

RESOLUTION 1996-51

**A RESOLUTION CONCERNING THE
PENALTY TO BE IMPOSED ON INDIANA
GAMING COMPANY, L.P. FOR FAILURE TO
COMMENCE REGULAR RIVERBOAT GAMING
EXCURSIONS ON A TIMELY BASIS**

The Indiana Gaming Commission adopts the following resolution pursuant to authority granted to it under IC 4-33 and pursuant to 68 IAC 1-2-6.

The following factors have been considered by the Commission:

1. The Commission issued a Certificate of Suitability to Indiana Gaming Company, L.P. ("Indiana Gaming") on June 30, 1995. The Certificate of Suitability was valid for a period of one hundred eighty (180) days.
2. The Commission issued an extension of the Certificate of Suitability to Indiana Gaming on December 4, 1995, January 8, 1996, June 3, 1996, and August 20, 1996. The last extension is to expire on February 17, 1996.
3. Pursuant to IC 4-33-6-11, the Commission may revoke a Certificate of Suitability if the Certificate holder does not commence regular riverboat excursions within a period of one year after the issuance of the Certificate of Suitability.
4. Indiana Gaming submitted a proposal to the Commission stating that it would pay to the Commission the sum of Seventy-five Thousand Dollars (\$75,000) per day as an imputed wagering tax beginning the latter of December 1, 1996, or fifteen (15) days after Indiana Gaming receives its Section 404 permit from the Army Corps of Engineers for every day that it has not commenced regular riverboat excursions. The imputed wagering tax would not be paid if Indiana Gaming's commencement of regular riverboat excursions is delayed by the Commission staff being unable to conduct practice gaming excursions, an act of God, strike, war, riot, flooding, a lawsuit or injunction initiated by a third party, or other circumstance over which Indiana Gaming has no reasonable control.

**NOW, THEREFORE, BE IT RESOLVED BY THE INDIANA GAMING
COMMISSION, THAT THE FOLLOWING RESOLUTION IS ADOPTED:**

SECTION 1. SCOPE.

This resolution applies to Indiana Gaming Company, L.P.

SECTION 2. DEFINITIONS.

The definitions set forth in IC 4-33-2 and 68 IAC apply to this resolution.

SECTION 3. ACTION ON PROPOSED IMPUTED WAGERING TAX.

The proposed imputed wagering tax is approved by the Commission. An imputed wagering tax of Seventy-five Thousand Dollars (\$75,000) will be imposed on Indiana Gaming for each day that Indiana Gaming does not commence regular riverboat excursions beginning on the latter of December 1, 1996, or fifteen (15) days after Indiana Gaming receives its Section 404 permit from the Army Corps of Engineers. The imputed wagering tax will not be imposed if the commencement of regular riverboat excursions is delayed by one (1) of the following:

1. The inability of the Commission staff to conduct practice gaming excursions in order to issue the riverboat owner's license within the time frame outlined above.
2. An act of God.
3. Strike.
4. War.
5. Riot.
6. Flooding.
7. A lawsuit or injunction initiated by a third party.
8. Any other circumstance that causes delay and over which Indiana Gaming has no reasonable control.

SECTION 4. EFFECTIVE DATE.

This resolution is effective immediately.

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This RESOLUTION is effective immediately.

ADOPTED THIS THE 11TH DAY OF OCTOBER, 1996:

THE INDIANA GAMING COMMISSION:



Alan I. Klineman, Chair

ATTEST:



Donald R. Vowels, Secretary