

NEW JERSEY DIVISION OF TAXATION

TECHNICAL BULLETIN

TB-20-R

ISSUED: 09-04-09

TAX: GROSS INCOME TAX

TOPIC: GAMBLING WINNINGS OR LOSSES

Under the provisions of N.J.S.A. 54A: 5-1(g), all gambling winnings, whether they are the result of legalized gambling (casino, racetrack, etc.) or illegal gambling are subject to the New Jersey Gross Income Tax.

New Jersey Lottery winnings were not taxable for New Jersey Gross Income Tax purposes prior to 2009. However, for taxable years beginning on or after January 1, 2009, New Jersey Lottery winnings from prize amounts exceeding \$10,000 are taxable for New Jersey Gross Income Tax purposes. Specifically, the prize amount (over \$10,000) is the determinative factor of taxability, rather than the total amount of Lottery winnings over the year. For example, if a person won the New Jersey Lottery two times in the same year and the winning prize amounts were \$5,000.00 and \$6,000.00, these winnings are not subject to New Jersey gross tax.

Similar to the treatment of gambling winnings under the Federal Income Tax Code, losses from gambling incurred during the same period as the winnings may be used to offset winnings. In other words, taxpayers may deduct all types of gambling losses, including those from playing the New Jersey Lottery, from their total gambling winnings during the tax period not to exceed the total of the winnings because gambling is a “net” category of income.

All taxpayers may be required to substantiate gambling losses used to offset winnings reported on their New Jersey Gross Income Tax Return. Evidence of losses may take several forms, including losing race track pari-mutuel tickets, losing lottery tickets, a daily log or journal of wins and losses, canceled checks, notes, etc. Such evidential material should be kept by the taxpayer for a period of six years after the filing of the New Jersey Gross Income Tax Return for that period. With respect to winnings or losses resulting from casino gambling, letters from casinos which purport to “rate” the gambling activity of an individual or “estimate” losses are not acceptable alone as evidence of gambling losses. However, they are acceptable as part of the taxpayer’s proofs of wins and losses. The Division also accepts records from the casinos detailing an individual’s casino credit history.

Although no specific rider to the New Jersey Gross Income Tax Return is required, it is requested that a taxpayer who enters gambling winnings (net of losses) on the New Jersey return indicate the total winnings and total losses on a supporting statement. This supporting statement may eliminate certain questions in the event the return is selected for audit.

Nonresidents' gambling winnings from New Jersey sources are subject to the New Jersey Gross Income Tax in the same manner as the winnings of residents. N.J.S.A. 54A:5-8(a)5. This means that income received by nonresidents from lottery or wagering transactions in New Jersey is income earned, received or acquired from sources within this State, and is subject to New Jersey Gross Income Tax. For example, winnings from casino betting and wagering, New Jersey Lottery winnings on prize amounts exceeding \$10,000, winnings from slot machines, raffles, bingo games, etc. are all taxable income. Nonresidents may only offset gambling winnings from New Jersey sources by gambling losses incurred in New Jersey during the same tax period.

Payors of certain New Jersey gambling winnings, including the New Jersey Lottery, are required to withhold New Jersey gross income tax at the rate of 3% on payments made both to New Jersey residents and nonresidents. See N.J.S.A. 54A:7-1 and N.J.A.C. 18:35-7.6. Taxpayers receiving any income not subject to withholding or if they believe they are underwithheld for New Jersey Gross Income Tax purposes may make estimated income tax payments. Failure to make required estimated tax payments may result in interest and penalty charges.

*Issued by:
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NJ Division of Taxation*