



**August 16, 2011**

## **Arkansas Lottery Damage Control on IRS Penalty**

The IRS recently slapped a \$98,000 penalty on the Arkansas Lottery Commission for late payment of taxes. The Commission's outgoing chief fiscal director, Philip Miley informed the Commission of the IRS action. In conjunction with this, the Commission has hired a tax attorney to make an appeal to the IRS to waive the penalty.

Commission Director Ernie Passailaigue said he believed they had a good case. "Once we get our case in front of them, I think we can get a good result," Passailaigue said to the Commission. An appeal has to be made within 60 days.

Passailaigue feels that the IRS could waive the \$98,446 in penalties for last year's late tax payment withheld from some lottery winners prizes but not the interest charged on it. The commission was also late in paying its taxes in 2009, but the penalty was waived.

The Arkansas Lottery had its beginning in 2008 when Arkansas voters voted to approve it as a means to raise funds for state college scholarships. The Lottery began selling its tickets in September 2009.

This is not the first time that Passailaigue has faced serious issues. In the past, he survived attempts to dismiss him from his position as Commission Director, a post he held since 2009.

But other parties feel the Commission was at fault and should bear the responsibility for its tardiness. Governor Mike Beebe said there should have been no excuses for the

late payments. Governor Beebe commented, "I think it's awful. You mess up the first time, that's bad enough. You do it a second time, it's pretty inexcusable."

Beebe had appointed 3 of the agency's members whereas the House speaker and Senate president each appointed 3 members to the committee. Only the Arkansas Lottery Commission can dismiss its Commission Director.

Commission members are worried about the penalty but avoided putting the blame on Passailaigue or calling for his dismissal. Commission member Steve Faris said, "Everyone's concerned, of course. I'm very concerned about it, but I think the most important thing is, number one, make sure it doesn't happen again, put some mechanisms in place to ensure it doesn't happen and try to get the money back."

Another commissioner, Ben Pickard said he does not think the late payments are a poor reflection on Passailaigue and gives him the benefit of the doubt because Miley informed him about the penalties only on Wednesday last week. "I don't really think that it's anything that can be blamed on the overall administration," Pickard said.

Passailaigue said measures have already been taken to avoid a recurrence. The commission will use an IRS website that will post the deposits immediately. The accounts personnel will also evaluate prizes claimed daily to ensure immediate deposit of taxes.