WEST VIRGINIA CODE: §11-21-77

§11-21-77. Extension of withholding to certain lottery winnings; lottery winnings source income.

(a) Lottery winnings subject to withholding. — Gross prizes, as defined in §29-22-15a of this code, of more than $5,000 from any lottery prize awarded by the West Virginia State Lottery Commission are subject to withholding under §11-21-1 et seq. of this code. The West Virginia State Lottery Commission in making any lump sum payment, annuity payment or installment payment of a lottery prize subject to withholding shall deduct and withhold from the payment a tax in an amount equal to six and one-half percent of the payment.

(b) Statement by recipient. — Every person who is to receive payment of a lottery prize subject to withholding shall furnish to the person making the payment, a statement made under the penalties of perjury, containing the name, address, and taxpayer identification number of the person receiving the payment and each person entitled to any portion of the payment.

(c) Coordination with other sections. — For the purposes of determining liability for payment of taxes and filing of returns, payments of a lottery prize subject to withholding shall be treated as if they were wages paid by an employer to an employee, but shall not be treated as compensation for personal services performed within this state for purposes of §11-21-40 and §11-21-41 of this code.

(d) Source Income. — (1) All lottery prizes awarded by the West Virginia State Lottery Commission shall be taxed as West Virginia source income and shall be subject to all state and federal income tax laws and rules and regulations. Pursuant to this section, state income taxes shall be withheld from prizes paid whenever federal income taxes are required to be withheld under the Internal Revenue Code.

(2) All prizes awarded by the West Virginia State Lottery Commission shall be taxed as West Virginia source income and taxable to nonresidents in accordance with §11-21-32 and §11-21-44 of this code and shall be subject to withholding in accordance with this section.

(3) The sourcing provisions of this section shall apply to all prizes awarded by the West Virginia State Lottery Commission, without regard to the form of payment or the period of time over which payments are made. Lump sum payments, installment payments, annuity payments, and winnings payments that are sold, assigned, transferred, or otherwise split, shared, or conveyed to or among parties other than the original prize winner retain their identity as prizes awarded by the West Virginia State Lottery Commission, and retain their character as West Virginia source income.

(e) Backup withholding. — Beginning July 1, 2012, every person who is required to file

WV Legislature

Internal Revenue Service Form W-2G, and who is subject to backup withholding under federal law, is subject to West Virginia backup withholding. The payor in making any payment of a gambling prize subject to backup withholding shall deduct and withhold from the payment a tax in an amount equal to six and one half percent of the payment.

(f) The changes made to this section during the 2019 regular session of the Legislature shall take effect immediately upon the effective date of this section.

WV Legislature