

PENNSYLVANIA PERSONAL INCOME TAX GUIDE

CHAPTER 15: GAMBLING AND LOTTERY WINNINGS

TABLE OF CONTENTS

CHAPTER 15: GAMBLING AND LOTTERY WINNINGS.....	2
I. CLASS OF INCOME	2
II. GAMBLING AND LOTTERY	2
A. Gambling and Lottery Defined.....	2
B. Prizes.....	3
C. Consideration	3
D. Powerball.....	3
E. Gratuitous Prizes.....	3
F. Door Prizes.....	3
G. When Taxable	3
1. In General.....	3
2. Nonresidents.....	4
III. LOSSES	4
IV. EXPENSES	5
V. REPORTING.....	5

PENNSYLVANIA PERSONAL INCOME TAX GUIDE

CHAPTER 15: GAMBLING AND LOTTERY WINNINGS

I. CLASS OF INCOME

Pursuant to 72 PA C.S. §7303(a)(7) gambling and lottery winnings, other than prizes awarded by the Pennsylvania State Lottery, are a separate class of income under Pennsylvania personal income tax. See also 61 PA Code §121.9(b)(7). Gambling and lottery winnings consist of gains arising from gambling and lotteries. In calculating gains, the taxpayer may deduct gambling and lottery losses (cost of tickets), other than losses incurred in the Pennsylvania lottery on or after July 21, 1983, but may not deduct the costs and expenses incurred in connection with the gambling and lottery activity. The taxpayer must maintain detailed records substantiating losses. The taxpayer has the burden of proving losses. See 61 PA Code §103.17.

II. GAMBLING AND LOTTERY

A. Gambling and Lottery Defined

For Pennsylvania personal income tax (PA PIT) purposes -

1. Lottery is a game comprised of three elements -
 - a. A prize to be won;
 - b. Consideration;
 - c. The determination of a prizewinner primarily by the drawing of lots and only secondarily by skill and experience; and
2. Gambling means a contest comprised of three elements -
 - a. A prize to be won;
 - b. Consideration; and
 - c. The determination of the prizewinner primarily by chance and only secondarily by skill and experience.

PENNSYLVANIA PERSONAL INCOME TAX GUIDE

B. Prizes

Prizes include cash, property or any advantage or inequality in amount or value that is offered in a contest of chance or lottery and accrues, or is expected to be given, to some, but not all, of the participants in such competition or contest. It includes the right or permission to compete in another competition for a prize or to strive for a prize in another contest of chance or the right to a discount. Powerball prizes purchased through a licensed Pennsylvania state lottery ticket vendor and prizes awarded by the Pennsylvania State Lottery won on or after July 21, 1983, are not subject to Pennsylvania tax.

C. Consideration

Consideration in this context means any valuable advantage or benefit that the person conducting a competition, contest of chance or lottery expects to realize as a result of conducting such competition, contest of chance or lottery. The term, therefore, may include, but is not limited to, bets or wagers of cash or property, making a purchase, being present at a drawing, giving a testimonial for a product of the donor of the prize, filling in an application or contest blank, following any rules; or expending time or personal effort. *Commw. v. Lane*, 242 Pa. Super. 283, 363 A.2d 1271 (1976); *Commw. v. Lund*, 142 Pa. Super. 208, 15 A.2d 839 (1940); and *Commw. v. Laniewski*, 173 Pa. Super. 245, 98 A.2d 215 (1953);

D. Powerball

A Pennsylvania resident that purchases a Powerball ticket in another state and wins a prize must report the winnings as taxable gambling and lottery winnings on his or her Pennsylvania tax return. If any taxpayer, whether a Pennsylvania resident or not, purchases a Powerball ticket in Pennsylvania and wins, the winnings are not taxable.

E. Gratuitous Prizes

A plan or system for gratuitously distributing money or property by direct gift or by lot or chance does not constitute a lottery or gambling. Money or property distributed under such plans or systems are not taxable gambling or lottery winnings.

F. Door Prizes

Prizes that are given in a competition or contest are not taxable gambling or lottery winnings if no advantage or inequality in amount or value is offered or striven for by any of the participants.

G. When Taxable

1. In General

For Pennsylvania and federal income tax purposes, winnings or proceeds from wagering transactions are not taxable until, and to the extent all of the following five conditions are satisfied -

- a. The amount of the prize is due;
- b. The amount of the prize is appropriated on the books of the obligor;

PENNSYLVANIA PERSONAL INCOME TAX GUIDE

- c. The obligor is willing to pay the amount of the prize;
- d. The obligor is solvent; and
- e. The prizewinner has knowledge of the foregoing facts; or
 - The amount of the prize is unconditionally and irrevocably paid into a fund or trust to be used exclusively for the prizewinner's sole benefit; or
 - The prize becomes the equivalent of cash in hand because the prize is transferable at a discount not substantially greater than the generally prevailing premium for the use of money; or
 - The amount of the prize is actually paid to the prizewinner or the prizewinner's designee.

2. Nonresidents

Pennsylvania taxes nonresident individuals, estates or trusts on gambling and lottery winnings by reason of a wager placed in this Commonwealth, the conduct of a game of chance, or other gambling activity located in this Commonwealth or the redemption of a lottery prize from a lottery conducted in this Commonwealth, other than prizes of the Pennsylvania State Lottery. These winnings must be included as taxable income. Refer to Prizes above.

Pennsylvania taxes nonresident individuals, estates or trusts on gambling and lottery winnings derived from sources within Pennsylvania, other than prizes of the Pennsylvania State Lottery, when employed in the operation of a business, profession or farm. These winnings must be included as taxable income. Refer to Prizes above.

Pennsylvania does not tax nonresident individuals, estates or trusts on gambling and lottery winnings by reason of a wager placed outside this Commonwealth, the conduct of a game of chance or other gambling activity is located outside this Commonwealth or the redemption of a lottery prize from a lottery conducted outside this Commonwealth. Nonresidents do not include these winnings as taxable income.

Refer to PA PIT Guide Chapter 11 Net Income (Loss) from Business, Profession or Farm.

III. LOSSES

Losses incurred in the Pennsylvania State Lottery or in Pennsylvania Powerball games may not be used to offset other gambling and lottery winnings. You may offset other gambling and lottery losses against your gambling and lottery winnings, such as the cost of each bingo game or raffle ticket.

PENNSYLVANIA PERSONAL INCOME TAX GUIDE

IV. EXPENSES

No expenses attributable to gambling and lottery income are deductible, such as: parking, postage, entry fees, meals and lodging or travel.

V. REPORTING

Residents and nonresidents use *PA-40 Schedule T, Gambling and Lottery Winnings* to report amount(s) of gambling and lottery winnings.

Act 46 of 2003 amended Section 335 requiring that any person required to make a federal *Form W-2G, Certain Gambling Winnings* return to the Secretary of the Treasury of the U.S. in regard to taxable gambling or lottery winnings from sources within the Commonwealth must also file a copy with the Pennsylvania Department of Revenue by March 1 of each year or, if filed electronically, by March 31 of each year. This applies to taxable years beginning after Dec. 31, 2003.

TYPE OF RETURN	LINE ON RETURN	USE THIS SCHEDULE
PA-40 Individual Income Tax Return	8	PA-40 Schedule T
PA-40 Nonresident Consolidated Income Tax Return	5	PA-40 Schedule T
PA-41 Fiduciary Income Tax Return	NA	NA