



## Do we need a gaming licence?

Typically, when chances to win a prize are being bought – whether by donation or a set price – gaming is taking place and a licence is required.

You need to determine whether your event includes:

- Prize
- Chance
- Consideration

If these three elements are present, then your event is likely gaming, and you will need a licence.

**Prize:** Is there a prize, or isn't there? If there is no prize, then it's not gaming. If there is a prize, then your event may be gaming.

**Chance:** Are winners determined by chance?

- Pulling a ticket out of a barrel?
- Plastic duck floating down a river?
- Golf balls dropped from a helicopter?

Or, are winners determined through a skill test or a game involving a mix of chance and skill?

Simply including an element of skill does not preclude the activity from being gaming.

Sweepstakes or promotional contests, which are not considered gaming, usually include a skill testing question and a free entry alternative to avoid section 206(1)(f) of the *Criminal Code of Canada*.

See the *Information Bulletin* from the Competition Bureau for additional information about promotional contests.

Further, determining whether an activity is chance or skill can be difficult to assess. The following have been found to be adequate skill tests:

- Estimating the number of beans in a jar
- A four-step mathematical question
- Estimating the time it would take for a barrel to travel a specified distance down a river

The following examples of skill tests were found to be inadequate:

- Shooting a turkey at 50 yards
- A potato-peeling contest
- Estimating how many passengers would be carried on a railway at a future date

**Consideration:** Are people paying a fee to participate? Buying a ticket? Purchasing a bingo card? Or otherwise providing “valuable consideration” to participate?

Having participants “donate” for a chance to win, or giving away some free chances to win, may not get around this test. Offering and running a scheme which gives a chance to win may still fall under s.206 (1)(a) and s.206(1)(d) of the *Criminal Code* and the *Federal Competition Act*.

Additionally, the Canada Customs and Revenue Agency’s bulletin *IT210R3* indicates that a gift, or donation, is a voluntary transfer of property without valuable consideration. This means that if the donor is expecting something in return and a benefit of some kind may be provided to the donor, including winning a prize, then it is not a gift or donation.

According to the same bulletin, a payment for a lottery ticket or other chance to win a prize of more than nominal value is not a gift or donation. It is, instead, the purchase of a chance to win the prize.

**Our advice?** It’s not always easy to decide whether an event requires a gaming licence. The Branch of Consumer Services is not in a position to provide expert advice regarding the legality of your proposed event. Organizations are encouraged to seek independent legal counsel for interpretation of the applicable laws.