STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

ELIGIBLE USE

October 27, 2026
ND Charitable Gaming Conference & Tradeshow



ABOUT US

Patty Wondra and Aaron Hummel

Patty is the supervisor of the tax section. The tax section reviews organization tax returns and Schedule C's related to trust account expenses.

Aaron is the director of the gaming division and provides guidance to division staff related to the determination of eligibility of net proceeds distribution.



WHAT IS AN ELIGIBLE USE?

Net Proceeds from Trust Account

For purposes of this presentation, we will discuss the eligible use of funds from your trust account, also considered net proceeds.

“Net Income” means gross proceeds less cash prizes, cost of merchandise prizes, and expenses to conduct gaming activity.

“Net proceeds” means adjusted gross proceeds less allowable expenses and gaming tax.

NET PROCEEDS & ELIGIBLE USES

WHERE CAN THE MONEY GO?

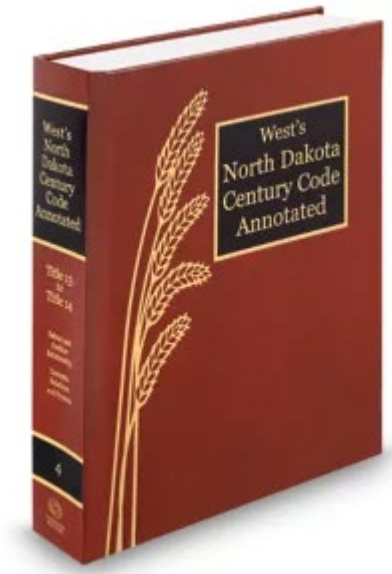
- **Know the Purpose:** Understand exactly what the net proceeds will be used for
- **Verify Eligibility:** A charitable purpose does not automatically make an expense an eligible use
- **Know the Recipient:** Distributions must be specific as to the recipient and intended use
- **Check the Requirements:** Eligible-use categories may have specific restrictions on what can be paid, who can receive funds, and how payment is made
- **Document the Use:** Maintain appropriate documentation supporting the request, payment, and eligible purpose. The ultimate use of the funds must be auditable.
- **Follow Through:** Ensure funds reach the intended recipient and are used for the approved eligible purpose
- **Watch for Conflicts:** Be alert for personal benefit, financial interests, gaming expenses, or other prohibited uses
- **Verify Before Spending:** When eligibility is unclear, confirm before net proceeds are disbursed

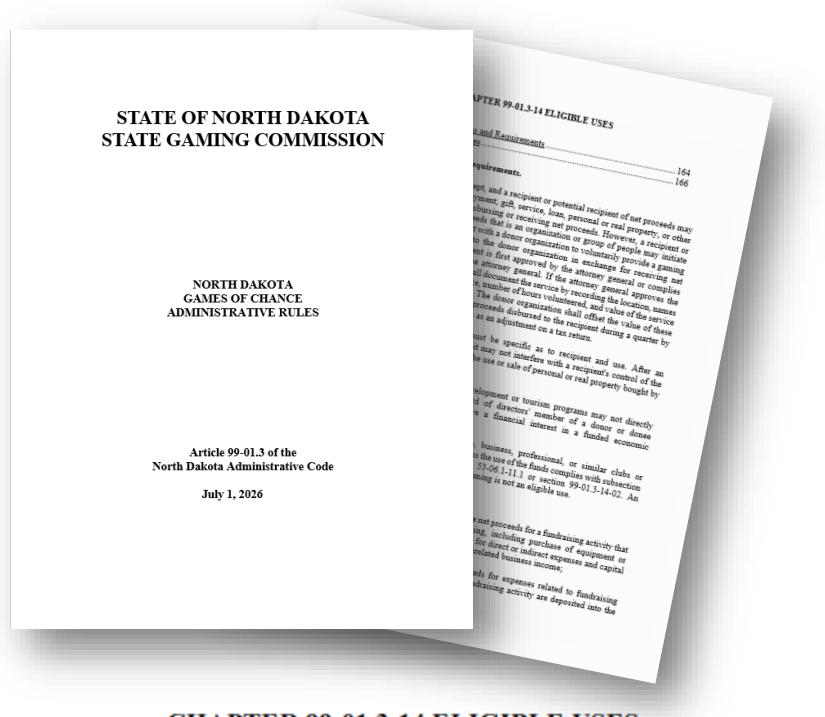
Who gets it? • What is it for? • Does it qualify? • Is it documented? • Did it get used as intended?

Key Rules: N.D. Admin. Code § 99-01.3-14

ELIGIBLE USE VERIFICATION

Laws and rules regarding eligible use can be found in North Dakota Century Code and in Administrative Rule





STATE OF NORTH DAKOTA
STATE GAMING COMMISSION

NORTH DAKOTA
GAMES OF CHANCE
ADMINISTRATIVE RULES

Article 99-01.3 of the
North Dakota Administrative Code

July 1, 2026

53-06.1-11.1. Restricted use of money in certain political activities - Eligible uses of net proceeds.

CHAPTER 99-01.3-14 ELIGIBLE USES

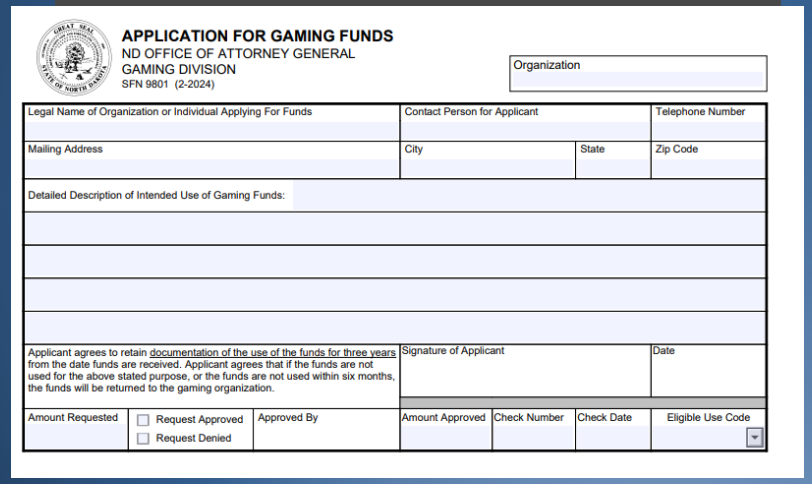
Section		
99-01.3-14-01	Restrictions and Requirements	164
99-01.3-14-02	Eligible Uses	166

DONATIONS

Organizations may donate to groups or individuals for eligible use purposes

Application for Gaming Funds SFN 9801

- Must be approved by the board
- Ultimate eligible use must have supported documentation for audit purposes.



APPLICATION FOR GAMING FUNDS
ND OFFICE OF ATTORNEY GENERAL
GAMING DIVISION
SFN 9801 (2-2024)

Organization

Legal Name of Organization or Individual Applying For Funds	Contact Person for Applicant		Telephone Number
Mailing Address	City	State	Zip Code
Detailed Description of Intended Use of Gaming Funds:			
Applicant agrees to retain documentation of the use of the funds for three years from the date funds are received. Applicant agrees that if the funds are not used for the above stated purpose, or the funds are not used within six months, the funds will be returned to the gaming organization.	Signature of Applicant		Date

Amount Requested	☐ Request Approved ☐ Request Denied	Approved By	Amount Approved	Check Number	Check Date	Eligible Use Code

Unsolicited Donations

- Organizations may give unsolicited donations that are approved by the board.



Adult Amateur Athletics



An organization may sponsor and provide uniforms and equipment for one male and one female team, or one co-ed team per sport per quarter.

Uniforms and equipment must be owned by the team or leagues association, and the uniforms must include the name of the sponsoring charitable organization.



MEDICAL EXPENSES

- Payments should be made to the ultimate end use when expenses haven't been incurred.
- Payments to individuals may be made if supporting documentation is provided prior to reimbursement.
- The donating organization shall maintain documentation to support the payment was made by the individual for an eligible use.



REAL PROPERTY CONSIDERATIONS

An organization may use net proceeds for the purchase of and improvement to real property owned by the organization that is used exclusively for an eligible use. If the property is ever sold, the amount of net proceeds used towards the property must be deposited into the trust account.

There are two separate codes for real property use. Maintenance is for utilities, repairs, etc. The other is for improvements that increase the value of the property.

Real property is defined in Chapter 47-01 in North Dakota Century Code



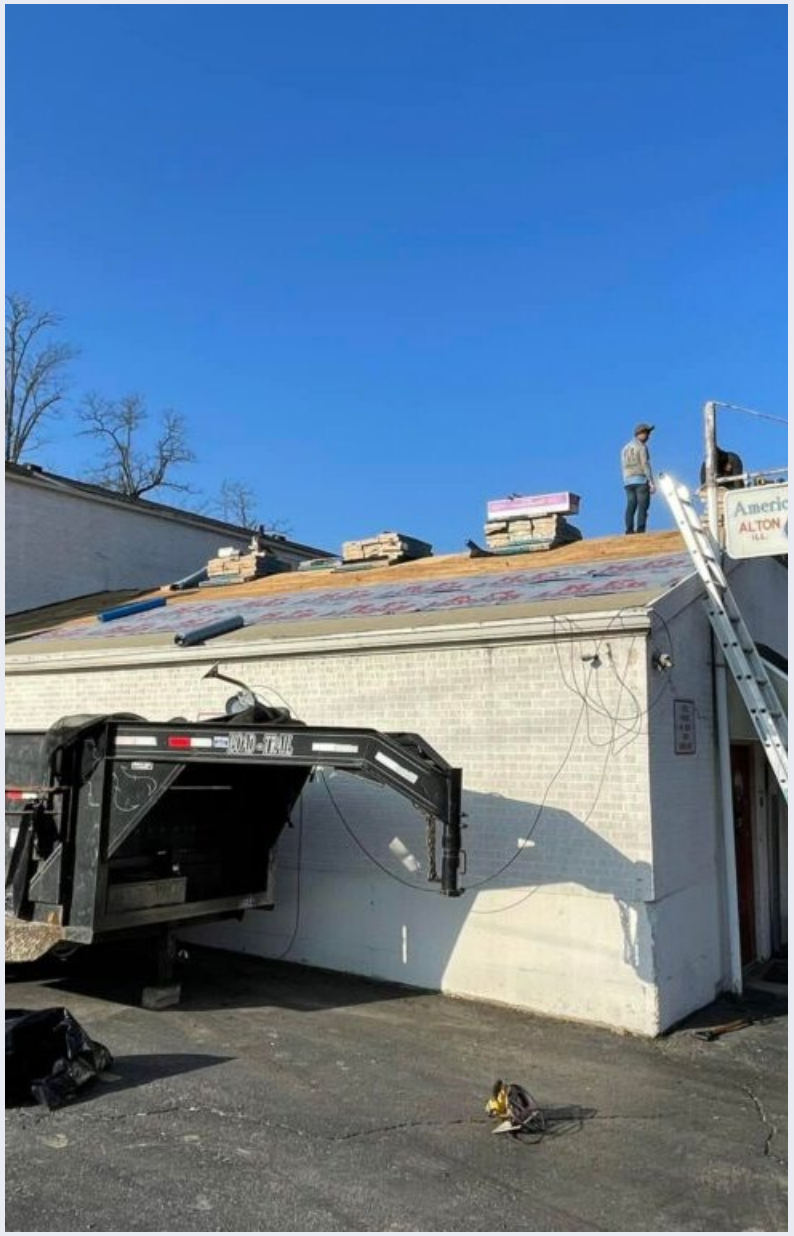
VETERAN'S ORGANIZATIONS

Allowed to use net proceeds for veterans program services.

Net proceeds may be used to purchase and maintain real property owned by the veterans organizations. Two separate codes; one for maintenance and one for improvements.

Veterans organizations are allowed to use up to 20% of net proceeds per quarter for the cost of food and beverages incurred in operating the veterans club.





LICENSED ORGANIZATIONS GIVING TO NON-LICENSED GAMING ORGANAZATIONS

- Licensed gaming organization **cannot give** to a non-licensed gaming organization for real property acquisitions/improvements
- You **may give** for qualifying program services or other eligible uses, but not real property
- Law/rule interpretation change in May 2024
- **Example:** small town American Legion that does not have a gaming license that needs to replace their roof, isn't eligible to receive net proceeds from a licensed gaming organization, even though they are a non-profit organization.

A SITE OWNER'S ROLE IN DISTRIBUTION OF NET PROCEEDS



Distributions, other than rent, to a lessor's site, from any source for any purpose are not allowed.

A lessor may suggest an eligible use, but not demand it.

TRANSFERS TO OTHER ACCOUNTS OF THE ORGANIZATION

Transfers from the trust account to other accounts of the organization are not allowed, except to reimburse for organizational program service payroll expenses.

Fraternal organizations may reimburse the general operating account for expenses related to free meals to qualifying participants. i.e. senior citizens
Supporting documentation must be retained.



CONTACTING THE GAMING DIVISION REGARDING ELIGIBLE USE

The division does not pre-approve eligible use disbursement and cannot give legal advice to organizations regarding gaming laws or rules.

When contacting the office provide the following:

- ✓ The name of the requesting organization or individual
- ✓ The legal citation or authority authorizing the organization to distribute net proceeds to the requestor
- ✓ The legal citation or authority authorizing the disbursement for the eligible use
- ✓ Detailed description of the intended eligible use.
- ✓ Description of why your organization believes the applicable law or rule is unclear



Questions?

THANK YOU



attorneygeneral.nd.gov



agogaming@nd.gov



701-328-4848