



## Frank Floor Talk

# Frank Floor Talk: It's Time for a Change

**Buddy Frank, CDC Gaming Reports** · January 14, 2021 at 6:00 am

It's time to write your Congressperson. Not about White Supremacists or the Radical Left. It's time to demand a stop to the IRS. Or at least to stop them from living in the past. There's no better time to write and raise a ruckus than now, during the first few weeks of a new administration. I'm talking about trying to get rid of the biggest guest service, and revenue enhancing, issue on the casino floor today: the obsolete and out-of-date \$1,200 IRS jackpot reporting level for slots.

There was a glimmer of hope that this archaic limit would be raised back in May of 2020 when the AGA (American Gaming Association) urged the Trump Administration to use their executive order to "swiftly identify regulation reform opportunities to help promote job creation and economic growth" to raise this limit. AGA CEO Bill Miller said then, "As the gaming industry safely reopens and seek to return to financial health, one critical area of regulatory reform the administration should consider is modernizing the \$1,200 slot jackpot reporting threshold, which has been in place since 1977." He went on to say, "The current threshold is outdated and imposes significant compliance burdens on both the Internal Revenue Service (IRS) and the gaming industry." Amen.

But, apparently, the war against Twitter and TikTok were higher priorities in Washington. All sarcasm aside, this issue is no joke. Reporter Richard Velotta of the *Las Vegas Review-Journal* wrote recently, "It seems a pretty simple and straightforward request, but it may take an act of Congress to get it accomplished." He added, "It's not a life-or-death issue, but it's clearly an annoyance that shouldn't be taking so much time to fix."

He is being kind in his use of the term "annoyance." If you're a high denomination player today (and even many 1¢ players are in that category), this rule makes having fun nearly impossible. As Marissa Chien, an enrolled agent who can argue before the IRS, says, "The W2G threshold of \$1,200 is far too low vis-à-vis the denominations and kinds of games that are available these days. When the rules were created 30 or so years ago [*It's been 44, Marissa!*], there was no such thing as multi-line slots ... single-play dollar machines were considered high roller games."

Chien's comments are from the excellent casino tax book, [Tax Help for Gamblers](#), co-authored by Jean Scott, Russell Fox and Chien. The current edition is almost three years old now, but Chien's comments about higher bets are more relevant with every new slot offering. If you're playing max coin on a \$1 or higher denomination on a popular format like "China Shores," a "Buffalo" variant, "Dancing Drums," "Wicked Wheel," or the like, you're going to trigger the reporting limit every few spins (they were called "handle pulls" back in 1977!).

Some work-arounds have been created to help, like accumulated W2Gs or a "key to credit" feature. However, they are not available on all machines and not every casino implements them. Even with these features, the machine still locks up and requires an attendant to reset the game for play to continue.

In their press release last spring, AGA argued for a "\$5,000 and Up" limit. That seems reasonable on several fronts. During my last year at Pechanga Resort & Casino (2016) in southern California, just over 88% of all jackpots were \$1,200 or greater, but just under 4% were at \$5,000 and above. I recall that back in 1977, only 4% or so of the jackpots were \$1,200 or above. Times do change.

The current \$1,200 limit was set by the IRS over 40 years ago. Jimmy Carter and Walter Mondale were in office. The average cost of a new home nationwide then was \$54,200; a first-class stamp (remember them) was 13¢, gas was 62¢/gallon and the Dow-Jones Industrial Average set a new record at 999. If you did nothing but factored inflation, \$1,200 in 1977 is the equivalent of \$5,298.43 today.

In my Pechanga data above, the missing 12% were either \$600 or \$1,000 jackpots. We had been studying the issue since the IRS was once considering lowering the reporting limit to \$600. Thankfully, that bad idea died after industry protests nationwide. But, the IRS has never had a shortage of unfair schemes.

Players all know that a \$1,200 W2G does not mean you earned \$1,200. If it did, most casinos would have gone out of business years ago. Consider the common example of a player arriving at the casino with \$200 to spend playing slots. Imagine he/she hit a few small jackpots (\$1,200, \$2,500 and \$1,500). They also had a great time and a lot of fun during the four or five hours spent at the casino. But, when he/she went home, they no longer had their \$200, but judged it as a fair trade for the evening's entertainment (and the potential to win big). This is a pretty typical scenario for most players. Here's the rub: Despite losing two bills, he/she now owes the IRS about \$1,300 in taxes (plus or minus depending on their tax bracket). You're probably aware that the IRS is the only quasi-judicial branch that proclaims you are guilty until you can prove you are innocent. That's another reason you should advise your players to buy that "Tax Help" book.

This issue of treating solitary bet wins (i.e. a \$1,200 jackpot) as taxable income, instead of determining tax obligations on full sessions (like the example above) is just one of many “unfair” aspects of how the IRS treats gamblers. In 2013, before he was appointed to the U.S. Supreme Court, then Federal Appeals Judge Brett Kavanaugh wrote an opinion about non-resident alien gamblers, “After a night of gambling, it’s no fun to walk out of a casino a loser. But it’s even worse when the IRS, on your way out, tries to tax you on each individual bet that you happened to win over the course of your losing night.” Another amen.

The IRS also bends their own rules. They require W2Gs for wins of \$1,200 or more. But if you were playing a 30-coin \$1 machine and hit a small \$1,200 jackpot, you would have won only \$1,170 (since it cost you \$30 to play). That’s fair, and it is how it works for sports betting and table games, but not slots. The IRS just helps themselves to your \$30 and requires issuance of a W2G proclaiming you “won” \$1,200 and would owe tax on that amount. Even if you were on a five-coin \$100 machine and won a 12-credit payout, it would be treated as a \$1,200 win by the IRS, when you were only ahead \$700. That’s just wrong.

So is the provision that players can only deduct their losses up to the amount of their winnings. Unless you hit Megabucks last year, that’s also a windfall for the IRS and hardly a true accounting of gaming income.

It’s not just we operators and our guests who are crying foul. Last week, Matt Primmer, who is the Chief Product Officer at Aristocrat, says his company “supports increasing the threshold to a level that preserves high levels of compliance and industry integrity, while reducing unnecessary administrative burdens on our customers and other agencies.” Marcus Prater, the executive director of the Association of Gaming Equipment Manufacturers (AGEM) added his voice saying, “the IRS jackpot reporting limit for all of the obvious reasons, starting with the simple idea that the gaming industry’s limit has never been updated even as inflation and other factors have altered financial barometers in other industries. It’s also a simple customer service issue within what is a hospitality focus that is emphasized on the casino floor. The excitement of hitting a jackpot on a slot or video poker machine is negatively impacted at the current \$1,200 level, and it’s time to raise it and improve the player experience overall.”

As our industry tries to recover from the COVID shutdowns and restrictions, it’s the perfect time to act. Write or email your Senators and Representatives. The R-J quoted a spokesperson from Senator Cortez Masto’s office saying she has “recently engaged with the Internal Revenue Service and the Treasury Department to secure this necessary reform that hasn’t been pursued in decades. She looks forward to hearing their response and to working to raise the threshold.”

Let’s give her and the other legislators more support and ammunition. Write, or email, her and her fellow Senator Jacky Rosen, along with Nevada Representatives Dina Titus

(who supports the cause) from Las Vegas and Mark Amodei from the north. Their addresses are below, and so it a link to buy the tax book.

Let's make the "\$5,000 or greater" threshold happen ASAP.

**Senator Cortez Masto**

<https://www.cortezmasto.senate.gov/contact/connect>

516 Hart Senate Office Building

Washington, DC 20510

**Senator Jacky Rosen**

[https://www.rosen.senate.gov/contact\\_jacky](https://www.rosen.senate.gov/contact_jacky)

144 Russell Senate Office Bldg

Washington, DC 20510

**Representative Dina Titus**

<https://titus.house.gov/contact/email-me>

2464 Rayburn House Office Building

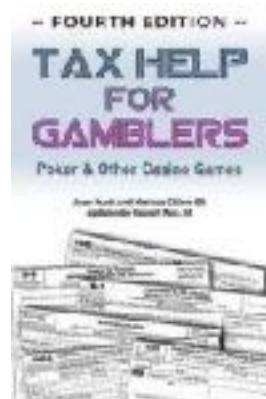
Washington, DC 20515

**Representative Mark Amodei**

<https://amodei.house.gov/zip-code-lookup?form=/email-me>

104 Cannon House Office Building

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**"Tax Help for Gamblers – Fourth Edition" – \$18.17**

<https://www.lasvegasadvisor.com/shop/products/tax-help-for-gamblers-fourth-edition/>