

Chapter 22 Withholding on Gambling Winnings

100 Definitions

101 Gaming establishment means any establishment where gambling games are conducted or operated within this state and any party that provides or is responsible for the payment of cash or other remuneration resulting directly or indirectly from play at gambling games within this state. Gaming establishments include those establishments required to be licensed under the Mississippi Gaming Control Act, establishments which would be licensed under the Mississippi Gaming Control Act but for a federal preemption, and the Mississippi Lottery Corporation.

102 Gaming winnings includes all amounts that are paid, whether in cash or other form, by gaming establishments to patrons which are subject to the withholding and/or reporting requirements of the Internal Revenue Code (IRC) as specified in Miss. Code Ann. Sections 27-7-901 and 27-7-903. Such amounts are not limited to cash or remuneration from play at a gambling game, but include, without limitation, amounts considered prizes, awards, tournament winnings or similar types of compensation. There is no reduction for tax withholdings or other reserves and may not be less than the amount reported for federal tax purposes. This is the amount that is subject to the withholding or reporting requirements of the IRC.

103 (Reserved)

200 General Requirements

201 According to Miss. Code Ann. Section 27-7-901, there is a three percent (3%) tax levy of the amount of gaming winnings received from gaming establishments licensed by the Mississippi Gaming Control Act which shall be withheld and remitted by the gaming establishment.

202 According to Miss. Code Ann. Section 27-7-903, there is a three percent (3%) tax levied of the amount of gaming winnings received from gaming establishments not licensed by the Mississippi Gaming Control Act. The Department of Revenue may enter into tax collection agreements regarding this tax with the gaming establishment.

203 The gaming establishment must register to withhold Mississippi income tax in the same manner as stated in Title 35, Part III, Subpart 11 Chapter 17 of the Mississippi Administrative Code, Registration of Employers. The withholding account used to report the withholding on wages cannot be used to report withholding on gaming winnings. A separate account for withholding on gaming winnings must be obtained from the withholding division of the Mississippi Department of Revenue. A monthly return must be filed and the tax paid on or before the 15th day of the month following the month for which such amounts were withheld.

204 Gaming establishments are not required to complete the Mississippi withholding exemption certificate form for gaming winnings. However, the gaming establishment must keep the

following records and information for three (3) years after the date the tax becomes due or is paid, whichever is later:

1. Total gaming winnings paid.
2. Amount of Mississippi income tax withheld.
3. Name, address and social security or identification number of the party in receipt of gaming winnings.
4. Name, address and Mississippi identification number of the gaming establishment.
5. Payment period -- calendar year unless indicated otherwise.

205 Each gaming establishment, in the form and manner prescribed by the Commissioner, shall prepare Federal Form W-2Gs, or other federal forms which are used to report income for federal tax purposes with the preceding information for those patrons whose gaming winnings were subject to Mississippi withholding. If the federally prescribed information return does not allow for the recording of both state income and state tax withholdings, then a W-2G should be completed and attached as part of the filing.

206 The original state copy is filed in accordance with Title 35, Part III, Subpart 11 Chapter 14 of the Mississippi Administrative Code.

207 If it becomes necessary to correct Form W-2G after it has been given to a patron, a corrected statement should be mailed to the Commissioner, such copy to be clearly marked "corrected by gaming establishment." In case a withholding statement is lost or destroyed, a substituted copy may be issued marked "reissued by gaming establishment."

208 Multi-period payoffs: If a patron is entitled to receive either a lump-sum payment or a series of periodic payments received at least annually, then a levy of 3% is levied on the lump-sum amount in the year it is constructively received under the constructive receipt doctrine. The constructive receipt doctrine does not apply to lottery winnings. The 3% levy is a liability of the Mississippi gaming establishment which was a party to the wager, regardless of whether it is the paying agent.

209 The Commissioner will follow Federal Rules, Regulations, and Revenue Procedures relating to gaming winnings to the extent that such procedures are not deemed contrary to the context and intent of Mississippi Law.

210 (Reserved)

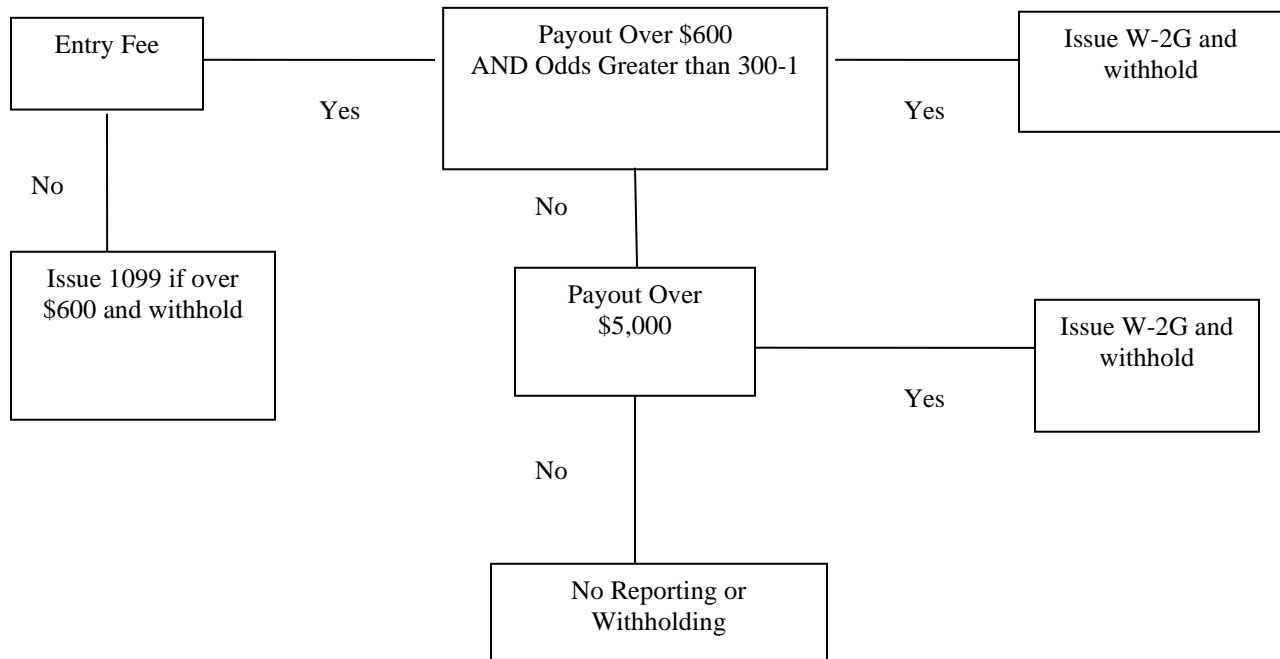
300 Thresholds for Withholding Requirements

301 Lottery proceeds of six hundred dollars (\$600.00) or more are subject to withholding under Miss. Code Ann. Section 27-115-43.

302 Keno gaming winnings of one thousand five hundred dollars (\$1,500.00) or more, reduced by wager, are subject to withholding. Keno tournaments have the same threshold amount prior to becoming subject to withholding.

- 303 Slot or Bingo gaming winnings of one thousand two hundred (\$1,200.00) or more, not reduced by wager, are subject to withholding. Slot or Bingo tournaments have the same threshold amount prior to becoming subject to withholding.
- 304 The thresholds for withholding vary for tournaments, other than those for slots, Bingo, or Keno, such as poker tournaments, depending on the odds involved in the tournament, the amount of the proceeds won and whether there is an entry fee. In regard to these other tournaments, gaming establishments shall withhold and remit based on this chart:

Tournament Reporting and Withholding



Footnote:

- Proceeds are reduced by the wager (entry fee paid).
- If the entry fee is paid by the participant, only a W-2G can be issued (tournament contributions by the company are irrelevant).
- Reporting and withholding is not triggered until the participant cashed out (final round).
- For reporting and withholding requirements under the IRC on gambling winnings of nonresident aliens, see instructions to IRS Form 1042-S and IRS Publication 515 or any replacement thereof. The gaming establishment should substitute a 1042-S for the W-2G or 1099 MISC.

Examples:

- Patron pays tournament entry fee and wins satellite tournament. Patron receives no cash but does move on to next round. W-2G reporting and withholding is only triggered when patron cashes out. The reportable amount is reduced by the entry fee (subject to above flowchart).

- Patron pays tournament entry fee and wins tournament. Patron receives no cash but does receive a paid (comp'd) entry fee to a third party tournament. Patron gets a W-2G for the value of the comp reduced by the original paid entry fee. Gaming establishments may have to gross up the W-2G for Mississippi withholding tax purposes.
- Gaming establishment comps a tournament entry fee for a patron. A 1099 MISC must be issued for any payout of \$600 or more. The reportable amount is not reduced by the comp'd entry fee.

305 (Reserved)

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