is the riverboat admission tax, a head tax based on the number of gamblers entering the casinos. Note that all years referenced in this article are fiscal years unless otherwise noted.²

The wagering tax is by far the dominant revenue producer of the two excise taxes: it yielded \$729.8 million in total revenue during 2008, compared to \$81.2 million for the admission tax. More importantly, the wagering tax has become a major source of funding for the state's property tax relief program. In 2008, about \$486.3 million in wagering tax revenue was directed to property tax relief. What's more, all wagering tax revenue from the two new racetrack casinos is dedicated to property tax relief. The tax on the racetrack casinos generated almost \$5 million for property tax relief in 2008 based on less than one month of operations.

Supply of Riverboat Gaming

The riverboat gaming law authorized eleven casino licenses. The law established the Indiana Gaming Commission to approve license applicants, to regulate the gaming

■ TABLE 1: Indiana Casino Locations and Opening Dates, 1995 to 2006

Current Casino Name	City, County	Opening Date at Location
Casino Aztar	Evansville, Vanderburgh	12/8/95
Majestic Star Casino I	Gary, Lake	6/11/96
Majestic Star Casino II ¹	Gary, Lake	6/11/96
Horseshoe Casino—Hammond ²	Hammond, Lake	6/29/96
Grand Victoria Casino	Rising Sun, Ohio	10/4/96
Argosy Casino	Lawrenceburg, Dearborn	12/13/96
Ameristar Casino East Chicago ³	East Chicago, Lake	4/18/97
Blue Chip Casino	Michigan City, LaPorte	8/22/97
Horseshoe Casino—Southern Indiana ⁴	Elizabeth, Harrison	11/20/98
Belterra Casino	Vevey, Switzerland	10/27/00
French Lick Casino	French Lick, Orange	11/1/06

1. Formerly the Trump Casino

2. Formerly the Empress Casino

3. Formerly the Resorts East Chicago, the Harrahs Casino and the Showboat Casino

4. Formerly Caesars Casino

Source: Indiana Gaming Commission

operations of each licensee, and to license and regulate the occupations and suppliers serving the riverboat casinos.

The 1993 riverboat gaming law as originally enacted required five riverboat casinos to operate on Lake Michigan, five to operate on the Ohio River, and one to operate on Patoka Lake in southern Indiana. The law also required that voters had to approve casino gaming at a referendum before a casino could be licensed to operate in their county or city.

Casino Aztar, located in Evansville, was the first casino to begin operating in December 1995. While the Lake Michigan and Ohio River licenses were filed and operating by 2000, the Patoka Lake license was never utilized because the Army Corps of Engineers would not allow a casino to operate on the lake. As a result, the statutory authority for the Patoka Lake license was repealed in 2003. In its place, the legislature authorized a casino to operate in a special historic district in French Lick. The French Lick casino opened in November 2006 and represents the eleventh and last riverboat casino to open under the current riverboat gaming law. **Table**

1 lists the state's riverboat casinos by location and opening date.

In December 1995, Casino Aztar opened with 1,267 electronic gaming devices (EGDs) and 70 table games. Since that first riverboat casino, ten more casinos have opened, supplying almost 17,000 additional EGDs and almost 600 additional table games. However, nearly all of this supply growth occurred between 1996 and 2001, with the opening of the Lake Michigan and Ohio River casinos. Belterra Casino, the tenth riverboat casino to open, began operating in October 2000 and registered its first full fiscal year of operations in 2002. Since 2002, however, the supply of EGDs and table games statewide has remained relatively unchanged (see **Figure 1**). From 2002 to 2008, only one new riverboat casino (the French Lick Casino) opened and only one major expansion was completed when a new and larger facility was opened in 2006 by Blue Chip Casino in Michigan City.

The number of EGDs supplied by casinos in Indiana increased by an average of 6.7 percent per year from 1997 (the first full fiscal year of casino gaming) to 2008. During that time, the number of table games supplied

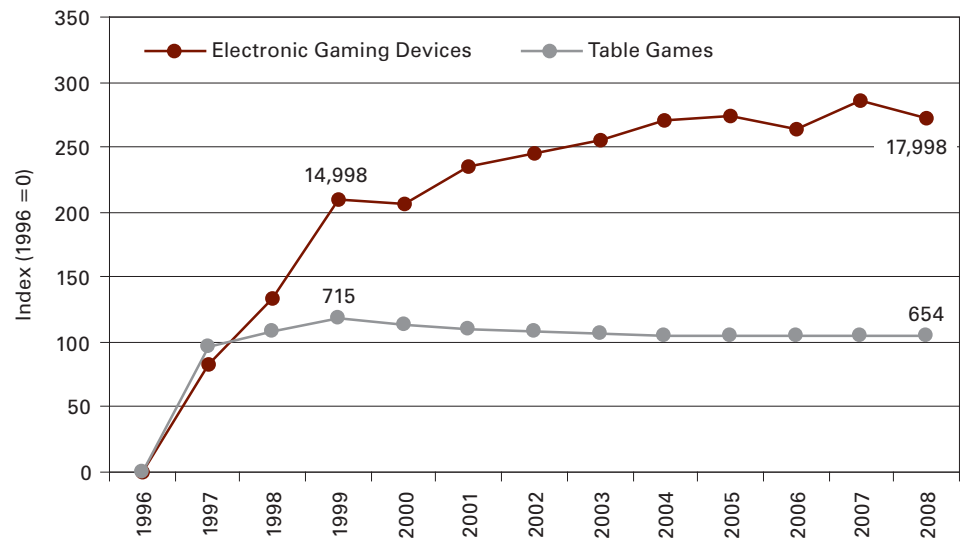
at casinos increased by about 3.2 percent annually. However, **Figure 1** highlights the two distinct periods of supply growth. While the supply of EGDs grew by an average of 13.5 percent per year from 1997 to 2002, EGD supply has increased by only about 0.9 percent per year since 2003. Table games show a similar change in annual supply, growing by about 7.2 percent annually through 2002, but growing by only 0.1 percent per year since 2003. Most of the post-2002 growth is attributable to the French Lick Casino opening, which added roughly 1,200 EGDs and 45 table games to the state totals beginning in 2007. To a much lesser extent, the Blue Chip expansion had an impact on the state EGD totals by adding about 450 EGDs. Excluding French Lick, the supply of EGDs and table games has actually declined slightly since 2003, showing average declines of about 0.5 percent and 1.1 percent per year, respectively.

Riverboat Casino Taxes

The riverboat gaming law imposes two excise taxes on the casino owners. The riverboat admission tax generated \$729.8 million in 2008 and the admission tax generated \$81.2 million for state programs and local government units. The state share of the two riverboat casino taxes totaled about \$616.1 million, with about \$486.3 million being directed to property tax relief. The two casino taxes have become the fifth largest source of revenue to the state following the sales tax, the individual income tax, the motor fuel tax, and the corporate income tax. Moreover, since 1996, the riverboat casinos have paid about \$5.9 billion in wagering taxes and about \$1.1 billion in admission taxes.

The imposition of the taxes for admission and wagering depends on whether the casino owner chooses to conduct gaming excursions or dockside gaming. The riverboat gaming law imposes a number

■ **FIGURE 1: Casino Games in Indiana—Indexed to 1996, 1996 to 2008**



Note: Labels show total number of electronic gaming devices and table games
Source: Indiana Gaming Commission

of regulatory restrictions and requirements on the riverboat casinos. Unlike neighboring states with riverboat gaming, Indiana did not impose regulatory restrictions such as betting limits, loss limits, or gaming machine or position limits. Like other states, Indiana did impose an excursion requirement on the riverboat casinos. Under the excursion requirement, the riverboat casinos had to leave the dock and cruise while gaming was conducted on-board except when water or weather conditions posed a danger for conducting the gaming excursions. The law provides for a maximum excursion length of four hours but, as a practice, the casinos tended to operate two-hour excursion schedules. Dockside gaming was authorized in June 2002 to enable the riverboat casinos to more fully utilize their existing capacity and tap their respective geographic markets. The dockside gaming regime permits a riverboat casino to remain permanently moored at the dock, allowing continuous ingress and egress of gamblers to and from the casinos. While dockside gaming was implemented by all the riverboat casinos in August 2002, the riverboat

casinos are still permitted under the current law to conduct gaming excursions if ownership so chooses.

Riverboat Admission Tax

Under the gaming excursion regime, the admission tax is \$3 per patron admitted to a gaming excursion. Thus, for every gaming excursion (depending on the excursion schedule of the casino), the casino owner pays the \$3 admission tax for each player on board the riverboat casino. The admissions comprise: (1) the turnstile count reflecting when patrons initially enter the casino and embark on an excursion; and (2) additional or multiple excursions reflecting patrons who have stayed on the riverboat for an additional gaming excursion.

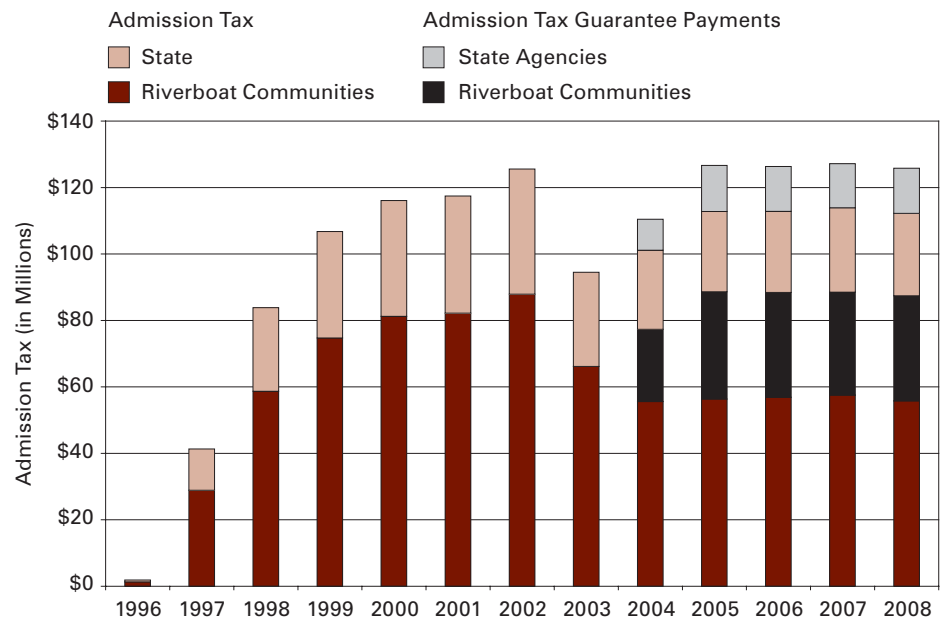
The tax regime for riverboat casinos that conduct dockside gaming is markedly different. While the casino owner continues to pay the \$3 admission tax, the tax is paid on a different tax base. The tax base for dockside casinos is only the turnstile count or the number of patrons entering the riverboat casino. **Figure 2** shows annual admission tax totals and the amounts distributed to state and local government. Local government

entities (cities, counties, and county convention bureaus) where the riverboat casinos are docked receive 70 percent of the admission tax revenue. The remaining 30 percent of the admission tax is distributed to the state for mental health programs, horse racing industry initiatives, and the state fair.

Admission tax collections declined significantly after 2002 when all of the riverboat casinos switched from the excursion gaming to the dockside gaming regime, resulting in an estimated permanent reduction of roughly 38 percent in the yield of the admission tax. This drop occurred because about 52 percent of the admission tax base under the excursion gaming regime was comprised of players admitted to multiple excursions. However, the base shrinkage was mitigated somewhat by the 20 percent to 30 percent increase in the number of patrons entering the casinos (represented by the turnstile count) due to dockside gaming. With the expected decline in admission tax collections, the dockside gaming legislation guaranteed that each entity receiving admission tax revenue would continue to receive its 2002 yield. Thus, the state programs and local units continue to receive the admission tax collected throughout the fiscal year, but each program and local unit also receives a transfer payment from the state to make-up the fiscal year shortage in collections. The guarantee payment for a fiscal year is made during the following fiscal year from the state's share of wagering tax revenue.³ The black and gray bars first appearing during 2004 in **Figure 2** describe the state and local guarantee payments.

The French Lick Casino admission tax is higher and distributed differently. The tax is \$4 per patron based on the turnstile count at that venue and there is no guarantee payment for entities receiving this revenue since the casino was

FIGURE 2: Annual Admission Tax Totals and Amounts Distributed to State and Local Government, 1996 to 2008



Source: Indiana Legislative Services Agency

authorized and opened after the dockside legislation was enacted. Thirty-eight percent of the admission tax revenue from the French Lick Casino is distributed to the state for economic development initiatives in that region and for preservation of the West Baden Springs Hotel. The remainder is split between local units in Orange County, Crawford County, and Dubois County.

Beyond the downward shift in admission tax collections wrought by dockside gaming, the yield from the tax rose only nominally after dockside gaming was implemented. From 2004 to 2007, the admission tax distributions shown in **Figure 2** grew by an annual average of only 1.4 percent. More importantly, distributions declined uncharacteristically in 2008 by about 2.8 percent, even with a full year of collections from the French Lick Casino and its \$4 admission tax. Admission tax yields were down at nine of eleven casinos in 2008, with six casinos registering year-over-year declines averaging 2.6 percent. More notable were the declines registered

at Blue Chip Casino (down 25.7 percent), Casino Aztar (down 14.5 percent), and Caesars (down 10.6 percent). The Blue Chip decline is a direct result of stiff competition from a new tribal casino that opened at the beginning of August 2007 only ten to fifteen miles away in New Buffalo, Michigan. Similarly, some of the decline at Casino Aztar and Caesars could be attributable to the same phenomenon, as customers living closer to French Lick shift their play from Casino Aztar and Caesars to the French Lick Casino.

Riverboat Wagering Tax

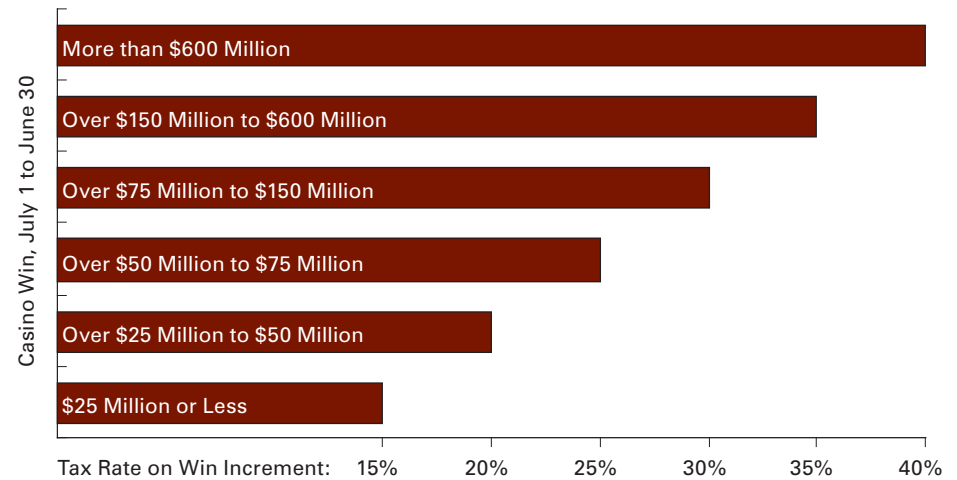
Before July 2002, the riverboat casinos paid a flat rate wagering tax equal to 20 percent of the casino win. This rate increased to 22.5 percent in July 2002 and remains the wagering tax rate imposed on riverboat casinos that conduct gaming excursions. The dockside gaming regime, which all of the riverboat casinos switched to in August 2002, requires the casino owner to pay the wagering tax on a graduated rate schedule in lieu of the

flat rate tax. The current graduated rate schedule is specified in **Figure 3**.

The rate schedule implemented in 2002 had five tax brackets and topped out at 35 percent of the annual win generated by a casino exceeding \$150 million. The 40 percent tax bracket was added by 2007 legislation. **Figure 4** shows annual wagering tax totals and the amounts distributed to state and local government.

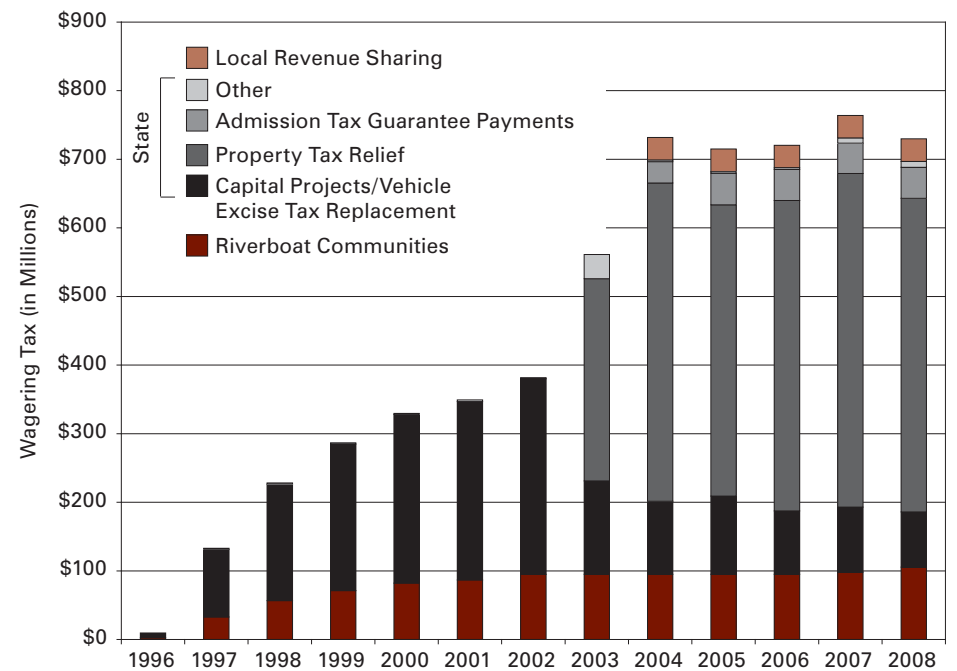
Until 2003, 25 percent of the wagering tax was distributed to the city or county where the casino was docked, with the balance going to the state. The state's share was used for capital projects and to replace local motor vehicle excise taxes. However, the combination of expanding the wagering tax base via dockside gaming and increasing the wagering tax rate resulted in a substantial permanent increase in wagering tax revenue. These revenue effects are discernible beginning in 2003, when the amount of wagering tax distributed jumped from \$381.5 million to \$561.1 million. It's estimated that dockside gaming led to a 12 percent to 13 percent average increase in the casino win, while the wagering tax rate was, on average, increased by about 40 percent. Together, these two changes increased collections during 2003 by about 55 percent, with 2004 collections about 73 percent higher than the 2002 collection total.⁴ Since these revenue effects were anticipated, the dockside gaming legislation capped the local wagering tax shares at the amount each local government unit received in 2002. This ensured that the additional yield from the wagering tax due to the base expansion and the rate increase would accrue to the state. The legislation also limited the annual amount of state revenue going to capital projects and local motor vehicle excise tax replacement. A new revenue sharing program was established for non-gaming communities and a new and sizeable

FIGURE 3: Graduated Rate Schedule for Wagering Taxes, 2008



Source: Indiana Revised Code Section 4-33-13-1.5(b)

FIGURE 4: Annual Wagering Tax Totals and the Amounts Distributed to State and Local Government, 1996 to 2008



Source: Indiana Legislative Services Agency

distribution was created for state property tax relief programs.

Similar to recent admission tax trends, the wagering tax has shown nominal growth since the upward shift in 2003 and 2004 caused by dockside gaming and the concurrent wagering tax increase. In particular, from 2004 to 2007, the annual

wagering tax distributions grew by only 1.4 percent per year. It's important to note that the distribution in 2004 is abnormally high because the monthly distribution schedule for the wagering tax was accelerated. Prior to this time, there was a one-month lag in distributions, with the wagering tax collected in one month

being distributed to state and local accounts the following month. The 2004 change involved distributing revenue in the same month that it is collected, resulting in thirteen months of wagering tax collections being distributed to state and local accounts during 2004 and the “drop” in 2005. From 2005 to 2007, revenue trended upward again—with the French Lick Casino helping to generate fairly robust growth of about 6 percent in 2007. French Lick contributed about \$13 million to the total in 2007 and about \$24 million in 2008. Like the admission tax though, 2008 wagering tax distributions experienced a significant decline of about 4.5 percent despite a full year of collections from the French Lick Casino. The 2008 wagering tax yields were down at eight of the eleven casinos, with five casinos averaging a decline of about 4.8 percent. What’s more, the decline in wagering tax collections was quite severe at Blue Chip Casino (down 31.8 percent) and Casino Aztar (down 13.3 percent), and less so at Caesars (down 5.6 percent).

As to the state share of the wagering tax, it increased from a fixed 75 percent share each year to over 83 percent in 2003 and has hovered above 80 percent since. Part of the increase in 2003 was attributable to the revenue sharing program being delayed for one year and the revenue sharing distribution being redirected to the state general fund. This impact is shown by the bulge in other state distributions in 2003. Nevertheless, the increased state share is also attributable to the cap placed on local distributions. Through 2007, the state share of the wagering tax yield increased steadily to almost 83 percent of the total, but then declined to about 81 percent in 2008 when wagering tax revenue registered an annual decline. The property tax relief distribution reflects the net amount of wagering

“In 2008 alone, the wagering tax distribution to state and local government in Indiana totaled \$729.8 million.”

tax going to property tax relief after subtraction of the admission tax guarantee payments (see **Figure 2**). Wagering tax revenue directed to property tax relief rose rapidly from \$294.7 million in 2003 to \$464 million in 2004. From that point, the amount has been relatively stable, but registered a decline of about 6 percent from \$486.3 million in 2007 to \$457.3 million in 2008. While the French Lick Casino pays according to the graduated wagering tax schedule, the revenue is distributed differently than wagering tax revenue from the other riverboat casinos. A total of 56.5 percent of the revenue is directed to the state, with two-thirds going to property tax relief and the balance going to preservation of the West Baden Springs Hotel. The remainder is split between local units in Orange County.

Conclusion

The riverboat casino businesses have paid a total of about \$5.9 billion in riverboat wagering tax and about \$1.1 billion in riverboat admission tax since 1996. In 2008 alone, the wagering tax distribution to state and local government in Indiana totaled \$729.8 million, with the distribution of riverboat admission taxes of \$81.2 million. While both taxes experienced radical growth from 1996 through 2004, revenue growth from 2004 to 2007 was nominal at best. Moreover, admission tax and wagering tax distributions experienced marked declines of 4.5 percent and 2.8 percent, respectively, in 2008. These recent revenue patterns are certainly grist for additional research as to the adequacy and future growth potential of both casino taxes.

Nonetheless, given the sizeable amount of riverboat wagering tax that is being directed to property tax relief, it is essential that the growth potential of this tax be assessed. This research should: (1) evaluate the long-run growth potential of the wagering tax and derive estimates of this expected growth rate; and (2) evaluate the extent to which the wagering tax is subject to short-run economic shocks—most importantly, the rate at which the wagering tax may decline during periods of economic downturn. Also, since Kentucky and Ohio, which represent significant market areas for Indiana casinos, continue to consider the option of casino gaming, it is equally as important to evaluate the potential impact of competition from casinos in these states on the revenue-generating capacity of Indiana casinos. ■

Notes

1. For instance, in *State v. Nixon* (1979), 270 Ind. 192, 384 N.E.2d 152, the Indiana Supreme Court held that pari-mutuel wagering on horse races was unconstitutional under the lottery prohibition in Article 15, Section 8.
2. References the state fiscal year which begins on July 1st and ends on June 30th of the year denoted.
3. The guarantee payment for the 2003 shortage was made in 2004. This is why there is no guarantee payment recorded for 2003.
4. Up until 2004, distributions lagged collections by one month. Thus, fiscal distributions and collections totals could vary significantly. The percentage increases reported are based on collections during the fiscal year and may vary somewhat from the changes in distributions. The 2004 distributions included thirteen months of collections because the distribution schedule was changed to distributing a month’s collections at the end of the month rather than during the following month.