

GAO

Report to the Chairman, Committee on
Ways and Means, House of
Representatives

May 1997

TAX POLICY

A Profile of the Indian Gaming Industry





General Government Division

B-275479

May 5, 1997

The Honorable Bill Archer
Chairman, Committee on Ways and Means
House of Representatives

Dear Mr. Chairman:

Indian gaming activities and the revenues generated from them have grown substantially since the late 1980s. Recognizing this, Congress, as part of its deliberations on the Seven-Year Balanced Budget Reconciliation Act of 1995, debated taxing the income earned from gaming activities by Indian tribes and also by some tax-exempt organizations. Since the debate, you have asked us to provide you with information on the Indian gaming industry.

This report is a follow-up to the preliminary data we provided you in August 1996.¹ In this report, our objectives are to provide you with (1) an updated profile of the Indian gaming industry, (2) information on the amount of transfers to the tribes from their gaming facilities, (3) a comparison of Indian gaming revenues with the revenues generated by other legalized gaming activities, and (4) a summary of the federal tax treatment of Indian tribes and tribe members.

Background

In the late 1970s, Indian tribes began authorizing or conducting various types of gaming activity with only tribal oversight. In 1987, the Supreme Court confirmed that Indian tribes had authority to operate gaming establishments on their trust lands without having to comply with state laws and regulations.² To resolve outstanding issues between tribes and states and to provide oversight, Congress passed the Indian Gaming Regulatory Act of 1988 (IGRA).³

IGRA established the following three classes of gaming to be regulated by a combination of the tribal governments, state governments, Bureau of Indian Affairs (BIA)—an agency of the Department of the Interior, and National Indian Gaming Commission (NIGC).

¹See [Profile of Indian Gaming \(GAO/GGD-96-148R, Aug. 20, 1996\)](#).

²[California v. Cabazon Band of Mission Indians, 480 U.S. 202 \(1987\)](#).

³See 25 U.S.C. sections 2701-2721.

- **Class I gaming** consists of social gaming for nominal prizes or ceremonial gaming. It is regulated solely by the tribe, and no financial reporting to other authorities is required.
- **Class II gaming** includes bingo, pull-tabs, and punch-boards. Tribes can conduct only class II games that are legal under state law, and these games are regulated by the tribes and NIGC.
- **Class III gaming** consists of all other forms of gaming, including casino games, slot machines, and pari-mutuel betting.⁴ Class III games are regulated as indicated below.

Tribes are required to obtain state, NIGC, and Department of Interior approval to establish and operate class III gaming facilities. IGRA requires that tribes and states negotiate a tribal-state compact to balance the interests of both the state and the tribe. The Secretary of the Interior is authorized to approve any tribal-state compact and has delegated this authority to the Assistant Secretary—Indian Affairs, who is responsible for BIA. All class II and III gaming operations on Indian lands are required to submit copies of their annual financial statement audits to NIGC.⁵

The tribal-state compact is an agreement that may include provisions concerning standards for the operation and maintenance of the gaming facility, the application of laws and regulations of the tribe or the state that are related to the licensing and regulation of the gaming activity, and the assessment by the state of amounts necessary to defray the costs of regulating the gaming activity.

IGRA specifies that the tribal ordinance concerning the conduct of class II or III gaming on Indian lands within the tribe's jurisdiction must provide that the net revenues from any tribal gaming are not to be used for purposes other than to (1) fund tribal government operations or programs, (2) provide for the general welfare of the Indian tribe and its members, (3) promote tribal economic development, (4) donate to charitable organizations, or (5) help fund operations of local government agencies. Tribes may distribute a portion of their net revenues directly to tribal members, provided that the tribes have a revenue allocation plan approved by BIA. This plan is to describe how tribes intend to allocate net revenues among various governmental, educational, and charitable projects, including direct payments to tribal members.

⁴Pari-mutuel betting is generally considered to include on-track, off-track, and inter-track betting on horse racing, dog racing, and jai-alai.

⁵See 25 C.F.R. section 571.13 and 25 U.S.C. section 2710(b)(2)(C) (1996).

Results in Brief

As of December 31, 1996, 184 tribes were operating 281 gaming facilities. For 178 of these facilities, operated by 126 tribes, we obtained and examined 1995 financial statements.⁶ These 178 facilities reported generating gaming revenues (dollars wagered minus payouts) of about \$4.5 billion, with 8 of them accounting for about 40 percent of these revenues. The gaming facilities also reported generating over \$300 million in revenues from sales such as food, beverages, and hotel rooms. Net income (total revenues minus expenses) reported for the 178 facilities was about \$1.9 billion, representing 38 percent of the \$4.9 billion total revenues.

According to the financial statements, about \$1.6 billion was transferred to 106 tribes in 1995.⁷ Of this \$1.6 billion, more than 50 percent went to 10 tribes. For 20 tribes, the financial statements did not show any transfers. None of the financial statements indicated how the transfers were used by the tribes.

Gaming revenues generated by all class II and class III Indian facilities for which we had financial statements equaled at least 10 percent of the estimated gaming revenues generated by legalized gaming (including casinos, lotteries, pari-mutuel betting, and others) reported by the gaming industry in 1995.

We compared class III Indian facility revenues with reported revenues from Atlantic City and Nevada casinos. In the aggregate, 109 class III Indian facilities generated about the same total amount in gaming revenues as the 12 Atlantic City casinos and more than half the gaming revenues of the 213 Nevada casinos. Average gaming revenues for these Indian facilities were significantly less than those of Atlantic City casinos but about equal to the average for the Nevada casinos. In terms of the distribution of gaming revenues among the facilities, class III Indian facilities were similar to Nevada casinos—a small proportion of the facilities accounted for a large share of the aggregate gaming revenues. By contrast, the gaming revenues of the 12 Atlantic City casinos were more equally distributed.

⁶Some facilities were not included in our analyses because they were new and financial statements were not yet required; the financial statements submitted were incomplete; or the financial statements were not filed as of the date we completed our data collection. (See app. I.)

⁷In addition to transfers, some tribes received a total of \$91 million from the gaming facilities for items such as taxes and fees, rent and other charges, and cost reimbursements, which are not included in the \$1.6 billion.

In addition, our analyses revealed that the largest class III Indian facilities generated higher operating income (income from gaming and other normal operations, such as concessions) as a percentage of total revenues than the largest Nevada and all Atlantic City casinos. According to industry experts, this difference is partly due to the fact that these Nevada and Atlantic City casinos have competition in close proximity and are subject to various state taxes and costs that were not generally incurred by these Indian facilities.

IRS has determined that Indian tribes are not subject to federal income tax because they are political agencies not included within the meaning of the income tax provisions of the Internal Revenue Code. Thus, revenues generated from gaming operations of federally recognized Indian tribes are not taxable. Indian tribes are not, however, tax-exempt organizations within the meaning of provisions of the Code that exempt certain categories of organizations from income tax. Individual tribe members are subject to federal income tax. Payments of net revenues from gaming operations to members of Indian tribes are generally taxable, and the tribe is responsible for withholding income taxes from the payments.

Scope and Methodology

We determined the number of tribes with gaming facilities by reviewing documents provided by NIGC, which identified all tribes with gaming operations as of December 31, 1996. To perform our analyses on revenues, costs and expenses, and net income, for example, we obtained 1995 financial statements that were submitted to NIGC as of November 22, 1996. The sample of facilities included in our report consists of the 178 gaming facilities represented by these financial statements. The sample is not representative of the universe of all Indian gaming facilities. Some facilities were not included in our analyses because they were new and not yet required to file financial statements, the financial statements submitted were incomplete, or the financial statements were not filed as of the date we completed our data collection (see app. I). We used Audit and Accounting Guide: Audits of Casinos, published by the American Institute of Certified Public Accountants, and spoke with industry experts for guidance in deciding what data to extract from the financial statements and what analyses to perform on these data.

We also used the financial statements to determine the amount of transfers to the tribes. The transfers as described in this report represent the amounts in the financial statements allocated to the “tribes.” The amounts could have been received by the tribal government or tribal

members, but we were not able to determine this because the financial statements did not indicate how the transfers were used or who received them.

To compare Indian gaming with other legalized gaming activities, we used data reported in International Gaming and Wagering Business and financial statement data submitted to the Nevada and Atlantic City gaming commissions.⁸

To describe the legal issues regarding the taxation of Indian gaming revenues, we reviewed relevant sections of the Internal Revenue Code and the IRS and Department of the Treasury rulings and regulations pertaining to the taxation of Indian tribes. We also interviewed officials from Treasury, IRS, and BIA. (See app. I for more details on our scope and methodology.)

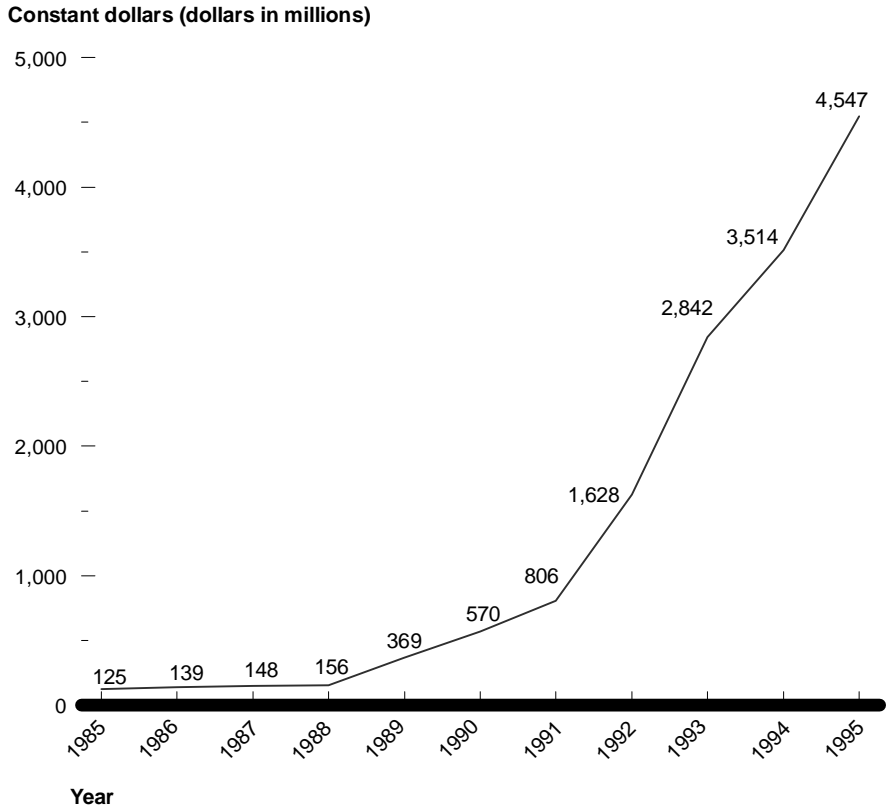
We conducted our review from October 1996 through March 1997 in accordance with generally accepted government auditing standards. We obtained comments on a draft of this report from the Internal Revenue Service, the Department of the Interior, and the Chair of NIGC. These comments are discussed at the end of this letter.

Profile of the Indian Gaming Industry

As shown in figure 1, Indian gaming revenues have grown significantly since 1988 when IGRA was enacted. IGRA provided the regulatory framework for tribes to establish and operate gaming facilities.

⁸International Gaming and Wagering Business is a trade publication that annually publishes estimates prepared by Christiansen/Cummings Associates, Inc., on the amounts of money wagered and spent on each type of legal gambling activity in the United States.

Figure 1: Indian Gaming Revenues, 1985-95



Note: Conversion to 1995 constant dollars used the Consumer Price Index.

Source: International Gaming and Wagering Business, selected issues between 1985 and 1995; and GAO analysis of 1995 financial statements that were filed with NIGC as of November 22, 1996.

More Than Half of Continental U.S. Tribes Operated Gaming Facilities

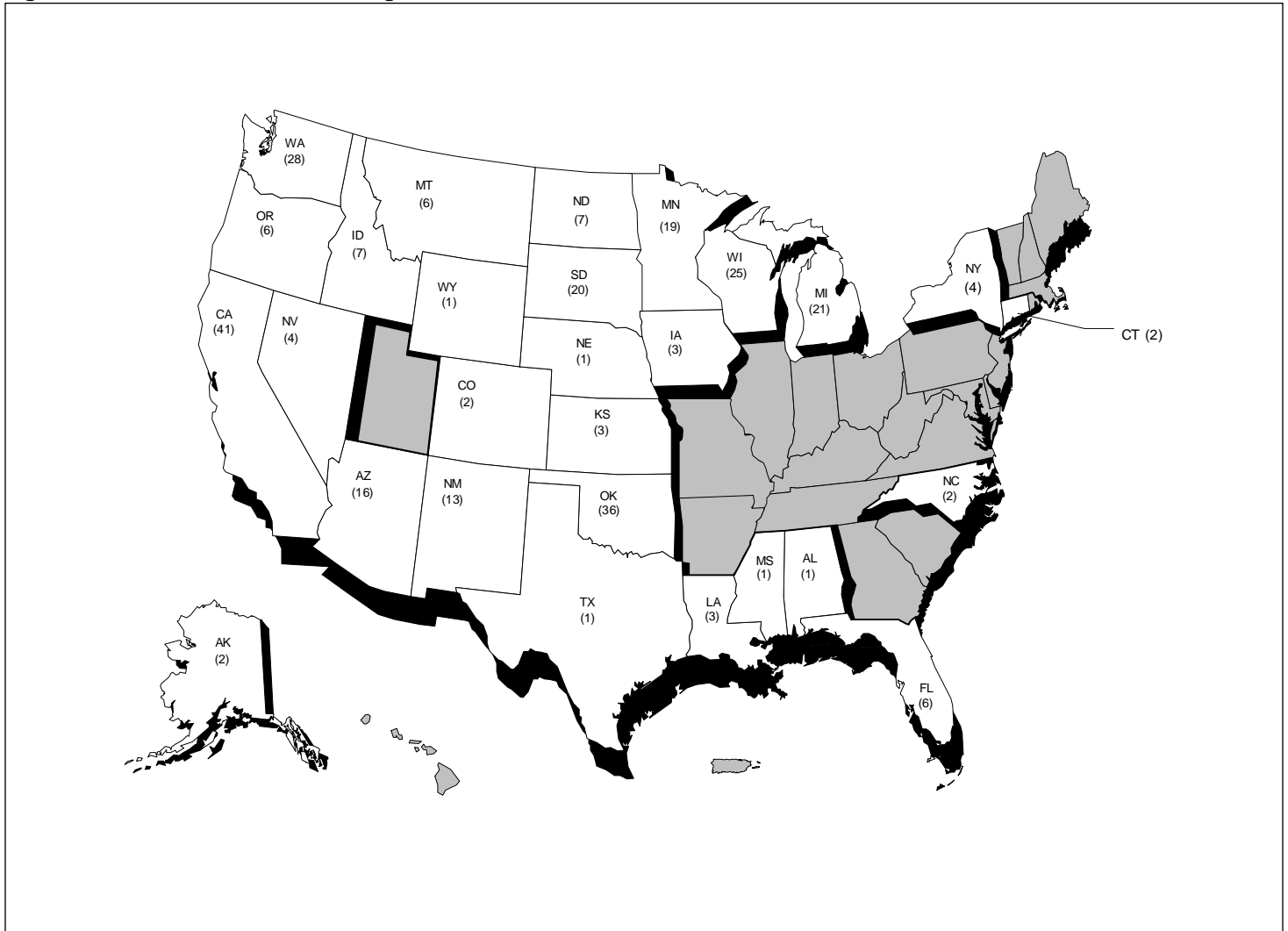
According to information provided by NIGC, 184 of the 555 Indian tribes officially recognized by the United States were operating a total of 281 gaming facilities as of December 31, 1996. Of the 184 tribes, 182 were in the continental United States, representing 55 percent of all continental U.S. tribes (329). The remaining two tribes were in Alaska. According to

NIGC, the 226 tribes in Alaska are generally too remote or too small to operate gaming facilities.⁹

An additional 32 tribes had been authorized to operate gaming facilities but had not opened any as of December 31, 1996, according to NIGC information. (See fig. 2 for the distribution of Indian gaming facilities in operation.)

⁹Additionally, it is unclear whether certain lands set aside for Alaska natives under the Alaska Native Claims Settlement Act meet the IGRA definition of Indian lands on which gaming may be conducted. (See 43 U.S.C. 1601 et seq.)

Figure 2: Distribution of Indian Gaming Facilities



Note 1: Map does not show those operations that were closed by December 31, 1996.

Note 2: This information may not agree with NIGC's records because of differences in methodologies used to identify and count facilities.

Source: GAO analysis of NIGC's list of gaming facilities as of December 31, 1996.

Revenues From Indian Gaming Facilities Exceeded \$4 Billion

From our analyses of the 178 gaming facilities' financial statements, we found that reported gaming revenues were about \$4.5 billion and revenues from other activities, such as food, beverages, and hotel rooms, were over

\$300 million (see table 1). Median gaming revenues for class II facilities were about \$2.5 million and for class III, about \$12.7 million.¹⁰

Total net income was about \$1.9 billion, with a median of \$0.6 million for class II and \$4.9 million for class III facilities. About 90 percent of the facilities generated net income, and about 10 percent generated net losses. Most of the facilities were class III, and they accounted for a large majority of all gaming revenues, total revenues, and net income.

Table 1: 1995 Revenues, Costs and Expenses, and Net Income for Class II and III Indian Gaming Facilities

| Income statement item | Dollars in millions | | | Percentage of total | | |
|-----------------------|---------------------------------|-----------------------------------|-------------------------------|---------------------|-----------|-------|
| | Class II (N=66) ^a | Class III (N=112) ^a | Total (N=178) ^a | Class II | Class III | Total |
| Revenue | | | | | | |
| Gaming | \$568 | \$3,979 | \$4,547 | 12% | 88% | 100% |
| Other ^b | 35 | 306 | 341 | 10 | 90 | 100 |
| Total | 603 | 4,285 | 4,888 | 12 | 88 | 100 |
| Costs and expenses | 367 | 2,644 | 3,011 | 12 | 88 | 100 |
| Net income | 236 | 1,641 | 1,877 | 13 | 87 | 100 |

^aThe "N" represents number of facilities.

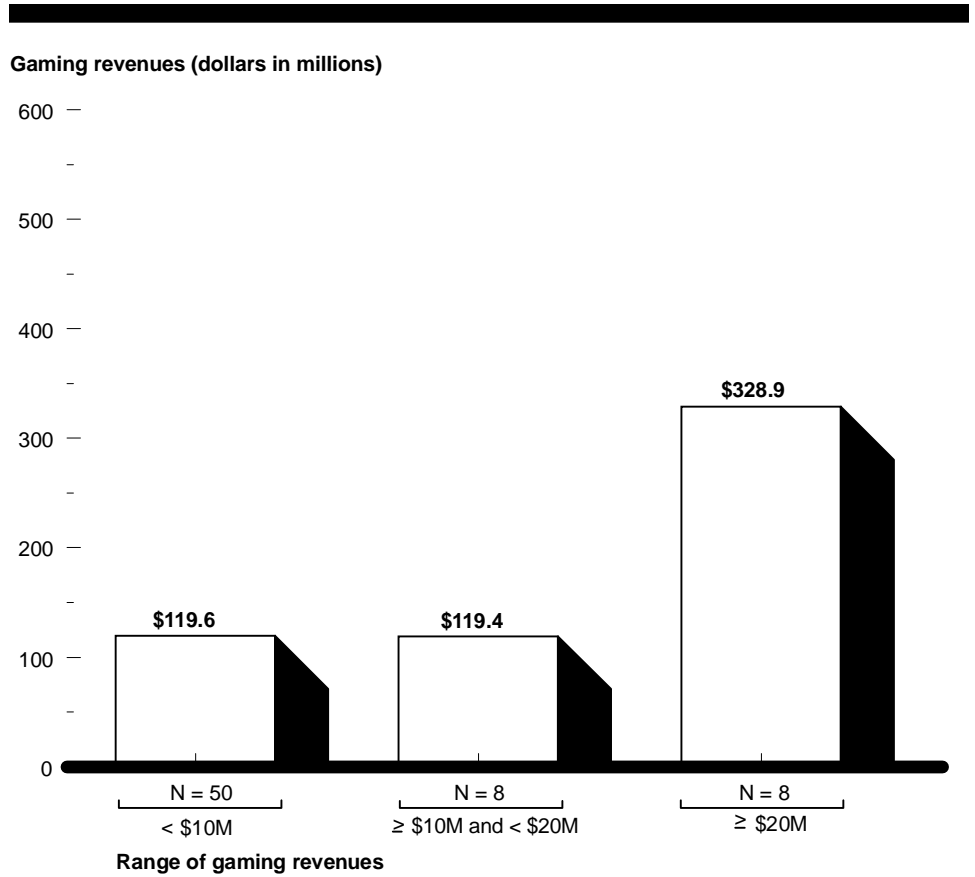
^bOther revenues include, for example, revenues from food, beverages, hotel rooms, and interest.

Source: GAO analysis of 1995 financial statements that were filed with NIGC as of November 22, 1996.

About 40 percent of all gaming revenues were generated by eight of the class III gaming facilities. Figure 3 shows the distribution of gaming revenues for the 66 class II Indian facilities represented in our analysis. More than half of all class II gaming revenues were generated by eight facilities with gaming revenues of at least \$20 million.

¹⁰See appendix I for methodology used to account for class II and class III facilities.

Figure 3: Distribution of Class II Facilities' Gaming Revenues

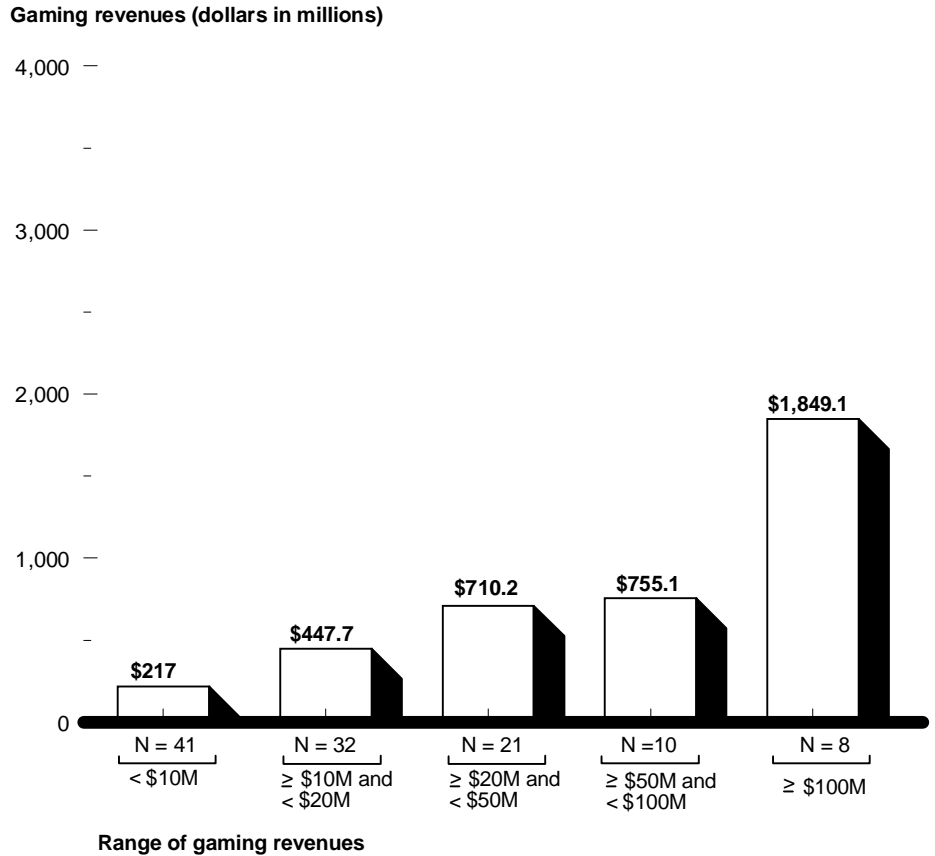


Note: The "N" represents the number of facilities.

Source: GAO analysis of 1995 financial statements that were filed with NIGC as of November 22, 1996.

Figure 4 shows the distribution of gaming revenues for the 112 class III Indian facilities represented in our analysis. Almost half of the gaming revenues were generated by eight facilities with gaming revenues of at least \$100 million each.

Figure 4: Distribution of Class III Facilities' Gaming Revenues



Note: The "N" represents the number of facilities.

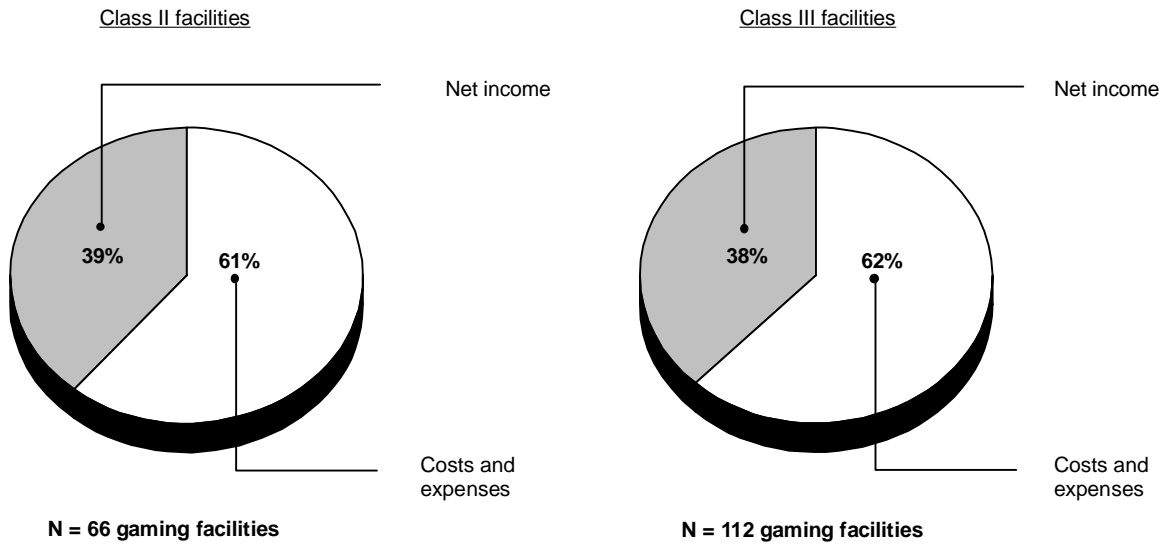
Source: GAO analysis of 1995 financial statements that were filed with NIGC as of November 22, 1996.

Net Income Accounted for 38 Percent of Total Reported Revenues

In total, net income of Indian gaming facilities (class II and III) was about 38 percent of total reported revenues. Net income as a percent of total revenues was about the same for class II and class III facilities (see fig. 5).¹¹

¹¹Figures 5 and 6 are based on total revenues, because net income includes more than gaming revenues.

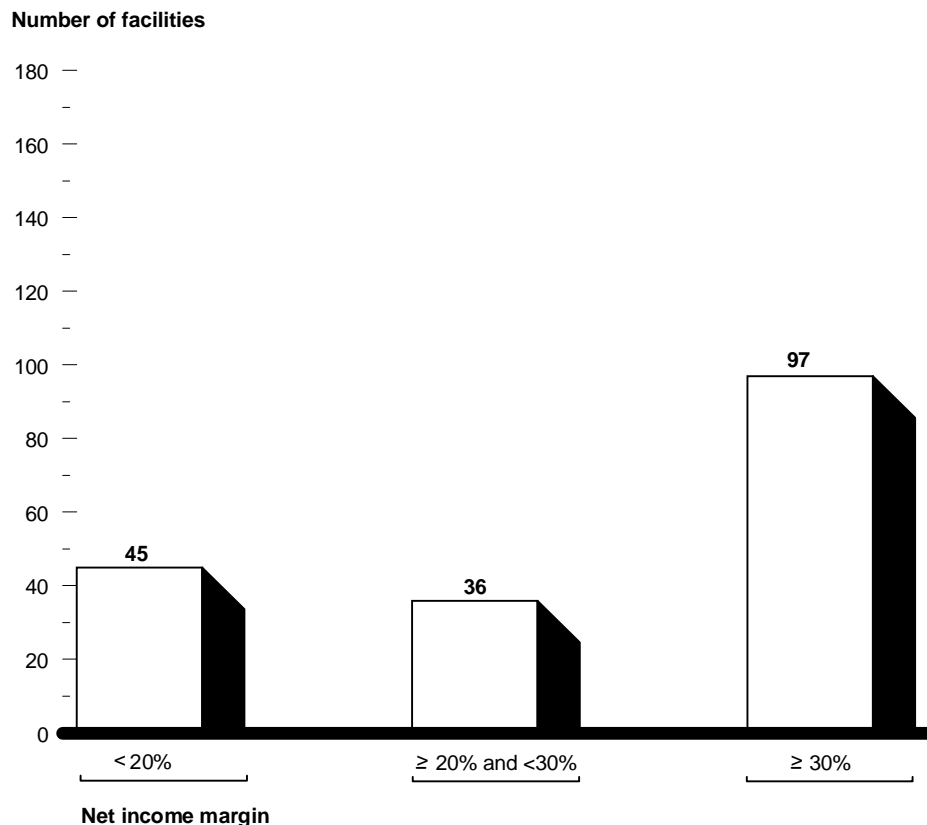
Figure 5: Costs and Expenses and Net Income Margins



Source: GAO analysis of 1995 financial statements that were filed with NIGC as of November 22, 1996.

In addition, the net income of about half of the Indian gaming facilities was at least 30 percent of their total revenues (see fig. 6).

Figure 6: Facilities and Net Income Margins



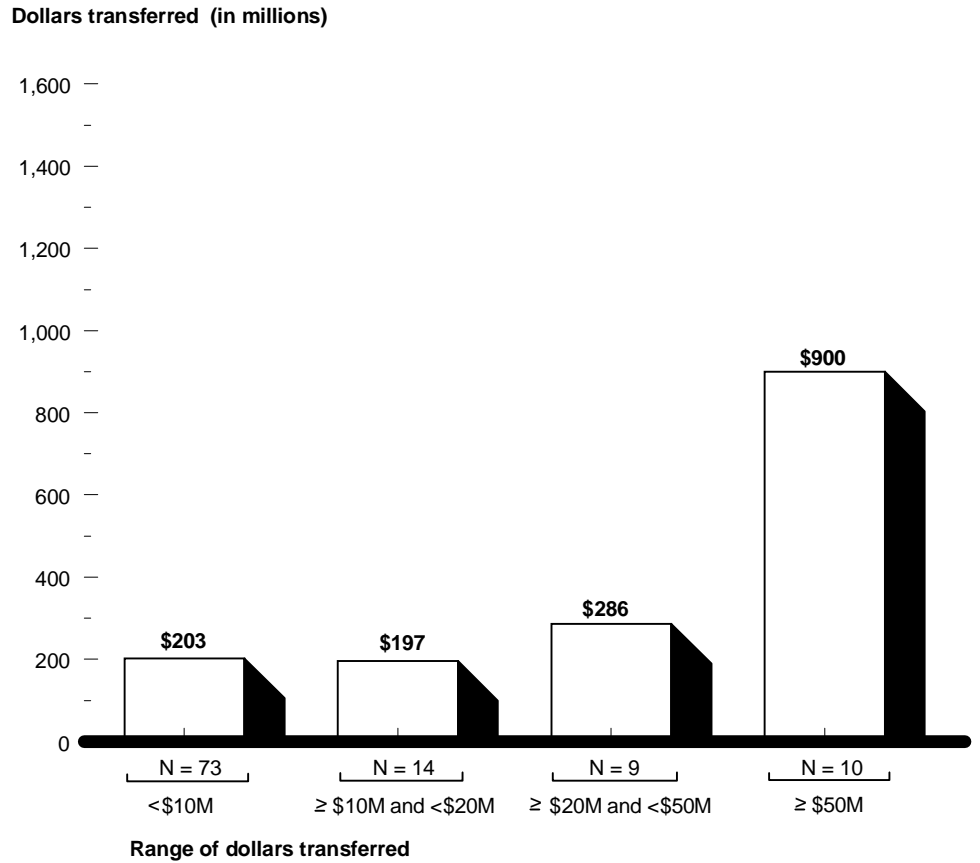
Source: GAO analysis of 1995 financial statements that were filed with NIGC as of November 22, 1996.

Most Tribes Received Transfers From Gaming Facilities

Of the 126 tribes included in our analysis, 106 reported receiving about \$1.6 billion in transfers from their gaming facilities, as shown in figure 7. These 106 tribes operated 149 gaming facilities.¹² Ten of the tribes reported receiving transfers of at least \$50 million each and accounted for more than half of the total transferred. The financial statements of 20 of the 126 tribes did not show transfers from their gaming facilities.

¹²In addition to transfers, some tribes received a total of \$91 million from the gaming facilities for such items as taxes and fees, rent and other charges, and cost reimbursements, which are not included in the \$1.6 billion.

**Figure 7: Distribution of Funds
Reportedly Transferred to 106 Tribes**



Note: The "N" represents the number of tribes.

Source: GAO analysis of 1995 financial statements that were filed with NIGC as of November 22, 1996.

Comparison of Indian Gaming With Other U.S. Legalized Gaming

Indian Gaming Revenues Represented at Least 10 Percent of the U.S. Market in 1995

Table 2 shows that Indian gaming revenues (class II and III) were at least 10 percent of the revenues estimated to have been generated by legal gaming in 1995 and compares Indian gaming to other legalized gaming. Because our sample of financial statements did not cover all existing Indian facilities, the 10 percent market share could be higher.

Table 2: Gaming Revenue Market Shares, 1995

| Type of gaming | Percentage of total |
|-----------------------------------|---------------------|
| Casinos (does not include Indian) | 40% |
| Lotteries | 34 |
| Indian gaming (class II and III) | 10 |
| Pari-mutuels | 8 |
| Charitable games | 3 |
| Charitable bingo | 2 |
| Card rooms and bookmaking | 2 |
| Total^a | 100 |

^aTotal does not sum to 100 because of rounding.

Source: The percentage of Indian gaming was based on GAO's analysis of class II and III 1995 financial statements that were filed with NIGC as of November 22, 1996. The percentages of other legalized gaming were calculated from estimates reported in International Gaming and Wagering Business, Vol. 17, No. 8, August 1996.

Table 3 gives a breakdown of the casino segment of the gaming industry, including class III Indian gaming.

Table 3: Casino Gaming Revenue Shares, 1995

| Casinos | Percentage of total |
|---------------------------------|----------------------------|
| Nevada/New Jersey slot machines | 32% |
| Riverboats | 21 |
| Indian gaming (class III) | 18 |
| Nevada/New Jersey table games | 18 |
| Noncasino devices | 6 |
| Other land-based casinos | 2 |
| Deepwater cruise ships | 1 |
| Cruises-to-nowhere | 1 |
| Other commercial gambling | 1 |
| Total | 100 |

Source: The percentage of Indian gaming was based on GAO's analysis of class III 1995 financial statements that were filed with NIGC as of November 22, 1996. The percentages of casino gaming were calculated from estimates reported in International Gaming and Wagering Business, Vol. 17, No. 8, August 1996.

Class III Indian Gaming and Nevada and Atlantic City Casinos

In total, gaming revenues generated by class III Indian facilities and Atlantic City casinos in 1995 were similar, as shown in table 4. In addition, the average gaming revenues generated by class III Indian facilities and Nevada casinos were similar. The comparisons are for facilities and casinos with at least \$1 million in gaming revenues because that was how data were reported for Nevada.

Table 4: Reported Indian, Nevada, and Atlantic City Gaming Revenues, 1995^a

Dollars in thousands

| Income statement item | Indian class III | Nevada | Atlantic City |
|--|-------------------------|---------------|----------------------|
| Gaming revenues | \$3,976,892 | \$7,030,994 | \$3,627,820 |
| Other revenues ^b | 290,210 | 4,016,239 | 350,812 |
| Total revenues ^c | \$4,267,102 | \$11,047,234 | 3,978,632 |
| Gaming revenues as a percentage of total | 93 | 64 | 91 |
| Average gaming revenues | \$36,485 | \$33,009 | \$302,318 |
| Number of facilities | 109 | 213 | 12 |

^aFor facilities and casinos with \$1 million and more in gaming revenues.

^bOther revenues include, for example, revenues from food, beverages, and hotel rooms; interest was excluded.

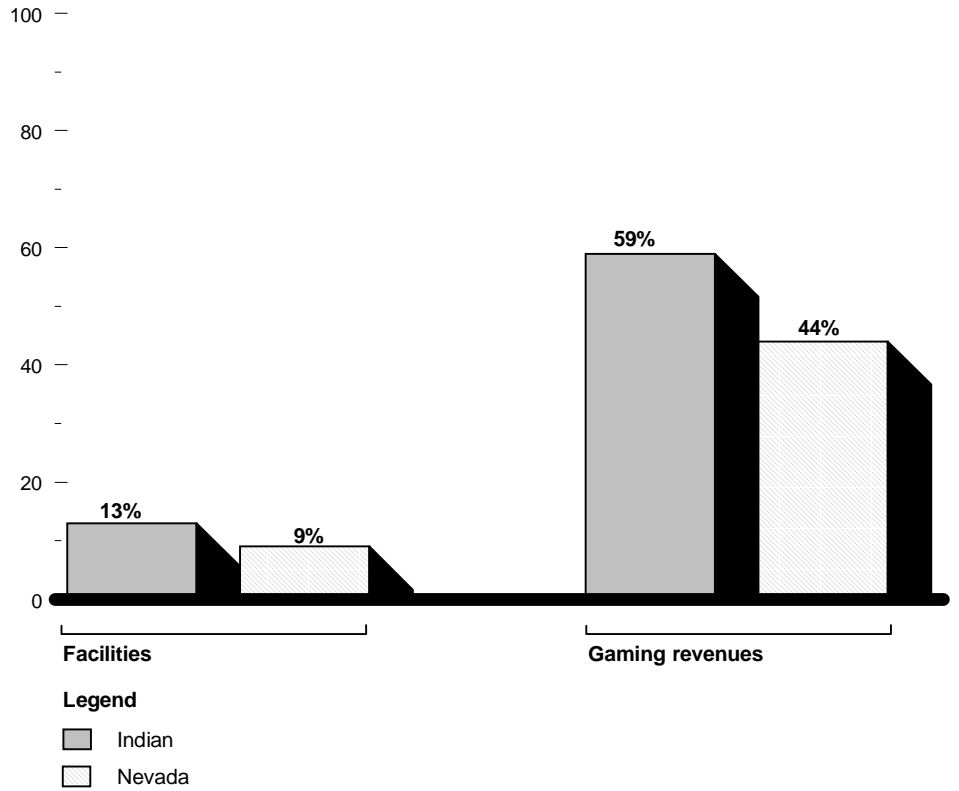
^cTotal may not sum because of rounding.

Source: GAO analysis of class III 1995 financial statements that were filed with NIGC as of November 22, 1996; Nevada Gaming Abstract, December 1995, with financial data as of June 30, 1995; and financial statement analyses prepared by the New Jersey Casino Control Commission, March 7, 1996, for financial data as of June 30, 1995.

A small proportion of both class III Indian facilities and Nevada casinos generated significant amounts in gaming revenues and accounted for a large share of their respective aggregate gaming revenues (see fig. 8). Specifically, 13 percent of Indian class III facilities generated 59 percent of the Indian gaming revenues. Atlantic City casinos are not shown because their gaming revenues were more equally distributed. For example, 50 percent of the casinos generated about 59 percent of the gaming revenues.

Figure 8: Reported Class III Indian Facilities and Nevada Casinos With Gaming Revenues of \$72 Million and More

Percent of total facilities/gaming revenues



Note: The Nevada casinos in this analysis are limited to those casinos reported by the Nevada Gaming Abstract as generating gaming revenues of \$72 million and more. Nevada may have other casinos with gaming revenues of \$72 million and more, but because of limitations in the way the data were reported, we were not able to determine such casinos.

Source: GAO analysis of class III 1995 financial statements that were filed with NIGC as of November 22, 1996; and Nevada Gaming Abstract, December 1995, with financial data as of June 30, 1995.

Operating Income as a Percentage of Total Revenues of Large Class III Indian Facilities Was Almost Twice That of Large Nevada and Atlantic City Casinos

Operating income as a percentage of total revenues for large class III Indian facilities was almost twice as much as that of large Nevada and Atlantic City casinos. Table 5 shows the results of our analysis of operating income for class III Indian facilities and for Nevada and Atlantic City casinos with gaming revenues of \$72 million and more.¹³ Operating income is a common measure used by industry experts to analyze and compare the profitability of businesses. It discounts the effects of capital structure and other nonoperating incomes and expenses that are not directly related to the performance of the business operations. (See the glossary for further details.)

Table 5: Reported Operating Income of Facilities and Casinos With Gaming Revenues of \$72 Million and More, 1995

| Income statement item | Dollars in millions | | | Percentage of total revenues | | |
|-----------------------|-------------------------------|------------------------------|-----------------------------------|------------------------------|--------|---------------|
| | Class III (N=14) ^a | Nevada (N=19) ^{a,b} | Atlantic City (N=12) ^a | Class III | Nevada | Atlantic City |
| | Revenue | | | | | |
| Gaming | \$2,354 | \$3,086 | \$3,628 | 94% | 58% | 91% |
| Other ^c | 141 | 2,250 | 351 | 6 | 42 | 9 |
| Total ^d | 2,496 | 5,336 | 3,979 | 100 | 100 | 100 |
| Costs and expenses | 1,307 | 4,196 | 2,996 | 52 | 79 | 75 |
| Operating income | 1,189 | 1,141 | 982 | 48 | 21 | 25 |

^aThe "N" represents number of facilities.

^bThe Nevada casinos in this analysis are limited to those casinos reported by the Nevada Gaming Abstract as generating gaming revenues of \$72 million and more. Nevada may have other casinos with gaming revenues of \$72 million and more, but because of limitations in the way the data were reported, we were not able to determine such casinos.

^cOther revenues include, for example, revenues from food, beverages, and hotel rooms; interest was excluded.

^dTotals may not sum because of rounding.

Source: GAO analysis of class III 1995 financial statements that were filed with NIGC as of November 22, 1996; Nevada Gaming Abstract, December 1995, with financial data as of June 30, 1995; and financial statement analyses prepared by the New Jersey Casino Control Commission, March 7, 1996, for financial data as of June 30, 1995.

According to industry experts, the difference in operating income margin (operating income as a percentage of total revenues) between these 14 class III facilities and these Nevada and Atlantic City casinos is explained,

¹³To make reasonable comparisons of operating income among class III Indian facilities and Nevada and Atlantic City casinos, we included only those facilities reported as generating \$72 million or more in gaming revenues. The highest category included in the Nevada Gaming Abstract was gaming revenues of \$72 million and more, and all Atlantic City casinos generated more than \$72 million in gaming revenues.

in part, by the different operational environments of the facilities. Specifically, the operating income shown in table 5 for Nevada and Atlantic City casinos was reduced by expenses that were not generally incurred at these Indian facilities, such as state gaming taxes and other state requirements. For example, Atlantic City casinos are subject to an 8-percent tax on their gaming revenues. Further, these Nevada and Atlantic City casinos have more competition in close proximity than the 14 class III Indian facilities.

Another possible explanation for the differences in operating income was the nature of the tribes' relationships with their gaming facilities: Some tribes provided goods and services to the gaming facilities free of charge or at a low cost, which would have reduced their operating expenses.

Federal Tax Treatment of Indians and Indian Tribes

Overview

Although no statutory provision exempts Indian tribes from income taxation, IRS has concluded that federally recognized Indian tribes and their federally chartered corporations are not subject to federal income tax.¹⁴ With respect to tribes, IRS based its conclusion on the determination that the tribes are political agencies that Congress did not intend to include within the meaning of the income tax provisions of the Internal Revenue Code. Indian tribes are not, however, tax-exempt organizations within the meaning of the provisions of the Code that exempt certain categories of organizations from income tax. With respect to the tribes' federally chartered corporations, IRS takes the view that no taxable entity separate from the tribes exists. IRS has also found that individual tribe members are U.S. citizens and are subject to federal income tax unless a specific exemption can be found in a treaty or statute.

IRS has found, however, that Indian tribal governments have no inherent exemption from federal excise taxes and, absent a specific statutory exemption, must purchase taxable articles or services on a tax-paid basis and must pay tax on their sale or use of taxable articles or services.

¹⁴Four revenue rulings address the federal income tax status of Indian tribal governments. See Rev. Rul. 67-284, 1967-2 C.B. 55; Rev. Rul. 81-295, 1981-2 C.B. 15; Rev. Rul. 94-16, 1994-1 C.B. 19; and Rev. Rul. 94-65, 1994-2 C.B. 14. A revenue ruling is an official interpretation by IRS that indicates its official policy on an issue or a line of reasoning.

Section 7871 of the Code, enacted in 1982, provides an exemption from certain excise taxes. In addition, Indian tribes that are employers must pay federal employment taxes on wages paid to employees.

A provision included as part of the House-passed Seven-Year Balanced Budget Reconciliation Act of 1995 would have made the tribes subject, under section 511(a) of the Code, to the unrelated business income tax on revenues from class II and class III gaming.¹⁵ The unrelated business income tax currently applies to the income from the business activities of tax-exempt organizations that are not substantially related to the organizations' exempt function. The proposed tax would have been the first explicit federal income tax applied to an Indian tribe.¹⁶ A memorandum prepared by the Congressional Research Service, dated October 10, 1995, concluded that the proposal did not seem to be invalid on any constitutional ground.¹⁷

Historical Perspective

Before enactment of the Indian Reorganization Act of 1934 (IRA), congressional policy had been directed toward the assimilation of Indian tribes and the allotment of Indian lands to individual tribe members.¹⁸ IRA ended the practice of allotment as it applied to tribally owned lands.¹⁹ The

¹⁵H.R. 2491, 104th Cong., section 13631 (1995). The provision was dropped in conference; see H.R. Conf. Rep. No. 104-350 at 141 Cong. Rec. H12841, 12874.

¹⁶See, however, section 7871(a)(5) of the Code, which provides that an Indian tribal government shall be treated as a state for purposes of section 511(a)(2)(B), which applies the unrelated business income tax to colleges and universities owned or operated by state governments.

¹⁷The memorandum also concluded that taxing tribal gaming proceeds, despite the fact that state lottery revenues are untaxed, does not implicate any constitutional right that the tribes have to being treated on a par with states. The memorandum noted that because of the long history of treaty-making with Indian tribes, there is the possibility that an individual tribe may be able to invoke particular provisions of a treaty or statute and convince the federal courts that these provisions insulated the tribe against such a tax. The memorandum cautioned that a court looking at such an issue would not be likely to set aside general tax legislation as unconstitutional, but would consider whether abrogating the particular treaty implicated a vested property interest to which there is a right to compensation. The memorandum concluded, however, that the prospect of such a treaty provision seems very unlikely.

In legal memoranda commissioned by the Mashantucket Pequot Tribe, a contrary view has been expressed. These include a memorandum prepared by Douglas Endreson, Sonosky, Chambers, Sachse & Endreson, Oct. 26, 1995, 95 TNT 233-40. The memorandum concludes that the proposed tax would be unconstitutional. The memorandum also maintains that the tax would abrogate certain treaty-protected rights to self-government.

¹⁸Act of June 18, 1934, ch. 576, 48 Stat. 984 (codified as amended at 25 U.S.C. 461 et seq.).

¹⁹David Getches, Charles F. Wilkinson, and Robert A. Williams, Federal Indian Law (St. Paul, Minn.: West Publishing Company, 1993), p. 216.

act was designed to further tribal self-government by providing for tribal organization.

IRA section 16 provided that any tribe may adopt a constitution and bylaws, and it established a procedure for ratification by tribal members and approval by the Secretary of the Interior.²⁰ Section 16 also provided that the constitution adopted by the tribe vested certain rights and powers in the tribe, including the right to prevent the sale and disposition of tribal lands and the right to negotiate with federal, state, and local governments.

Section 17 provided for the formation of a business corporation and established procedures for petition and ratification.²¹ Thus, IRA allowed for a dual mechanism by which the governmental affairs of an Indian tribe are conducted under a constitution and bylaws adopted under IRA section 16 and the commercial matters are handled by a business corporation organized under section 17.

IRA section 16 provided that “In addition to all powers vested in any Indian tribe by existing law, the constitution shall also vest in such tribe or its tribal council [a list of powers].” An early opinion of the Solicitor for the Department of the Interior considered the issue of what powers are incorporated in the constitution and bylaws of an Indian tribe by this reference to “powers vested in any Indian tribe or tribal council.”²² The opinion concluded that the vested powers are those powers of local self-government that have never been terminated by law or waived by treaty, including the power to: (1) adopt a form of government, create offices, and prescribe the duties thereof; (2) regulate the domestic relations of tribal members; (3) levy dues, fees, or taxes upon tribal members; and (4) regulate the use and disposition of all property within the jurisdiction of the tribe.

The opinion noted that the list was based on general legislation and judicial decisions of general application and was subject to modification with respect to particular tribes, in light of particular powers granted or particular restrictions imposed by special legislation.

²⁰25 U.S.C. 476 (1996).

²¹25 U.S.C. 477 (1996).

²²Opinion dated Oct. 25, 1934, Decisions of the Department of the Interior, Vol. 55, p. 14, cited in GCM 26556.

In an early General Counsel Memorandum, IRS found that these conclusions were

“a striking indication on the part of Congress and the executive department of the Government charged with administering various Indian laws that Indian tribes as such have been recognized as political agencies and have never lost their inherent powers of limited sovereignty . . . [and that] an Indian tribe, as such, is not a taxable entity within the purview of the income tax provisions of the Internal Revenue Code.”²³

This principle forms the basis for the IRS policy on the income tax status of Indian tribes, as set forth in the series of revenue rulings. IRS has determined, however, that although Indian tribes are governments, they are not political subdivisions of the United States, individual states, or territories for purposes of the Code provisions that apply special tax treatment to these governmental units. These include the state exemptions from excise taxes, the income tax exemption for interest on municipal bonds, and the deduction of charitable contributions to governmental units for estate tax purposes.²⁴ In 1982, Congress enacted the Indian Tribal Tax Status Act (Tribal Tax Act), treating tribal governments as states for a number of specified tax provisions, including provisions relating to tax-exempt bonds, charitable contribution deductions, and certain excise tax provisions.²⁵ The treatment is generally available in transactions in which tribes exercise essential governmental functions.

Summary of Taxation of Indian Business Activities

The following sections outline the federal income tax treatment that applies to the various structures that generally can be used by tribes to carry out business activities. IGRA provides that unless a tribe elects to license individual owners, the tribe must have the sole proprietary interest and responsibility for the conduct of the gaming activity. Thus, gaming operations must generally be operated by an entity owned by the tribe, or as an arm of the tribe itself. Payments to tribe members and the application of other federal taxes are also discussed.

²³See GCM 26556 (Dec. 20, 1949). In GCM 38853 (May 17, 1982), the Chief Counsel’s office noted that “historically, the IRS has taken the position that the income tax statutes do not purport to tax the political entity embodied in the concept of an Indian tribe and no attempt has been made to tax the tribe with respect to tribal income,” and indicated that the position of the office was that “in the absence of express legislation, no modification should be made to the taxability of Indian tribes on tribal income.”

²⁴See Rev. Rul. 74-179, 1974-1 C.B. 279; Rev. Rul. 68-231, 1968-1 C.B. 48; and Rev. Rul. 58-610, 1958-2 C.B. 815. IRS determined that because Indian tribes do not derive their powers of self-government from the United States or the states, they are not political subdivisions within the meaning of these provisions.

²⁵Pub. L. No. 97-473, 96 Stat. 2607 (codified at I.R.C. section 7871).

Federally Recognized Indian Tribes Are Exempt From Federal Income Taxation. According to IRS, federally recognized Indian tribes are not subject to federal income taxation.²⁶ Rev. Rul. 67-284 states that “income tax statutes do not tax Indian tribes. The tribe is not a taxable entity.” Any income earned by the tribe is not subject to income tax, regardless of whether the business activity is inside or outside of Indian-owned lands.

The Senate Finance Committee Report on legislation that later became the Tribal Tax Act recognized IRS’ position that sections 1 and 11 of the Internal Revenue Code do not reach Indian tribes as set forth in Rev. Rul. 67-284 and stated that the proposed legislation did not amend this treatment.²⁷

Federally Chartered Tribal Corporations Are Not Subject to Federal Income Taxation. IRS has determined that federally chartered tribal corporations organized under IRA section 17 are not subject to federal income taxation, regardless of where the income is earned. In Rev. Rul. 81-295, IRS found that a federally chartered Indian tribal corporation has the same tax status as the tribe and is not taxable. The revenue ruling described a particular federally chartered Indian tribe. The tribe was formally organized under a constitution and bylaws pursuant to IRA section 16. In addition, at the time of formal organization, the tribal members had ratified a corporate charter as permitted by IRA section 17. The Secretary of the Interior had approved the tribe’s constitution and bylaws and the corporation’s charter. This principle was affirmed in Rev. Rul. 94-16.

Further, in Rev. Rul. 94-65, IRS concluded that a tribal corporation organized under the Oklahoma Indian Welfare Act section 3 is not subject to federal income taxation on the income earned in the conduct of commercial business in or outside of Indian-owned lands.²⁸

State-chartered Tribal Corporations Are Subject to Federal Income Tax. IRS has determined that a corporation organized by an Indian tribe under state law is subject to federal income tax regardless of the location of the activities that generate the income. In Rev. Rul. 94-16, IRS reasoned that a corporation organized by an Indian tribe under state law is

²⁶BIA publishes a list of federally acknowledged Indian tribes in the Federal Register. See 25 C.F.R. section 83.5(a) (1996 ed.).

²⁷S. Rept. 97-646, at 8 (1982) reprinted in 1982 U.S.C.C.A.N. 4580, 4586.

²⁸25 U.S.C. 503.

not the same as an Indian tribal corporation organized under IRA section 17 and does not share the same tax status as the tribe for federal income tax purposes.

Wholly-owned Tribal Law Corporations Generally Have Not Been Subject to Administrative Attempts to Impose Income Taxes.

Although IRS has addressed the tax status of federally recognized Indian tribes and federally chartered corporations, it has not issued a published ruling on the tax status of wholly-owned corporations chartered under tribal law. Many Indian tribal governments have organized wholly-owned tribal corporations to conduct business operations rather than obtain a state or federal charter. Although IRS has not issued published rulings, IRS officials are not aware of any administrative attempt to date to impose federal income taxes on wholly-owned tribal corporations.

Payment of Other Federal Taxes. IRS has determined that Indian tribal governments have no inherent exemption from excise taxes, but section 7871 of the Code provides them with a limited exemption. In Rev. Rul. 94-82, 1994-2 C.B. 412, IRS cited Confederated Tribes of the Warm Springs Reservation v. Kurtz, in which the court found that an Indian tribe did not fit within the excise tax exemption for “any State, any political subdivision of a State, or the District of Columbia.”²⁹ The court reasoned that since the tribe did not derive authority from the state, the state government exemption is not applicable to the tribe.

Section 7871 specifically provides that a tribal government is to be treated as a state for purposes of certain excise taxes if the transaction involves the exercise of an essential governmental function. Consequently, Indian tribes performing essential governmental functions share the same excise tax exemptions as states for many excise taxes. However, both Indian tribes and states are subject to wagering excise taxes. The states are, however, exempt from excise taxes on lotteries.

Payments to Tribal Members Are Taxable. No provision of the Internal Revenue Code exempts individual Indians from the payment of federal income tax; thus, exemptions must be based on a treaty or an act of Congress.³⁰ In some cases, a tribal member may receive general welfare

²⁹691 F.2d 878 (9th Cir. 1982).

³⁰Squire v. Capoeman, 351 U.S. 1 (1956). Subsequent federal appeals court cases have interpreted Squire v. Capoeman to mean that a tax exemption must be based on some particular language in a treaty or statute and that an exemption may not be based on policy alone. United States v. Anderson, 625 F.2d 910, 913, cert. denied. 450 U.S. 920 (1980).

payments from the tribe. Although amounts paid for general welfare may not be taxable, payments made pro rata to all tribal members are evidence that the payments are not based on need and, thus, probably will not qualify for the general welfare exclusion.³¹

The Indian Gaming Regulatory Act of 1988 provided that the net revenues from any tribal gaming are not to be used for purposes other than to (1) fund tribal government operations or programs, (2) provide for the general welfare of the Indian tribe and its members, (3) promote tribal economic development, (4) donate to charitable organizations, or (5) help fund operations of local government agencies.³²

IGRA also provided that net revenues from gaming may be used to make per capita payments to members of the Indian tribe, but only if the tribe has prepared a revenue allocation plan to allocate revenues to uses authorized by IGRA. The plan must be approved by the Secretary of the Interior as adequate, particularly with respect to the funding of tribal government operations or programs and promoting tribal economic development. IGRA also required that the interests of minors and other legally incompetent persons entitled to receive any of the payments be protected and preserved. Because the payments are per capita distributions of gaming proceeds, they are generally subject to taxation when distributed. Additionally, IGRA itself provides that the per capita payments are subject to federal taxation, and the act requires that tribes notify their members of the tax liability when payments are made.

Section 3402(r) of the Internal Revenue Code provides that every person making a payment to a member of an Indian tribe from the net revenues from class II or class III gaming activity must withhold income taxes from the payment. The withholding is capped at 31 percent. Tribal governments must report the total amount of taxable per capita payments made to each tribal member on Form 1099-Misc. Tribal governments are to report any federal income tax withheld on per capita payments on Form 945, Annual Return of Withheld Federal Income Tax, and make any necessary federal tax deposits.

³¹IRS policy has long provided for exclusion of public assistance payments or social welfare payments from income. These payments may include food stamps, housing assistance benefits, and Medicare benefits.

³²25 U.S.C. 2710(b)(2) (1996).

Agency Comments

We provided a draft of this report to the Internal Revenue Service, Department of the Interior, and National Indian Gaming Commission. IRS' Office of Chief Counsel generally agreed with our presentation of the federal tax treatment of Indian tribes and their members and provided some technical comments. We have incorporated those comments where appropriate. Interior's Director of Audit and Evaluation provided a technical comment regarding the authority to approve class III gaming and tribal-state compacts, which we incorporated.

NIGC provided a number of technical comments that we incorporated as appropriate. Two of the comments warrant further discussion. First, the NIGC Acting Chair indicated that our number of tribes and facilities did not agree with NIGC's records. In an April 18, 1997, meeting with NIGC officials, we discussed the number of tribes and facilities and made changes to the report where appropriate. However, our final figures and list of facilities are not the same as NIGC's because of differences in the methodology used to identify and count facilities. NIGC officials acknowledged the differences in methodology and agreed with our final figures and list of facilities.

Second, the NIGC Acting Chair also indicated that we should not include state gaming taxes and other payments to the state as examples of expenses incurred by Atlantic City and Nevada casinos but not by Indian gaming facilities. She stated that some tribal-state compacts may include payments from either the tribe or the gaming facility to states. We told NIGC officials that information provided by industry specialists and in the financial statements of the gaming facilities included in our analysis of operating income showed no payments of taxes or other fees to the state. We also explained to NIGC officials that this information is not meant to indicate that tribes or their gaming facilities pay no taxes or fees to states but to explain some of the differences in the operating income between Indian gaming facilities and Atlantic City and Nevada casinos. NIGC officials accepted this explanation.

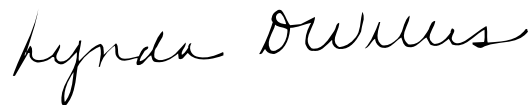
Interior's Assistant Secretary—Indian Affairs provided additional written comments. The Department agreed with our presentation of the federal tax treatment of Indian tribes and their members. It suggested that our report should also compare revenues of Indian gaming facilities with revenues of the various states lotteries. The letter stated that it is Interior's position that tribes are governments, like states, and that it is therefore more appropriate to compare the gaming revenues of governmental entities rather than to compare gaming revenues of Indian tribes with those of privately owned casinos. We compared revenues from class III

gaming (primarily table games and slot machines) with revenues from like gaming activities in Atlantic City and Nevada casinos. We did not compare Indian gaming revenues with state lottery revenues because Indian gaming does not include lotteries; therefore, such a comparison would be inappropriate.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Ranking Minority Member, House Ways and Means Committee; the Senate Finance Committee Chairman and Ranking Minority Member; the Commissioner of Internal Revenue; the Secretary of the Interior; the Chair of the National Indian Gaming Commission; and to other interested parties. We will also make copies available to others upon request.

Major contributors to this report are listed in appendix III. If you have any questions or we can be of further assistance, please call me at (202) 512-9110.

Sincerely yours,



Lynda D. Willis
Director, Tax Policy
and Administration Issues

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Abbreviations

| | |
|------|--------------------------------------|
| BIA | Bureau of Indian Affairs |
| IGRA | Indian Gaming Regulatory Act of 1988 |
| IRA | Indian Reorganization Act of 1934 |
| IRS | Internal Revenue Service |
| NIGC | National Indian Gaming Commission |

Objectives, Scope, and Methodology

Objectives

Our objectives in this report were to provide (1) an updated profile of the Indian gaming industry, (2) information on the amount of transfers to the tribes from their gaming facilities, (3) a comparison of Indian gaming revenues with the revenues generated by other legalized gaming activities, and (4) a summary of the federal tax treatment of Indian tribes and tribe members.

Scope and Methodology

Profile of the Indian Gaming Industry

To determine the number of tribes with gaming facilities, we reviewed documents provided by NIGC identifying all tribes with gaming operations as of December 31, 1996. This information included only class II and class III gaming facilities. Information on the number of tribes with class I facilities was not readily available because class I gaming consists of social gaming for nominal prizes or ceremonial gaming, which is regulated solely by the tribes.

To develop a comprehensive list of tribes and gaming facilities, NIGC contacted all tribes except for those in Alaska, where it contacted only the tribes that were known to be attempting to open gaming facilities. According to NIGC, most of the 226 tribes in Alaska are not operating gaming facilities, primarily because of the remoteness and small size of the tribes' membership.¹ (A list of tribes and their known gaming facilities as of December 31, 1996, appears in app. II.)

IGRA categorizes gaming activities as class II or class III. For purposes of our analysis, however, we categorized facilities based on whether they had approved tribal ordinances and tribal-state compacts. We categorized gaming facilities without compacts as class II facilities, even though they may operate class III games. We treated gaming facilities with class III games and compacts in place, per BIA listing of compacts as of December 14, 1995, as class III facilities. NIGC told us that in several states, tribes and states may no longer have valid compacts in place.

To perform our analyses on revenues, costs and expenses, and net income, for example, we used data contained in 1995 financial statements that

¹Additionally, it is unclear whether certain lands set aside for Alaska natives under the Alaska Native Claims Settlement Act meet the IGRA definition of Indian lands on which gaming may be conducted. (See 43 U.S.C. 1601 et seq.)

were submitted to NIGC as of November 22, 1996.² This was the date on which we ended our data gathering to begin our analyses. For this time frame, NIGC had financial statements from 126 tribes representing 178 facilities. The financial statements of 174 of these facilities were independently audited, and the majority received unqualified opinions.³ We also verified our listings of financial statements received with NIGC officials to ensure that we had received all of them. (See app. II, footnote a.)

The sample of facilities included in our report consists of the 178 gaming facilities represented by these financial statements. The sample is not representative of the universe of all Indian gaming facilities. Table I.1 represents the 1995 financial statement submission status of all gaming facilities existing as of December 31, 1996, according to information provided by NIGC.⁴ We verified this information with NIGC officials to clarify questions and inconsistencies. We do not know the characteristics of those gaming facilities for which we did not analyze the financial statements. We did not determine why some tribes did not submit financial statements beyond what is indicated in table I.1 because such an analysis, although important for compliance purposes, was outside the scope of this report.

Table I.1: 1995 Financial Statement Filing Status of Facilities as of December 31, 1996

| Filing status | Number of facilities |
|---|-----------------------------|
| Filed and included in our analysis | 178 |
| Filed but not included in our analysis because financial statements were incomplete or submitted after the completion of our data gathering | 30 |
| Did not file or received filing extensions | 44 |
| Not required to file because they were not operating for one year as of 1995 or were opened in 1996 | 36 |
| Included in our analysis but closed by December 31, 1996 | (7) |
| Total known gaming facilities as of December 31, 1996 | 281 |

Source: GAO analysis of Indian gaming operations and financial statement submissions, based on information from and discussions with NIGC officials.

²The financial statements we analyzed had different fiscal year ending dates, but we considered a financial statement to be a 1995 statement if its fiscal year ended in 1995.

³An unqualified opinion on the financial statements generally means that the auditor concludes the financial statements and accompanying notes present fairly, in all material respects, the assets, liabilities, and net position of the entity at the end of the period; and the net costs, changes in net position, and cash flows for the period then ended are in conformity with the entity's basis of accounting or generally accepted accounting principles.

⁴NIGC updates the status of gaming facilities and financial statement submissions quarterly. The quarter ending on December 31, 1996, was the closest quarter to November 22, 1996, the date we completed our data collection.

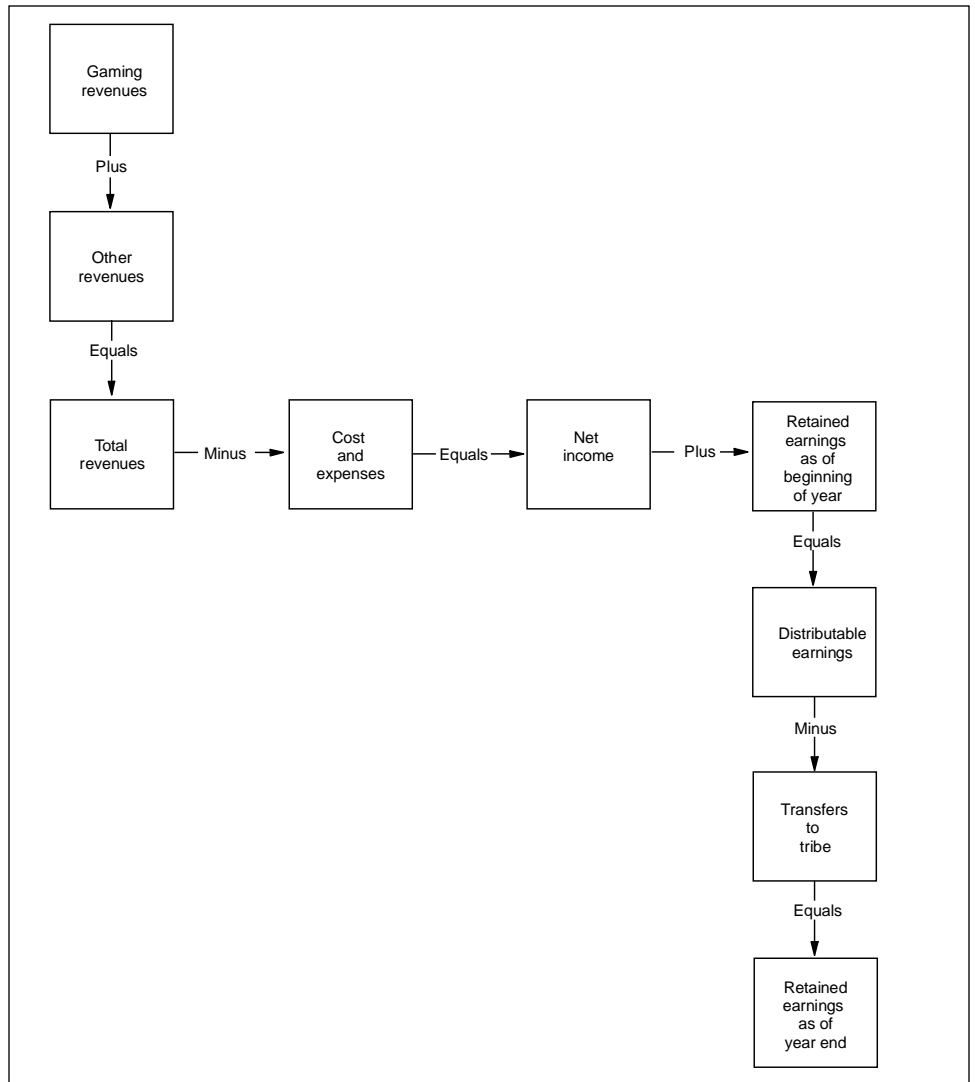
For those facilities included in our analyses, we extracted information that allowed us to determine gaming revenues, total revenues, costs and expenses, operating income, and net income. We used Audit and Accounting Guide: Audits of Casinos, published by the American Institute of Certified Public Accountants, and spoke with industry experts for guidance in deciding which data to extract from the financial statements and what analyses to perform on these data. (See the glossary for the accounting terms we used throughout this report.)

Our analyses do not include data from the balance sheet or statement of cash flows, such as assets, liabilities, equity, or debt payments, because this information was not reported consistently by the different facilities.

Transfers to the Tribes

To determine the amount of transfers to the tribes, we analyzed information contained in the financial statements. The transfers as described in this report represent the amounts in the financial statements allocated to the tribes. IGRA provides that net revenues from tribal gaming must be devoted to certain uses, including funding tribal government operations. Net revenues is defined as gross gaming revenues minus prizes and gaming-related operating expenses, not including management fees. In figure I.1, we depict, in general, how the transfers flow from the gaming facility to the tribe as indicated in the financial statements.

Figure I.1: Flow of Transfers From the Gaming Facility to the Tribe



Note: This flowchart has been simplified to represent, in general, the revenue flow across all financial statements. Other revenues include, for example, revenues from food, beverages, hotel rooms, and interest.

Source: GAO analysis of 1995 financial statements.

As noted in the Background section of this report, IGRA limits how these transfers can be used. The transfers as described in this report represent the amounts in the financial statements allocated to the “tribes.” The

amounts could have been received by tribal government or tribal members, but we were not able to determine this because the financial statements did not indicate how the transfers were used or who received them. In addition, to determine the economic impact of gaming on the tribes, several factors would need to be considered, such as poverty levels and other revenues generated by the tribes; we did not address these factors because they were beyond the scope of this report. We obtained information on the amount of items, such as taxes and fees, rent and other charges, and cost reimbursements, from the financial statements to the extent such amounts were reported.

Comparison of Indian and Non-Indian Gaming Revenues

To compare Indian gaming revenues with the gaming revenues of other legalized gaming, we used data reported in *International Gaming and Wagering Business* and financial statement data submitted to the Nevada and Atlantic City gaming commissions. We obtained the financial data on Nevada casinos from *Nevada Gaming Abstract*, a report prepared by the Nevada State Gaming Control Board for fiscal year data as of June 30, 1995. The information presented in the Abstract comes from unaudited standard financial statements that licensees whose gaming revenues are \$1 million or more are required to file. We obtained the Atlantic City financial data from unaudited standard financial statements that all New Jersey casinos are required to file and from financial analyses prepared by the New Jersey Casino Control Commission as of June 30, 1995. We did not independently verify the data included in these reports.

We used data published in *International Gaming and Wagering Business* to determine the gaming revenue shares of legalized gaming as a whole and also the casino segment in particular. The legalized gaming categories we included are those used in this publication. We substituted the amounts of Indian gaming revenues for the amounts used in this publication only for consistency with our analyses in the rest of our report. The amounts published for Indian gaming, however, were similar to the amounts we determined from the financial statements.

We used the financial data of Nevada and Atlantic City casinos only to compare class III facilities. Class III facilities relied primarily on casino games and slot machines, and this was also the case for Nevada and Atlantic City casinos. We included only facilities with gaming revenues of \$1 million and more because the Nevada financial data were aggregated and included only facilities with these gaming revenues. To make valid comparisons of revenues among the Indian facilities and casinos, we

subtracted the amount of promotional allowances (free food, hotel rooms, and so on given to customers as incentives) from “other revenues” for those facilities and casinos that reported such amounts as “revenues.”

We used operating income to compare the results of these operations because operating income is a common measure used by industry experts to analyze and compare the profitability of businesses. It discounts the effects of capital structure and other nonoperating incomes and expenses that are not directly related to the performance of business operations.

**Summary of Legal Issues
Pertaining to the Taxation
of Indian Tribes**

To describe the legal issues regarding the taxation of Indian gaming revenues, we reviewed relevant sections of the Internal Revenue Code and the IRS and Department of the Treasury rulings and regulations pertaining to the taxation of Indian tribes. We also interviewed officials from Treasury, IRS, and BIA.

Tribes and Known Gaming Operations as of December 31, 1996^a

| State | Tribe | Name of operation | |
|-------------------------------|---|--|---|
| Alabama | Poarch Band of Creek Indians | Creek Bingo Palace* | |
| Alaska | Klawock Cooperative Association | Klawock Cooperative Association (Gaming Division)* | |
| | Metlakatla Indian Community | Metlactla Indian Community Bingo | |
| Arizona | Ak Chin Indian Community | Harrah's Ak-Chin Casino* | |
| | Cocopah Indian Tribe | Cocopah Bingo and Casino* | |
| | Colorado River Indian Tribes | Blue Water Casino* | |
| | Fort McDowell Mohave-Apache Indian Community | Fort McDowell Gaming Center* | |
| | Fort Mojave Indian Tribe | Spirit Mountain Casino* | |
| | Gila River Indian Community | | Lone Butte Casino* |
| | | | Wild Horse Casino* |
| | Kaibab Band of Paiute Indians | Pipe Spring Resort & Casino** | |
| | Pascua Yaqui Tribe of Arizona | Casino of the Sun* | |
| | Quechan Indian Tribe | Quechan Bingo/Casino | |
| | San Carlos Apache Tribe | Apache Gold Casino* | |
| | Tohono O'odham Nation | Tohono O'odham Gaming Authority-Desert Diamond Casino* | |
| | Tonto Apache Tribe | Tonto Apache Mazatzal Casino* | |
| | White Mountain Apache Tribe | Hon-dah Casino* | |
| | Yavapai Apache Tribe | Cliff Castle Casino* | |
| Yavapai-Prescott Indian Tribe | | Yavapai-Prescott Class II Gaming* | |
| | | Yavapai-Prescott Class III Gaming* | |
| California | Agua Caliente Band of Cahuilla Indians | Spa Casino* | |
| | Auberry Big Sandy Rancheria | Mono Wind Casino | |
| | Barona Band of Mission Indians | Barona Casino* | |
| | Big Pine Paiute Tribe of the Owens Valley | Sierra Springs Casino | |
| | Big Valley Rancheria of Pomo Indians | Konocti Vista Casino and Bingo* | |
| | Bishop Paiute Tribe | Paiute Palace Casino* | |
| | Bridgeport Indian Reservation | Kiba Casino** | |
| | Cabazon Band of Mission Indians | | Cabazon Simulcast Wagering Corporation* |
| | | | Fantasy Springs Casino* |
| | Cahto Tribe of the Laytonville Rancheria | Cahto Casino | |
| | Cahuilla Band of Mission Indians | Cahuilla Creek Restaurant and Casino | |
| | Chemehuevi Indian Tribe | Havasu Landing Resort | |
| | Chicken Ranch Rancheria | Chicken Ranch Bingo* | |
| | Coast Indian Community of the Resighini Rancheria | Coast Indian Gaming Facility | |
| | Colusa Rancheria | Colusa Casino & Bingo Enterprise Fund* | |
| | Coyote Valley Band of Pomo Indians | Shodakai Coyote Valley Casino | |
| | Elk Valley Rancheria | Elk Valley Casino | |

(continued)

**Appendix II
Tribes and Known Gaming Operations as of
December 31, 1996***

| State | Tribe | Name of operation |
|--------------|---|--|
| | Hoopa Valley Tribe | Lucky Bear Casino |
| | Hopland Reservation | Hopland Casino |
| | Jackson Rancheria Band of Miwuk Indians | Jackson Indian Bingo and Casino* |
| | Lake Miwok Indian Nation of the Middletown Rancheria | Twin Pine Casino* |
| | Mooretown Rancheria | Mooretown Rancheria Casino |
| | Morongo Band of Mission Indians | Casino Morongo* |
| | Pit River Tribe | Pit River Casino |
| | Redding Rancheria Tribe | Win-River Casino* |
| | Robinson Rancheria of Pomo Indians | Robinson Rancheria Bingo and Casino* |
| | Rumsey Indian Rancheria | Cache Creek Indian Bingo and Casino* |
| | San Manuel Band of Mission Indians | San Manuel Mission Indian Casino |
| | Santa Rosa Rancheria | The Palace Bingo* |
| | Santa Ynez Band of Mission Indians | Santa Ynez Indian Casino* |
| | Sherwood Valley Rancheria | Black Hart Casino |
| | Smith River Rancheria | Smith River Lucky 7 Casino |
| | Soboba Band of Mission Indians | Soboba Casino |
| | Susanville Indian Rancheria | Northern Lights Casino |
| | Sycuan Band of Mission Indians | Sycuan Gaming Center |
| | Table Mountain Rancheria | Table Mountain Rancheria Casino and Bingo* |
| | Temecula Band of Luiseno Mission Indians | Pechanga Entertainment Center* |
| | Trinidad Rancheria | Cher-Ae Heights Bingo and Casino* |
| | Tule River Tribe of the Tule River Indian Reservation | Eagle Mountain Casino |
| | Twenty Nine Palms Band of Mission Indians | Spotlight 29 Casino* |
| | Tyme Maidu Tribe of the Berry Creek Rancheria | Berry Creek Rancheria Gaming |
| | Viejas Band of Mission Indians | Viejas Casino and Turf Club |
| Colorado | Southern Ute Indian Tribe | Sky Ute Lodge and Casino* |
| | Ute Mountain Ute Tribe | Ute Mountain Casino* |
| Connecticut | Mashantucket Pequot Tribe | Foxwoods Resort Casino* |
| | Mohegan Tribe of Indians | Mohegan Sun Casino |
| Florida | Miccosukee Tribe of Indians of Florida | Miccosukee Indian Bingo* |
| | Seminole Tribe of Florida | Brighton Seminole Bingo |
| | | Hollywood Seminole Gaming* |
| | | Seminole Bingo of Tampa* |
| | | Seminole Bingo Palace* |
| | | Seminole Gaming Palace - Immokalee* |
| Idaho | Coeur d'Alene Tribe | Coeur d'Alene Tribal Bingo/Casino* |
| | Kootenai Tribe of Idaho | Kootenai River Inn and Casino* |
| | Nez Perce Tribe | Clear River Casino |
| | | Its-Ye-Ye Bingo |

(continued)

**Appendix II
Tribes and Known Gaming Operations as of
December 31, 1996***

| State | Tribe | Name of operation |
|--------------|---|---|
| | Shoshone-Bannock Tribes | Bannock Peak Gaming Enterprise Fund* Oregon Trail Outpost |
| Iowa | Omaha Tribe of Nebraska | Casino Omaha* |
| | Sac & Fox Tribe of Mississippi in Iowa | Meskwaki Bingo and Casino* |
| | Winnebago Tribe of Nebraska | WinnaVegas Casino* |
| Kansas | Iowa Tribe of Kansas and Nebraska | Bingo Party Games* |
| | Kickapoo Nation in Kansas | Golden Eagle Casino |
| | Prairie Band Potawatomi | Prairie Band of Potawatomi Indian Gaming Trust* |
| Louisiana | Chitimacha Tribe of Louisiana | Cypress Bayou Casino* |
| | Coushatta Tribe of Louisiana | Grand Casino Coushatta* |
| | Tunica-Biloxi Indian Tribe of Louisiana | Grand Casino Avoyelles* |
| Michigan | Bay Mills Indian Community | Bay Mills Casino* Kings Club Casino* |
| | Grand Traverse Band of Ottawa/Chippewa Indians | Leelanau Sands Casino* Super Gaming Palace* Turtle Creek Casino |
| | Hannahville Indian Community | Chip-in Casino/Motel* |
| | Keweenaw Bay Indian Community | Big Bucks Casino Ojibwa Casino Resort* Ojibwa Casino Resort-Marquette Senior's Bingo* Youth Bingo* |
| | Lac Vieux Desert Band of Lake Superior Chippewa Indians | Lac Vieux Desert Casino* |
| | Saginaw Chippewa Indian Tribe | Soaring Eagle Casino* |
| | Sault Ste. Marie Tribe of Chippewa Indians | Kewadin Casino-Christmas* Kewadin Casino-Hessel* Kewadin Casino-Manistique* Kewadin Casino-St. Ignace* Kewadin Casino-Sault Ste. Marie* Midjim Convenience Store Pulltabs I Midjim Convenience Store Pulltabs II Vegas Kewadin Bingo |
| Minnesota | Bois Forte Band of Chippewas | Fortune Bay Casino* |
| | Fond du Lac Reservation Business Committee | Black Bear Casino* Fond-du-Luth Casino* |
| | Grand Portage Band of Chippewa Indians | Grand Portage Casino* |
| | Leech Lake Band of Chippewa Indians | Che-We Casino |

(continued)

**Appendix II
Tribes and Known Gaming Operations as of
December 31, 1996***

| State | Tribe | Name of operation |
|--------------|---|-----------------------------------|
| | | Leech Lake Palace Bingo* |
| | | Northern Lights Gaming Emporium* |
| | Lower Sioux Indian Community | Jackpot Junction Casino* |
| | Mille Lacs Band of Chippewa Indians | Grand Casino Hinckley* |
| | | Grand Casino Mille Lacs* |
| | Prairie Island Indian Community | Treasure Island Casino and Bingo* |
| | Red Lake Band of Chippewa Indians | Lake of the Woods Casino* |
| | | Red Lake Casino* |
| | | River Road Casino* |
| | Shakopee Mdewakanton Sioux Community | Little Six Bingo* |
| | | Mystic Lake* |
| | Upper Sioux Community | Firefly Creek Casino* |
| | White Earth Band of Chippewa Indians | Golden Eagle Bingo |
| | | Shooting Star Casino* |
| Mississippi | Mississippi Band of Choctaw Indians | Silver Star Hotel and Casino* |
| Montana | Assiniboine and Sioux Tribes of the Fort Peck Reservation | Silverwolf Casino* |
| | Blackfeet Tribe of Indians | Blackfeet Bingo |
| | Chippewa Cree Tribe of the Rocky Boy's Reservation | 4 C's Cafe & Casino |
| | | Chippewa PowWow Bingo |
| | Crow Indian Tribe | Little Bighorn Casino* |
| | Northern Cheyenne Tribe | Northern Cheyenne Social Club |
| Nebraska | Santee Sioux Tribe of Nebraska | Ohiya Casino |
| Nevada | Fort Mojave Indian Tribe | Avi Casino Enterprise, Inc. |
| | Las Vegas Paiute Tribe | Las Vegas Paiute Resort |
| | Moapa Band of Paiutes | Moapa Tribal Enterprises I |
| | | Moapa Tribal Enterprises II |
| New Mexico | Jicarilla Apache Tribe | Apache Nugget Casino |
| | | Vigil Family Enterprises |
| | Mescalero Apache Tribe | Inn of the Mountain Gods** |
| | Pueblo of Acoma | Sky City Casino* |
| | Pueblo of Isleta | Isleta Gaming Palace* |
| | Pueblo of Pojoaque | Cities of Gold Casino* |
| | | Cities of Gold Sports Bar |
| | | Pueblo of Pojoaque Casino* |
| | Pueblo of Sandia | Casino Sandia* |
| | Pueblo of Santa Ana | Santa Ana Star Casino* |
| | Pueblo of Taos | Taos Slot Room |
| | Pueblo of Tesuque | Camel Rock Casino |
| | San Felipe Pueblo | San Felipe Casino Hollywood* |

(continued)

**Appendix II
Tribes and Known Gaming Operations as of
December 31, 1996***

| State | Tribe | Name of operation |
|-----------------------------------|--|--|
| | San Juan Pueblo | Ohkay Casino* |
| New York | Oneida Nation of New York | Turning Stone Casino |
| | Seneca Nation of Indians | Bingo Allegany* |
| | | Bingo Cattaraugus* |
| | St. Regis Mohawk Tribe | Mohawk Bingo Palace* |
| | | Tribal Bingo** |
| North Carolina | Eastern Band of Cherokee Indians | Tribal Bingo* |
| | | Tribal Casino* |
| | | TeePee Village Casino** |
| North Dakota | Devils Lake Sioux Tribe | Spirit Lake Casinos |
| | Sisseton-Wahpeton Sioux Tribe | Dakota Magic Casino & Resort |
| | Standing Rock Sioux Tribe | Fort Yates Pow Wow Committee |
| | | Prairie Knights Casino* |
| | Three Affiliated Tribes of the Fort Berthold Reservation | 4 Bears Casino and Lodge* |
| | Turtle Mountain Band of Chippewa Indians | Turtle Mountain Chippewa Big Casino* |
| | | Turtle Mountain Chippewa Mini Casino* |
| Oklahoma | Absentee-Shawnee Tribe of Oklahoma | Thunderbird Entertainment Center |
| | Apache Tribe of Oklahoma | Na-I-Sha Games |
| | Cherokee Nation of Oklahoma | Cherokee Nation Outpost-Catoosa* |
| | | Cherokee Nation Outpost-Roland* |
| | | Cherokee Nation Outpost-West Siloam Springs* |
| | | Loyal Shawnee Bingo |
| | Cheyenne and Arapaho Tribes of Oklahoma | Cheyenne and Arapaho Bingo-Clinton |
| | | Cheyenne and Arapaho Bingo-Watonga |
| | | Lucky Star Bingo* |
| | Chickasaw Nation of Oklahoma | Ada Gaming Center* |
| | | Goldsby Gaming Center* |
| | | Sulphur Gaming Center |
| | | Thackerville Gaming Center* |
| | | Choctaw Nation of Oklahoma |
| | | Choctaw High Stakes Bingo-Durant* |
| | | Choctaw High Stakes Bingo-Idabel* |
| | | Choctaw High Stakes Bingo-Pocola* |
| | Citizen Band Potawatomi Indians of Oklahoma | Potawatomi Tribal Gaming* |
| | Comanche Indian Tribe | Comanche Nation Games* |
| | Delaware Tribe of Western Oklahoma | Delaware Tribal Games** |
| Eastern Shawnee Tribe of Oklahoma | Eastern Shawnee Tribe of Oklahoma Bingo Operations* | |
| Iowa Tribe of Oklahoma | Bingo Enterprise Fund* | |
| Kaw Nation of Oklahoma | Kaw Bingo* | |

(continued)

**Appendix II
Tribes and Known Gaming Operations as of
December 31, 1996***

| State | Tribe | Name of operation |
|--------------|---|---|
| | Kiowa Tribe of Oklahoma | Kiowa Bingo |
| | Muscogee (Creek) Nation | Bristow Indian Community Bingo* |
| | | Checotah Muskogee Indian Community Bingo* |
| | | Eufaula Indian Community Bingo* |
| | | Muscogee Bingo* |
| | | Okmulgee Bingo* |
| | | Tulsa Bingo* |
| | Ponca Tribe of Oklahoma | Ponca Tribal Bingo |
| | Sac & Fox Nation of Oklahoma | Foxfire Bingo Casino, Inc. |
| | Seminole Nation of Oklahoma | Seminole Nation Bingo* |
| | | Wewoka Trading Post Gaming Center* |
| | Seneca-Cayuga Tribe of Oklahoma | Seneca-Cayuga Bingo |
| | Thlopthlocco Tribal Town | Thlopthlocco Bingo |
| | United Keetoowah Band of Cherokee Indians | Keetoowah Bingo |
| Oregon | Confederated Tribes of the Grande Ronde Indian Community | Spirit Mountain Gaming, Inc.* |
| | Confederated Tribes of the Siletz Indians of Oregon | Chinook Winds* |
| | Confederated Tribes of the Umatilla Indian Reservation | Wildhorse Gaming Resort* |
| | Confederated Tribes of the Warm Springs Reservation of Oregon | Indian Head Gaming Center* |
| | Coquille Indian Tribe | The Mill Casino |
| | Cow Creek Band of Umpqua Indians | Gaming Operations* |
| South Dakota | Cheyenne River Sioux Tribe | Cheyenne River Sioux Tribe Bingo |
| | Crow Creek Sioux Tribe | Crow Creek Bingo Hall |
| | | Lode Star Casino |
| | Flandreau Santee Sioux Tribe | Royal River Casino* |
| | Lower Brule Sioux Tribe | Brule Horseman Association |
| | | Brule Sioux Booster Club |
| | | Golden Buffalo Casino* |
| | | Kul Wicasa Elderly Bingo |
| | | Lakota Care Bingo |
| | | Lakota Family Dance Club |
| | | Lower Brule Health Club |
| | | Lower Brule Youth Activities |
| | Oglala Sioux Tribe | Children's Village Bingo |
| | | Prairie Wind Casino* |
| | Rosebud Sioux Tribe | Rosebud Casino* |
| | Sisseton-Wahpeton Sioux Tribe | Dakota Sioux Casino* |
| | | Veterans Memorial Recreation Center* |

(continued)

**Appendix II
Tribes and Known Gaming Operations as of
December 31, 1996***

| State | Tribe | Name of operation |
|--------------|--|--|
| | Standing Rock Sioux Tribe | Bear Soldier Jackpot Bingo* |
| | | Grand River Casino |
| | Yankton Sioux Tribe | Fort Randall Casino/Hotel* |
| Texas | Kickapoo Traditional Tribe of Texas | Lucky Eagle Casino |
| Washington | Confederated Tribes of the Chehalis Reservation | Chehalis Tribal Lucky Eagle Casino* |
| | Confederated Tribes of the Colville Reservation | Mill Bay Casino |
| | | Coulee Dam Casino* |
| | | Okanogan Casino/Bingo* |
| | Jamestown S'Klallam Tribe | Seven Cedars Casino* |
| | Lower Elwha S'Klallam Tribe | Lower Elwha Bingo** |
| | Lummi Nation | Lummi Casino* |
| | Makah Indian Tribe of the Makah Indian Reservation | Makah Bingo* |
| | Muckleshoot Indian Tribe | Muckleshoot Indian Bingo* |
| | | Muckleshoot Indian Casino* |
| | Nooksack Indian Tribe | Nooksack River Casino* |
| | Port Gamble S'Klallam Tribe | Little Boston Bingo |
| | Puyallup Tribe of Indians | BJ's Enterprises, Inc. |
| | | Puyallup Tribe Bingo Palace* |
| | Spokane Tribe of Indians | Brigman's Casino |
| | | Double-Eagle Casino |
| | | Kieffer's Store |
| | | Lile Chief's Casino |
| | | Pappy's Corner |
| | | Snack'n Chat |
| | | Spokane Indian Bingo |
| | | Two Rivers Casino |
| | | Wooden Nickel Casino |
| | Squaxin Island Tribe | Little Creek Casino |
| | Suquamish Tribe | Port Madison Enterprises-Bingo Operations Division* |
| | | Port Madison Enterprises-Suquamish Clearwater Casino |
| | Swinomish Indian Tribal Community | Swinomish Casino & Bingo* |
| | Tulalip Tribes of Washington | Tulalip Casino* |
| | Upper Skagit Indian Tribe | Harrah's Skagit Valley Casino |
| Wisconsin | Bad River Band of Lake Superior Chippewa Indians | Bad River Casino |
| | Forest County Potawatomi Community | Northern Lights Casino* |
| | | Potawatomi Bingo* |
| | Ho-Chunk Nation | Ho-Chunk Bingo* |
| | | Ho-Chunk Casino* |
| | | Majestic Pines Bingo* |

(continued)

**Appendix II
Tribes and Known Gaming Operations as of
December 31, 1996^a**

| State | Tribe | Name of operation |
|--------------|---|-----------------------------|
| | | Majestic Pines Casino* |
| | | Rainbow Bingo* |
| | | Rainbow Casino* |
| | Lac Courte Oreilles Band of Lake Superior Chippewas | Lac Courte Oreilles Casino* |
| | Lac du Flambeau Band of Lake Superior Chippewa Indians | Lake of the Torches Casino* |
| | | Bingo Enterprise Fund* |
| | Menominee Indian Tribe of Wisconsin | Crystal Palace Casino* |
| | | Menominee Nation Casino* |
| | | Menominee Tribal Bingo* |
| | Oneida Tribe of Indians of Wisconsin | Class II Gaming Operations* |
| | Red Cliff Band of Lake Superior Chippewas | Isle Vista Casino* |
| | Sokaogon Chippewa Community | Grand Royale |
| | | Mole Lake Bingo |
| | | Regency Resort |
| | St. Croix Chippewa Indians of Wisconsin | Hole in the Wall Casino* |
| | | Little Hartel Casino |
| | | Sand Lake Bingo |
| | | St. Croix Casino* |
| | Stockbridge-Munsee Community | Mohican North Star Casino* |
| Wyoming | Northern Arapaho Tribe of the Wind River Indian Reservation | 789 Bingo |

^aA single asterisk denotes the facilities included in our analyses (178), the names of which were taken from the financial statements submitted to NIGC. Other facility names were obtained from other NIGC data. A double asterisk denotes the facilities included in our analyses that were not operating on December 31, 1996.

Note: This information may not agree with NIGC's records because of differences in the methodologies used to identify and count facilities.

Source: GAO analysis of 1995 financial statements filed with NIGC and NIGC lists of gaming facilities.

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Glossary

| | |
|--------------------|--|
| Costs and Expenses | Payroll, management fees, depreciation, amortization, the interest portion of debt payments, and others. Under generally accepted accounting principles, the principal portion of the debt payments is not an expense and thus is not included in costs and expenses. |
| Gaming Revenues | Dollars wagered minus payouts. |
| Net Income | Total revenues minus all costs and expenses. |
| Net Revenues | IGRA defines “net revenues” as gross gaming revenues minus prizes and gaming-related operating expenses, not including management fees. |
| Operating Income | Revenues minus costs and expenses that were related to the primary business activities, such as salaries, advertisements, rents, and other expenses. It did not include revenues or expenses that were not related to the primary business activities, such as interest income; gains on sales of assets; and depreciation, amortization, and interest expenses. |
| Other Revenues | Sales such as food, beverages, and hotel rooms. |
| Total Revenues | Sum of gaming revenues and other revenues. |

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