

FAQs: NEW YORK STATE LOTTERY WINNERS

WHAT ARE MY TAX RESPONSIBILITIES FOR NEW YORK STATE?

For tax year 2007



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FAQs: New York State Lottery Winners What are my Tax Responsibilities for New York State?

This publication provides guidance on the New York State, New York City, and Yonkers personal income tax on lottery prizes won on or after October 1, 2000, from a wager placed in a lottery game(s) conducted by the New York State Division of Lottery. For information on the New York State Division of Lottery, visit their Web site (www.nylottery.org).

- 1) Q:** I am a resident of New York State for the taxable year. Are the winnings I received during the year from a wager placed in a lottery conducted by the New York State Division of Lottery subject to New York State income tax?

A: Yes. If you are a resident of New York State, the winnings from a wager placed in a lottery conducted by the New York State Division of Lottery are subject to New York State income tax if includable in federal adjusted gross income for the taxable year. If you live in New York City or Yonkers, your winnings will also be subject to the applicable city taxes. These winnings include prizes from the multi-state Mega Millions game and video lottery games at a video gaming facility that has been licensed by the New York State Division of Lottery.
- 2) Q:** I am a nonresident of New York State. I won a prize from a wager placed in a lottery conducted by the New York State Division of Lottery. Are the winnings I received during the year and future installments (if the prize is payable in installments) subject to New York State income tax?

A: If you are a nonresident of New York State, the winnings from a wager placed in a lottery conducted by the New York State Division of Lottery are New York source income (for purposes of the numerator of the income percentage) and are subject to New York State income tax if the proceeds from the wager exceed \$5,000. These winnings include prizes from the multi-state Mega Millions game (if the winning ticket was purchased in New York State) and video lottery games at a video gaming facility that has been licensed by the New York State Division of Lottery. If the proceeds from the wager are \$5000 or less, the prize won by a nonresident is not New York source income for purposes of the numerator of the income percentage and is not subject to New York income tax (see question 4).
- 3) Q:** A nonresident's winnings from a wager placed in a lottery conducted by the New York State Division of Lottery is considered New York source income if the amount of the proceeds from the wager exceed \$5,000. How do I determine the amount of the proceeds?

A: Proceeds means the total amount of the prize won (not the installment amount, if the prize is payable in installments), less the cost to purchase the winning ticket. If the prize is won by a

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group, the total prize won by the group (less the cost of the winning ticket), not each group member's share of the prize, is used to determine if the proceeds exceed \$5,000.

4) Q: If it is determined that a nonresident or part-year resident of New York State is subject to New York State personal income tax on a prize won in a lottery conducted by the New York State Division of Lottery, how is the tax computed?

A: Section 601(e) of the New York State Tax Law imposes a personal income tax on a nonresident or part-year resident individual on the individual's taxable income that is derived from New York sources. The tax is equal to the tax computed as if the individual were a New York State resident for the entire year, reduced by certain credits, and then multiplied by the income percentage.

The numerator of the fraction used to compute the income percentage is the individual's New York source income. The New York source income of a nonresident is the sum of the items of income, gain, loss and deduction entering into federal adjusted gross income derived from or connected with New York sources and any New York addition and subtraction modifications under section 612(b) and 612(c) of the Tax Law that relate to income derived from New York sources. The New York source income of a part-year resident is the sum of the following: (1) the New York adjusted gross income for the period of residence, computed as if the individual's tax year for federal income tax purposes were limited to the period of residence; (2) the New York source income for the period of nonresidence, computed as if the individual's tax year for federal income tax purposes were limited to the period of nonresidence; and (3) any special accruals that may be required. The denominator of the fraction used to compute the income percentage is the nonresident's or part-year resident's New York adjusted gross income from all sources for the entire year.

Income derived from New York sources includes winnings from a wager placed in a lottery conducted by the New York State Division of Lottery, if the proceeds from the wager exceed \$5,000.

For more information on the computation of tax, see the instructions for Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, or Publication 88, *General Tax Information for New York State Nonresidents and Part-Year Residents*.

5) Q: Are my lottery prize winnings subject to New York State, New York City, or Yonkers withholding taxes?

A: Mandatory withholding provisions apply to any payment of winnings from a wager placed in a lottery of the New York State Division of Lottery if the proceeds from such wager exceed \$5,000. For this purpose, proceeds from a wager are determined by reducing the amount won by the amount of the wager. The New York State Division of Lottery is required by law to

withhold using the highest effective rate of tax for the year in which payment is made without any allowance for deductions or exemptions (for the 2007 calendar year, the rates are 6.85% for New York State residents and nonresidents, 3.648% for New York City residents, and .685% for Yonkers residents).

Regardless of whether your lottery winnings are subject to New York State, New York City, or Yonkers withholding tax, to ensure that you will not be subject to an estimated tax penalty, you should estimate your total income tax liability for the year to determine if you should be paying estimated tax.

For more information on estimated tax, see the instructions for Form IT-2105, *Estimated Income Tax Payment Voucher for Individuals*, Form IT-2106, *Estimated Income Tax Payment Voucher for Fiduciaries*; or Publication 94, *Should You Be Paying Estimated Tax in 2007?*

Note: You can now make payments, check your balance and reconcile your estimated income tax account by accessing the Tax Department Web site (www.nystax.gov) and using the *Online Tax Center*.

6) **Q:** If I move into New York State during the year, how does the move affect my income tax obligation on my lottery winnings that I am entitled to receive?

A: If you changed your residence from a nonresident of New York State to a resident of New York State and are entitled to receive future New York State lottery payments from lottery prizes won while a nonresident, the tax treatment depends on the amount of your winnings.

If the proceeds from your wager placed in a lottery conducted by the New York State Division of Lottery are \$5,000 or less, you must accrue your lottery prize winnings that, under an accrual method of accounting, would be includable in the portion of the year prior to the time you changed your residence. Any lottery prize winnings accrued for this purpose are included in New York adjusted gross income for the year of change, but not included as New York source income for purposes of the numerator of the income percentage for the year of change (see question 4). The remaining payments received in subsequent taxable years are not included in New York adjusted gross income for any subsequent taxable year.

However, if the proceeds from your wager placed in a lottery conducted by the New York State Division of Lottery exceed \$5,000, the special accrual rules do not apply. Any lottery prize winnings received during the year of change of residence and any subsequent taxable year are included in New York adjusted gross income for each year as you receive payment. The lottery prize winnings received during the year of change of residence, including the period of the year that you were a nonresident of New York State as well as for the period of the year that you were a resident of New York State, are New York source income for purposes of the numerator of the income percentage (see question 4).

7) **Q:** If I move out of New York State during the year, how does the move affect my income tax obligation on my lottery winnings that I am entitled to receive?

A: If you changed your residence from a resident of New York State to a nonresident of New York State and are entitled to receive future New York State lottery payments from lottery prizes won while a resident, the tax treatment depends on whether the winnings are subject to New York State withholding tax (see question 5).

If the winnings are not subject to New York State withholding tax, you must accrue your remaining unpaid lottery prize winnings to the period you were a resident unless you file a surety bond or other security acceptable to the New York State Tax Department. Special accrual rules provide that the entire amount of the remaining unpaid lottery prize winnings are included in New York adjusted gross income and are included as New York source income for purposes of the numerator of the income percentage for the year of change of residence (see question 4).

If the winnings are subject to New York State withholding tax or you file a surety bond or other security acceptable to the New York State Tax Department, the special accrual rules do not apply. Any lottery prize winnings received during the year of change of residence, including the period of the year that you were a resident of New York State as well as for the period of the year that you were a nonresident of New York State, are included in New York adjusted gross income and are included as New York source income for purposes of the numerator of the income percentage. The remaining payments received as a nonresident of New York State in subsequent taxable years are included in New York adjusted gross income and are included as New York source income for purposes of the numerator of the income percentage for each year as you receive payment (see question 4).

For more information on special accruals, see the instructions for Form IT-260, *New York State and City of New York Surety Bond Form – Change of Resident Status – Special Accruals*, and Form IT-260.1, *Change of Resident Status – Special Accruals*.

8) **Q:** If I move into New York City during the year, how does the move affect my city income tax obligation on my lottery winnings that I am entitled to receive?

A: If you changed your residence from a nonresident of New York City to a resident of New York City and are entitled to receive future New York State lottery payments from lottery prizes won while a nonresident, the tax treatment depends on the amount of your winnings.

If the proceeds from your wager placed in a lottery conducted by the New York State Division of Lottery are \$5,000 or less, you must accrue your lottery prize winnings that, under an accrual method of accounting, would be includable in the portion of the year prior to the time you

changed your residence. Any lottery prize winnings accrued for this purpose must be excluded in determining New York City taxable income for the year of change and any subsequent year.

However, if the proceeds from your wager placed in a lottery conducted by the New York State Division of Lottery exceed \$5,000, the special accrual rules do not apply. You will be required to report the lottery prize payments you receive during the year of change of residence for the period of the taxable year that you were a resident of New York City in determining New York City taxable income for the year of change and for any subsequent taxable year.

The New York City change of resident status income tax rules apply regardless of whether you change city residence during the year from a location within New York State or outside New York State.

9) **Q:** If I move out of New York City during the year, how does the move affect my city income tax obligation on my lottery winnings that I am entitled to receive?

A: If you changed your residence from a resident of New York City to a nonresident of New York City and are entitled to receive future New York State lottery payments from lottery prizes won while a resident, the tax treatment depends on whether the winnings are subject to New York City withholding tax (see question 5).

If the winnings are not subject to New York City withholding tax, you must accrue your remaining unpaid lottery prize winnings unless you file a surety bond or other security acceptable to the New York State Tax Department. Special accrual rules provide that the entire amount of the remaining unpaid lottery prize winnings must be included in New York City taxable income for the year of change of residence.

If the winnings are subject to New York City withholding tax or you file a surety bond or other security acceptable to the New York State Tax Department, the special accrual rules do not apply. You are required to report the lottery prize winnings as you receive payment and determine your New York City tax using the resident income tax rates as if you had not changed your city resident status.

The New York City change of resident status income tax rules apply regardless of whether you change city residence during the year to a location within New York State or outside New York State.

For more information on special accruals, see the instructions for Form IT-260, *New York State and City of New York Surety Bond Form – Change of Resident Status – Special Accruals*, and Form IT-260.1, *Change of Resident Status – Special Accruals*.

10) Q: If I move into Yonkers during the year, how does the move affect my city income tax obligation on my lottery winnings that I am entitled to receive?

A: If you changed your residence from a nonresident of Yonkers to a resident of Yonkers and are entitled to receive future New York State lottery payments from lottery prizes won while a nonresident, you must accrue your lottery prize winnings that, under an accrual method of accounting, would be includable in the portion of the year prior to the time you changed your residence. Any lottery prize winnings accrued for this purpose must be excluded in determining your Yonkers resident income tax surcharge for the year of change and any subsequent year.

The Yonkers change of resident status income tax rules apply regardless of whether you change city residence during the year from a location within New York State or outside New York State.

11) Q: If I move out of Yonkers during the year, how does the move affect my city income tax obligation on my lottery winnings that I am entitled to receive?

A: If you changed your residence from a resident of Yonkers to a nonresident of Yonkers and are entitled to receive future New York State lottery payments from lottery prizes won while a resident, the tax treatment depends on whether the winnings are subject to Yonkers withholding tax (see question 5).

If the winnings are not subject to Yonkers withholding tax, you must accrue your remaining unpaid lottery prize winnings unless you file a surety bond or other security acceptable to the New York State Tax Department. Special accrual rules provide that the entire amount of the remaining unpaid lottery prize winnings must be included in New York adjusted gross income for the period of residence for the year of change of residence.

If the winnings are subject to Yonkers withholding tax or you file a surety bond or other security acceptable to the New York State Tax Department, the special accrual rules do not apply. You are required to report the lottery prize winnings as you receive payment and determine your Yonkers income tax surcharge using the resident income tax rates as if you had not changed your city resident status.

The Yonkers change of resident status income tax rules apply regardless of whether you change city residence during the year to a location within New York State or outside New York State.

For more information on special accruals, see the instructions for Form IT-260, *New York State and City of New York Surety Bond Form – Change of Resident Status – Special Accruals*, and Form IT-260.1, *Change of Resident Status – Special Accruals*.

- 12) **Q:** I am a nonresident of New York State and my lottery prize winnings from the New York State Division of Lottery are subject to New York State income tax. The state that I live in also taxes these winnings. Will I have to pay taxes in both states?
- A:** Tax laws vary by state, but most states provide a resident credit for taxes paid to other states. For information regarding your state's resident tax credit, check with the taxing authority in your state of residency.
- 13) **Q:** I am one of multiple winners of a single lottery prize that formed an entity (e.g., partnership, trust, or New York S corporation). What are my income tax obligations?
- A:** As a partner, beneficiary, or shareholder of a New York S corporation, you may be required to include your share of the winnings passed on to you from the entity in determining your New York State income tax and any applicable city tax. The taxability of the winnings depends on the amount of the proceeds from the wager and your resident status.
- 14) **Q:** How will New York State tax my lottery winnings if I sell future payments to a third party for a lump-sum payment?
- A:** The lump-sum payment received from a third party represents the present value of the lottery prize payments sold. The lottery prize payments are gambling winnings taxed as ordinary income. Therefore, the payment from the third party purchaser is payment of gambling winnings and is taxed as ordinary income. Accordingly, the amount of the payment that is includable in federal adjusted gross income should be reported on the *Other Income* line of Form IT-201, *Resident Income Tax Return*, or Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, or Form IT-205, *Fiduciary Income Tax Return*, as applicable. (Nonresidents and part-year residents must include the lump-sum payment in both the Federal and New York State amount columns of Form IT-203).
- 15) **Q:** Does New York State report the amount of lottery prize winnings to the Internal Revenue Service?
- A:** Yes. The New York State Division of Lottery is required to report all prizes where the prize less the amount of the wager is greater than \$600 and at least 300 times the amount of the wager. A federal Form W-2G, *Certain Gambling Winnings*, will be issued to you reporting the total prize payment and, if any, the income tax withholding amount.
- 16) **Q:** Can I deduct the amount spent on non-winning lottery tickets on my income tax return?
- A:** If you itemize your deductions on your federal income tax return, you may be able to deduct the amount spent on lottery tickets and any other gambling losses up to the amount of your gambling winnings as miscellaneous itemized deductions. For more information regarding

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federal requirements, see federal Publication 529, *Miscellaneous Deductions*. Federal tax forms and publications are available on the Internal Revenue Service (IRS) Web site (www.irs.gov), or you can order them by phone, at 1 800 829-3676.

- 17) Q:** If I die before I collect all of my lottery payments, are my unpaid lottery winnings that are distributed to my estate or to a beneficiary of my estate subject to New York State income tax?
- A:** Yes. Lottery payments made to your estate or to your heirs are taxable if they were taxable to you and must be reported on the *Other Income* line of Form IT-205, *Fiduciary Income Tax Return*, or Form IT-201, *Resident Income Tax Return*, or Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, as applicable. (Nonresident and part-year residents must include the amount of the payment in both the Federal and New York State columns of Form IT-203).
- 18) Q:** If I die before I collect all of my lottery payments, will my estate be subject to New York State estate tax?
- A:** If the value of your unpaid payments and other property is substantial, your estate may be required to file Form ET-706, *New York State Estate Tax Return*, and pay a New York State estate tax on the value of your overall estate, which will include the value of any future lottery payments.

Electronic Services

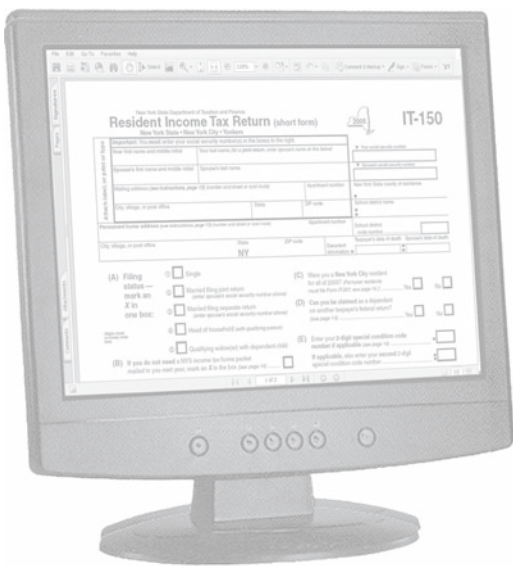
The NYS Department of Taxation and Finance is continuing its efforts to provide our customers – the citizens and businesses of this state – with world-class service. We are using the latest technology to develop innovative ways to better serve you. Many of these initiatives are available on the Department's Web site at

www.nystax.gov



Services currently available include . . .

- Visit our Taxpayer Answer Center to find answers to frequently asked tax questions.
- Determine if you are eligible for free e-filing with FreeFile.
- Learn how to e-file, the fastest and most accurate way to file your return.
- Apply for an automatic six-month extension of time to file your return.
- Make estimated tax payments, check your balance, and reconcile your estimated tax account balance.



- Check the status of your current year income tax refund.
- Pay your income taxes by credit card and electronic funds withdrawal.
- Use the penalty and interest calculator.
- View and pay open assessments.
- Check out our available online services for businesses.
- Sign up for our free e-mail Subscription Service to receive notification of Tax Department updates and technical guidance.

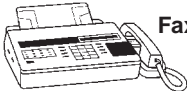
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Need help?



Internet access: www.nystax.gov

Access our Answer Center for answers to frequently asked questions; check your refund status; check your estimated tax account; download forms, publications; get tax updates and other information.



Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week.

1 800 748-3676



Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

Refund status: 1 800 443-3200
(Automated service for refund status is available 24 hours a day, 7 days a week.)

To order forms and publications: 1 800 462-8100

Personal Income Tax Information Center: 1 800 225-5829

From areas outside the U.S. and outside Canada: (518) 485-6800



Hotline for the hearing and speech impaired: If you have access to a telecommunications device for the deaf (TDD), contact us at 1 800 634-2110. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 225-5829.