

Fact sheet FS3002

Tipping competitions with entry fees

How can you legally conduct tipping competitions in NSW? This fact sheet provides guidelines for anyone who wants to run a tipping competition in NSW for the purposes of social entertainment or fundraising.

Overview

All tipping competitions where an entry fee is charged:

- ▲ May be conducted as a social entertainment or to raise funds for a not-for-profit organisation or both
- ▲ No authorising permit required unless total entry fees are more than \$25,000
- ▲ Total value of money prizes capped at \$7,000
- ▲ Spending money as part of a travel prize capped at 20% of the value of the prize
- ▲ No salary, wage, fee, commission, percentage or benefit can be paid
- ▲ No payment or other benefit can be sought for the right to enter the place where the tipping competition is conducted.

Rights to participate in a tipping competition can't be sold after the closing date for the receipt of entry in the tipping competition.

What is a tipping competition?

Tipping competitions requiring an entry fee, also known as football or sports tipping competitions, are defined as 'progressive lotteries' under section 4F of the *Lotteries and Art Unions Act 1901*, and include other lotteries or games of chance run in a similar way. They work like this:

- ▲ participants predict or forecast the outcome or results of a sporting event or other contingency
- ▲ points are awarded for successful predictions or forecasts
- ▲ the prize pool is awarded to the participant who accumulates the most points over a stipulated period – the prize winner

- ▲ periodical prizes may also be awarded to participants according to the rules of the competition.

Note:

Free-entry tipping competitions involving prizes are considered games of chance that promote trade or business under section 4B of the Act. This type of competition requires a permit. For more information, see FS3014 'Trade promotion lotteries' fact sheet at liquorandgaming.justice.nsw.gov.au.

Two types of tipping competition involving entry fees

Social entertainment

If you run your tipping competition purely as a form of social entertainment, you need to ensure that after legitimate expenses have been deducted, all money invested by the participants must go towards prizes.

Fundraising

If you run your tipping competition as part social entertainment, and partly to raise funds for a not-for-profit organisation, you have additional requirements. The tipping competition must be conducted or authorised by the organisation that will benefit.

A not-for-profit organisation is defined as body of persons that is not formed for private gain. It includes charities, social clubs, registered clubs, political parties and trade unions.

Who can run tipping competitions

Anyone, including minors, can conduct tipping competitions.

Authorising permits

- ▲ **You don't need a permit** if entry fees are charged and the total tipping competition entry fees of the tipping competition will be \$25,000 or less. However, it must still be conducted in accordance with the requirements of the *Lotteries and Art Unions Act 1901* and the *Lotteries and Art Unions Regulation 2014*.

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- ▲ **You do need a permit** if entry fees are charged and the total tipping competition entry fees will be more than \$25,000. It must be conducted in accordance with the requirements of the *Lotteries and Art Unions Act 1901*, the Lotteries and Art Unions Regulation 2014, and any conditions imposed on the permit. Anyone aged 18 or over can apply for a tipping competition permit. There are no fees.
- ▲ **You do need a permit** if the tipping competition is run as a free-entry game of chance to promote trade or business. For more information, see the FS3014 'Trade promotion lotteries' fact sheet at liquorandgaming.justice.nsw.gov.au.

How to apply for a permit

- ▲ Complete and lodge form FM2006 'Progressive lottery application' from liquorandgaming.justice.nsw.gov.au.
- ▲ Make sure you include a copy of any proposed advertising, plus a copy of the rules or conditions of entry.
- ▲ You need to be 18 or over to lodge an application.
- ▲ There are no fees.

The prize pool

A prize pool comprises the total amount paid as entry fees by participants after any costs and expenses properly incurred in connection with the conduct of the tipping competition have been subtracted, including the cost of purchasing stationery. If the tipping competition is to raise funds for a not-for-profit organisation, you can deduct an additional amount from the prize pool as a donation to the non-profit organisation.

Maximum value of prizes

Where entry fees are charged, the total value of prizes in a tipping competition cannot be more than \$25,000, unless an authorising permit has been granted.

Limits on money prizes

The total amount of money prizes (excluding spending money) cannot be more than \$7,000 if entry fees are charged.

You can award spending money in conjunction with a travel prize. The maximum amount of spending money you can award with a travel prize is 20% of the total value of the travel prize.

Note:

If a money prize exceeds \$2,000, the organiser must pay to the prize winner the amount above \$2,000 by a crossed cheque payable to the prize winner or, if the prize winner requests, the funds can be electronically transferred to an account the prize winner nominates.

Prizes you can offer

The types of prizes you can offer in a tipping competition may consist of or include anything, as long as they are not prohibited prizes.

Non-cash prizes valued at up to \$25,000

The total value of prizes in a tipping competition cannot be more than \$25,000 unless L&GNSW has granted an authorising permit.

Prizes can be goods, wares, merchandise, services, vouchers for goods or services that are not redeemable for money, tickets for admission to any entertainment, and tickets for tours or journeys. You can include spending money as part of a tour or journey provided the total value is no more than 20% of the total value of the travel prize.

Cash prizes up to \$7,000

You can also offer money prizes with a total value of no more than \$7,000.

If the cash prize is more than \$2,000, you'll have to pay the funds over \$2,000 by a crossed cheque made payable to the prize winner. If the prize winner requests it, you can electronically transfer the funds to an account they nominate.

Shopping vouchers

If you want to offer a cash prize of more than \$7,000, you can offer a shopping voucher or store credit of up to \$25,000 instead. Winners of shopping vouchers can go to participating stores in a particular location and redeem their voucher or store credit up to the value specified for products and services (except prohibited prizes).

If you think a shopping voucher or store credit system won't work in your town because there is no major department store, consider forming a cooperative of all the local stores so that prize winners can redeem vouchers at any or all member stores.

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Prohibited prizes

You can't offer these prizes under any circumstances:

- ▲ money prizes over \$7,000
- ▲ tobacco products in any form
- ▲ firearms or ammunition
- ▲ prohibited weapons
- ▲ cosmetic surgery or other procedure to improve personal appearance
- ▲ more than 20 litres of liquor with an alcohol content not exceeding 20% by volume, or more than 5 litres of liquor with an alcohol content exceeding 20% by volume.

Note:

Tickets for liquor prizes cannot be sold by or to anyone under 18. Also, anyone under 18 cannot give or collect a liquor prize.

Maximum amount payable by participants

There is no upper limit on entry fees, but the total amount paid by all participants must be applied consistently to all rights to participate.

Maximum number of rights to participate that may be sold

There is no limit on the number of participants in any tipping competition.

Commissions or other benefits

No salary, wage, fee, commission, percentage or other benefit (other than a prize) can be paid or given to, or taken by, anyone in connection with the tipping competition.

How much not-for-profit organisations should receive

If you are raising funds for a not-for-profit organisation, there is no stipulated amount or percentage you must donate to the benefiting organisation. However, the organisation should receive a reasonable return.

Note:

Your competition advertising or promotion must show the amount or percentage of the total amount paid by participants that the benefiting organisation will receive.

Charging more than the purchase price of a right to participate

You can't charge participants or accept any fees to enter the place where the tipping competition, the sporting event or anything else relating to the tipping competition is being conducted.

If the venue usually charges an entrance fee that has nothing to do with your tipping competition, then this does not apply.

Charging for phone participation

If a person has to call a premium phone number in order to participate in a tipping competition, the cost of the call can't be more than 50 cents plus GST. The competition organiser must not receive, directly or indirectly, any amount paid for calling the number.

Minors and tipping competitions

The law does not forbid a minor from either participating or assisting in running a tipping competition. This is a matter for the organiser and perhaps the intended participants to determine. You will need to include it in the rules under which a person may participate in the competition.

Information participants need to know

You must make certain information available to participants:

- ▲ the rules under which persons may participate
- ▲ the price to be paid for the right to participate
- ▲ if applicable, the name of the not-for-profit organisation for whose benefit the game is being conducted
- ▲ the closing date and time for receipt of entries
- ▲ the closing dates and times for receipt of predictions
- ▲ the name, address and telephone number of the tipping competition organiser.

Advertising restrictions

The restrictions for tipping competitions are the same as for lotteries, which means you must not publish or authorise to publish any advertising that:

- ▲ encourages breaking the law
- ▲ shows children participating in a lottery activity
- ▲ is false, misleading or deceptive
- ▲ suggests that winning will be a definite outcome of entering or participating

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- ▲ suggests that entering or participating in the lottery activity will definitely improve a person's financial prospects
- ▲ is not conducted in accordance with decency, dignity and good taste.

'Publish' means disseminate in any way, whether by oral, visual, written or other means (for example, via cinema, video, radio, TV or online).

Also, you must not state or imply that the lottery is authorised or approved by the Government or by any government agency.

What to include in your competition rules

You must create rules that clearly state how people can participate in the tipping competition. They must include:

- ▲ the conditions of entry into the game, including the age of individuals allowed to participate
- ▲ if applicable, the name of the not-for-profit organisation for whose benefit the game is being conducted
- ▲ the price they need to pay for participating, and the method, if any, for discounting the charge
- ▲ the manner in which any prizes are calculated, determined and awarded
- ▲ the way participants are required to enter and participate
- ▲ the closing date and time for receiving entries
- ▲ the closing dates and times for the receipt of predictions
- ▲ the place, time and date of the determination of the result(s)
- ▲ the method for claiming prizes, including what will happen if there are unclaimed prizes
- ▲ the way prize winners will be notified
- ▲ details of what will happen if more than one person accumulates the highest number of points
- ▲ how disputes concerning the conduct of the competition or claiming prizes will be resolved
- ▲ the name, address and phone number of the tipping competition organiser.

The rules must be prominently displayed at the place where the rights to participate are sold, such as a notice board.

The rules cannot be inconsistent with the provisions of the Act and the Regulation.

Participation by someone organising or running the competition

Even if you're conducting or assisting in running the competition, you can still participate and win prizes.

Of course, if you or your family participates in a competition and are seen to win prizes frequently, other participants may complain. The integrity of the competition could be compromised if there is a perception of wrongdoing.

If organisers and their family members do participate, make sure you exercise proper control over collecting and recording predictions by involving someone who is not a participant.

Managing sales of rights to participate

- ▲ You must ensure there is adequate control over all aspects of the tipping competition management, including control over the sale of rights to participate and the receipt of moneys.
- ▲ You must ensure that you keep all rights to participate and periodical predictions by each participant safe until the results have been determined.
- ▲ You mustn't sell rights to participate after the closing time for entry in the competition.

No more sales after the first results are determined

Rights to participate cannot be sold after the closing time for the first determination of results. This requirement must be included in the competition rules, and displayed.

However, this requirement does not prevent the rules of the competition from providing for later times for receiving predictions.

Running the competition

You have to run the competition according to the rules and the information you provide to the participants.

All the rights to participate that you sell must be included in a draw or round for prizes, irrespective of how many times a participant has won.

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Notifying participants of the competition results

You should notify each prize winner within two days of when they are determined. If the total value of prizes exceeds \$5,000, you must also publish the results in a newspaper within seven days after the draw.

How should the prize winner receive their prize?

Whether or not the prize winner has claimed the prize, you must make sure each prize winner to receive the relevant prize within seven days after the determination of results.

If a money prize exceeds \$2,000, the organiser must pay to the prize winner the amount above \$2,000 by a crossed cheque payable to the prize winner or, if the prize winner requests, the funds can be electronically transferred to an account the prize winner nominates.

Note:

The maximum value of a money prize is \$7,000.

Records you need to keep

Social entertainment

- ▲ **If the total proceeds from the competition is less than \$10,000** and the competition is organised on the basis that all the proceeds from the competition, less costs and expenses properly incurred in connection with the conduct of the competition, are returned to participants in the form of prizes, there is no formal requirement to keep records.
- ▲ **If the total proceeds are more than \$10,000** you must keep records of income and expenditure particularised under the heading 'Records to be kept'.

Fundraising

- ▲ You must keep all records or receipts, invoices and other records concerning costs and outgoings, and payments received.
- ▲ If you are conducting the competition to raise funds for a charity, you need to fulfil any record-keeping requirements imposed by the *Charitable Fundraising Act 1991* in addition to those required by the *Lotteries and Art Unions Act 1901*.

The records of income and expenditure you need to keep in these cases are:

- ▲ the total proceeds of the competition
- ▲ the details of the prizes.

If the total proceeds are more than \$10,000, you must include these details in your records of income and expenditure:

- ▲ any costs and expenses (itemised as to payee, amount and date of payment, and documented by receipts and invoices)
- ▲ the number of rights to participate available for sale and, if applicable, details of the serial number, unique number or symbol of those tickets
- ▲ the number of rights to participate not sold and, if applicable, details of the serial number, unique number or symbol of those tickets
- ▲ the names and addresses of everyone who has bought rights to participate, details of the serial number, unique number or symbol of those tickets
- ▲ the names and addresses of all prize winners, together with details of their prizes
- ▲ the total amount of the proceeds of the competition paid to the benefiting not-for-profit organisation, and details of any receipts from that organisation in respect of that amount.

You must keep the records of income and expenditure particularised under the heading 'Records to be kept'.

We recommend that you maintain records regardless, as they will help you manage the competition properly.

Banking the proceeds

You must place all money received into an account at a bank, building society or credit union being an account belonging to the benefiting organisation as soon as practicable, preferably within two business days. All payments should be made from that account.

How long to keep records

Social

You must retain records, accounts and other documents relating to the competition for at least three months.

Fundraising

You must retain records, accounts and other documents, including computer records, relating to the competition for seven years.

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All records are subject to inspection by L&GNSW authorised officers or police.

Financial statements and returns

You are not required to submit a return to us unless specifically requested. However, any organisation who benefits from the competition must ensure that their financial statements detail the gross proceeds and expenses of the competition.

Responsibility for the tipping competition

The promoter or organisers are jointly and individually responsible for the proper management and conduct of the game.

You can elect a subcommittee from within the benefiting organisation to be the organising committee. Alternatively, the benefiting organisation may authorise individuals outside the organisation to conduct the competition on its behalf. If this happens, the management committee of the benefiting organisation should satisfy itself as to the good standing and competence of the persons organising the game.

The benefiting organisation should introduce adequate controls to oversee the organisers, including:

- ▲ insisting on reports
- ▲ ratifying all expenses and prizes awarded
- ▲ having full access to records and registers
- ▲ ensuring financial records are audited
- ▲ exercising proper internal controls over the purchase, sale and safekeeping of tickets including unsold tickets.

Penalties that may apply

There is a range of penalties for conducting a competition contrary to requirements, including:

- ▲ failing to award the winner the prize
- ▲ conducting the competition fraudulently
- ▲ misappropriating funds or prizes
- ▲ making false statements
- ▲ failing to keep books and records
- ▲ awarding prohibited prizes
- ▲ unlawful advertising
- ▲ hindering or obstructing authorised officers or police.

For further information

Fact sheets for each type of lottery activity are available at liquorandgaming.justice.nsw.gov.au.

The *Lotteries and Art Unions Act 1901* and the Lotteries and Art Unions Regulations 2014 are available at legislation.nsw.gov.au. If you need a more detailed understanding of the legislation, please contact a specialist adviser.