

An enterprise of the Pascua Yaqui Tribe, Casino Del Sol is Arizona's only Forbes Travel Guide Four-Star and AAA Four Diamond Resort. Located in Tucson, the resort is an entertainment oasis in the Sonoran Desert offering 215 luxurious guest rooms and more than 22,000 square feet of gaming, including 1,075 slot machines and 24 table games.



# The State of Indian Gaming in Arizona

BY HEIDI McNEIL STAUDENMAIER

**T**ribal gaming has been a thriving industry in Arizona for nearly 25 years, with hopes that the success will continue in the future.

## TRIBES' PATH TO GAMING IN ARIZONA

Following the enactment of the Federal Indian Gaming Regulatory Act ("IGRA") by Congress in 1988, the road to tribal gaming in Arizona was not without challenges. Extensive litigation involving the tribes, the state of Arizona and others ensued for nearly a decade. Gaming compacts were finally agreed upon and approved by the United States Secretary of the Interior, and were in effect from 1993 to 2003.

Prior to the expiration of these initial compacts, the Arizona voters approved Proposition 202 in November of 2002. This statewide ballot measure authorized the continuation of tribal gaming beyond the then-current compact terms. There-

after, new compacts were executed with 10-year terms and provisions for extensions.

Many of the existing compacts are set to expire sometime in the next 5-8 years. Certain tribes have been negotiating with the state for new compacts and/or compact amendments since late 2016.

Per the Arizona Department of Gaming ("ADG"), 16 tribes currently operate 24 Class III casinos around the state of Arizona. Another five Tribes do not have casinos, but have gaming machine transfer rights they may lease to other tribes under the compacts. As of January 1, 2018, the Hopi Tribe was the only one without a gaming compact – although that could change sometime in 2018.

The current compacts restrict the types and amount of gaming permitted at the Arizona tribal casinos. Class III slot machines, blackjack, jackpot poker, Keno, lottery, and pari-



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mutel wagering on horse and dog racing, and off-track wagering are legal. All other forms of Class III gaming are not permitted. Internet gaming in any form is prohibited. The tribes may operate up to 40 Class II gaming devices at their casinos; however, any number above 40 counts against the tribe's overall Class III machine allocation. [Source: Arizona tribal-state compacts]

The compacts limit the number of slot machines per tribe and per gaming facility – based upon the tribe's membership numbers and the location of the tribe. These gaming machine allocations range from 475 to 2,400 devices. The total number of machines permitted at a single tribal casino varies among the tribes. [Source: Arizona tribal-state compacts]

The tribes are permitted to operate additional gaming devices (beyond their current allocation number) acquired through transfer agreements with other tribes. The maximum amount permitted in the state, including through the transfer agreements, is 18,158 slot machines. [Source: ADG website and compacts]

As of January 1, 2018, there were more than 15,000 Class III slot machines currently in operation. The maximum number of slot machines allowed in any casino is 1,301, and there is a wager limit of \$29 per play for most tribes. [Source: ADG website]

## **RESTRICTIONS ON TRIBAL GAMING**

The current compacts and appendices require:

- A minimum theoretical percentage payout of 80 percent for slot machines.
- A minimum theoretical percentage payout of 83 percent for video poker games, and 75 percent for keno.
- A maximum of 43 casinos in the state – which includes a combined maximum of 29 casinos for gaming tribes that had casinos at the time the 2003 compact took effect. This also includes a combined maximum of 14 casinos for non-gaming tribes that did not have casinos in 2003 (such as the Navajo Nation).
- If a tribe leases its slot machine rights to another tribe, the number of casinos that the first tribe can operate is reduced.

[Source: compacts]

As of January 1, 2018, ADG reports the following Class III slot machines in operation at the tribal casinos:

- Ak-Chin – 1,089
- Cocopah – 502
- Colorado River – 532
- Ft. McDowell Yavapai – 860
- Fort Mojave – 250
- Gila River – 828 (Lone Butte), 921 (Vee Quiva), 937 (Wild Horse Pass)
- Navajo – 1,084
- Pascua Yaqui – 997 (Casino Del Sol), 250 (Casino of the Sun)
- Quechan – 480
- Salt River Pima – 898 (Casino Arizona), 765 (Talking Stick)
- San Carlos – 483 (Apache Gold), 307 (Apache Sky)
- Tohono O'odham – 1,016 (Desert Diamond Tucson), 563 (Sahuarita), 58 (Why)
- Tonto Apache – 406
- White Mountain Apache – 829
- Yavapai-Apache – 650
- Yavapai-Prescott – 321 (Bucky's Casino), 245 (Yavapai Gaming Center)

Compacted non-gaming tribes with authorized number machine transfers:

- Havasupai – 566
- Hualapai – 566
- Kaibab-Paiute – 566
- San Juan Southern Paiute – 566
- Zuni – 566

Number of Class II gaming devices in operation:

- Ft. McDowell – 25
- Navajo Nation – 13
- Pascua Yaqui – 8 (Casino del Sol), 25 (Casino of the Sun), 11 (Del Sol Marketplace)
- Tohono O'odham – 1089 (Desert Diamond West Valley/Phoenix)

Total - 15,270 Class III gaming devices and 1,171 Class II machines in operation.

[Source: ADG website]

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There are limits to the number of table games and Keno permitted at each tribal casino. The compacts permit a maximum of 3,318 blackjack and poker tables in the state. For any one casino, a combined maximum of 119 blackjack and poker tables are allowed for urban tribes with a maximum of 90 allowed for rural tribes. [Source: ADG website]

As of January 1, 2018, there are 227 poker tables and 276 blackjack tables in operation. There also are bet limits for poker and blackjack. [Source: ADG website]

## ARIZONA REVENUE NUMBERS INCREASE

Based upon the tribes' continued exclusive rights to conduct gaming in Arizona, the current compacts provide for certain revenue sharing to the state. Tribes with Class III gaming operations contribute between 1 and 8 percent of their total gaming revenue on an annual basis to the state, and to cities, towns and counties. The contribution is calculated on a sliding scale formula from the amount of gaming revenue generated by a casino. [Source: compacts]

The compact authorizes ADG to audit the tribes' gaming revenues and contributions. According to ADG's most recent Annual Report (available on the ADG website), the Arizona tribal casinos continue to be on the upswing after experiencing a downturn in prior years. Specifically, tribal gaming contributions to the state for the quarter ending on June 30, 2017, saw an increase of \$26 Million – which reflected a 4.8% increase compared with the same quarter in the 2016 fiscal year. [Source: ADG website]

The tribes make contributions to the state on a quarterly basis. Those contributions are based on each tribe's Class III Gaming Net Win which is defined in the applicable Arizona statutes as "gross gaming revenue, which is the difference between gaming wins and losses, before deducting costs and expenses." The tribal contributions are allocated as follows:

- 88% is paid to the Arizona Benefits Fund – which is broken down further:
- \$8 Million or 9%, whichever is greater, is used by ADG for reimbursement of regulatory and administrative costs.
- 2% is used by ADG to fund problem gambling programs/education.

After allocation to the first two bullet points above:

- 56% to Instructional Improvement Fund
- 28% to Trauma and Emergency Services Fund
- 8% to Arizona Wildlife Conservation Fund
- 8% to Tourism Fund Account
- 12% is paid to Arizona cities, towns and counties.

[Source: ADG website]

For the period of July 1, 2016, to June 30, 2017, the aggregate gross gaming revenue was nearly \$1.9 Billion. Total tribal contributions to the Arizona Benefits Fund were nearly \$90 Million:

- Problem Gambling – approx. \$1.8 Million
- ADG (for regulatory compliance) – approx. \$8 Million
- Education – approx. \$44.8 Million
- Trauma/Emergency – approx. \$22.4 Million
- Wildlife & Tourism – approx. \$6.3 Million

[Source: ADG website]

The tribes contributed over \$12 Million to the Arizona cities, towns and counties. [Source: ADG website]

Based on the *Casino City Indian Gaming Industry Report* prepared annually by Dr. Alan Meister, Arizona tribal gaming ranks in the top 5 for the country in terms of gaming revenue. States ahead of Arizona are California, Oklahoma, Florida and Washington. Rounding out the top 10 gaming revenue states are Connecticut, Minnesota, Michigan, Wisconsin and New York.

Arizona accounts for approximately 6% of the total gaming revenue generated by tribal casinos in the United States (compared to No. 1 California, which accounts for over 25% and No. 2 Oklahoma at 13%). The top 5 states collectively account for over 60% of the tribal gaming revenue generated, while the top 10 states account for 85% of total gaming revenue. As such, tribal gaming continues to be highly concentrated within a small number of states, which includes Arizona.

[Source: Casino City Indian Gaming Industry Report]

From all indications, it appears that tribal gaming has had a significant, positive financial impact to the Arizona economy. ❄

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