

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Income Tax Withholding on Gaming Winnings (LAC 61:I.1525)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953 (B), and Act 211 of the 2021 Regular Session of the Louisiana Legislature, and R.S. 47:1511, the Department of Revenue, Policy Services Division, (“the Department”) is, by emergency rule, adopting LAC 61:I.1525. The purpose of this regulation is to require any person paying gaming winnings under the provisions of Act 141 of the 2020 Regular Session of the Louisiana Legislature and Act 80 of the 2021 Regular Session of the Louisiana Legislature to withhold Louisiana income tax. This Emergency Rule is effective October 8, 2021, rescinds the previous Emergency Rule issued on September 5, 2021, and will remain in effect for 180 days, unless renewed or revoked, or until the adoption of the final Rule, whichever comes first. The promulgation of this rule on an emergency basis is necessary to implement the required withholding as permits have been approved allowing the wagering. Act 141 of the 2020 Regular Session of the Louisiana Legislature and Act 80 of the 2021 Regular Session of the Louisiana Legislature respectively authorize fantasy sports contest and sports wagering gaming. This Emergency Rule requires every person or business that pays sports wagering and fantasy sports contest winnings won in Louisiana to withhold individual income taxes at the highest rate provided for by R.S. 47:32(A) if federal income taxes are required to be withheld by the Internal Revenue Service under 26 U.S.C. 3402 on the same winnings. This Emergency Rule clarifies that any person paying gaming winnings is required to conform to the electronic filing requirements for LDR Form L-3 and accompanying IRS Form W-2G.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 15. Income: Withholding Tax

§1525. Income Tax Withholding on Gaming Winnings

A. - A.2. ...

3. Any person that pays sports wagering and fantasy sports contest winnings won in Louisiana is required to withhold individual income taxes at the highest rate provided for by R.S. 47:32(A) if federal income taxes are required to be withheld by the Internal Revenue Service under 26 U.S.C. 3402 on the same winnings.

B. - B.2.b. ...

3. Effective for taxable periods beginning on or after January 1, 2021, persons required to withhold and to remit income taxes on gaming winnings shall electronically file the LDR Form L-3 transmittal and accompanying IRS Form W-2G. Pursuant to the authority of R.S. 47:114(D)(2) and to provide simplicity on related federal filing requirements, the secretary grants an extension of time to file to February 28th to coincide with the federal due date.

a. Electronic Filing Options. The LDR Form L-3 and IRS Form W-2G shall be filed electronically in one of the manners as follows:

i. electronic filing using the LaWage electronic filing application via the LDR website, www.revenue.louisiana.gov; or
ii. any other electronic method authorized by the secretary.

4. Tax Preparer Undue Hardship Waiver of Electronic Filing Requirement

a. The secretary may waive the electronic filing requirement if it is determined that complying with the requirement would cause an undue hardship.

b. For the purposes of waiver of the electronic filing requirement, inability by the tax preparer to obtain broadband access at the location where LDR Forms L-3 and IRS Forms W-2G are prepared shall be considered an undue hardship and waiver of the requirement will be granted.

AUTHORITY NOTE: Promulgated in accordance with Act 80 of the 2021 Regular Session of the Louisiana Legislature, R.S. 47:32(A), R.S. 47:164, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:2877 (December 2010), amended by the Department of Revenue, Policy Services Division, LR 47:

Kimberly J. Lewis
Secretary

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