

Rev. Proc. 2007-57.

This procedure informs taxpayers of their obligations under section 3402(q) of the Code pertaining to withholding and information reporting applicable to certain amounts paid to winners of poker tournaments. It further sets forth procedures to be used to comply with the relevant requirements of the Code and the Treasury regulations thereunder.

1. Purpose

This revenue procedure informs taxpayers of their obligations under section 3402(q) pertaining to withholding and information reporting applicable to certain amounts paid to winners of poker tournaments. It further sets forth procedures to be used to comply with the relevant requirements of the Internal Revenue Code and Treasury Regulations thereunder.

2. Factual Background

A business taxpayer (“ poker tournament sponsor”) may sponsor a poker tournament, charging an entry fee and a “ buy-in” fee for each participant. In exchange for the fees, each participant receives a set of poker chips with a nominal face value for use in the specific poker tournament. The poker tournament sponsor pays amounts, which exceed a participant's fees by \$5,000, to a certain number of tournament winner(s), out of a pool comprised of all the participants' fees.

3. Legal Background

.01. . *Withholding under section 3402.* Section 3402(q)(1) provides that every person who makes any payment of winnings which are subject to withholding shall deduct and withhold from the payment an amount equal to the product of the third lowest rate of tax applicable under section 1(c) and such payment. Section 3402(q)(3) provides that the term “ winnings which are subject to withholding” means, in part, proceeds from a wagering transaction, if the proceeds are more than \$5,000 from a wager placed in any sweepstakes, wagering pool, or lottery. The term “ wagering pool” includes “ all pari-mutuel betting pools, including on- and off-track racing pools, and similar types of betting pools.” H.R. Conf. Rep. No. 94-1515, at 488 (1976) (relating to the enactment of § 3402(q)). “ In common usage the term 'pool' connotes a particular gambling practice, an arrangement whereby all bets constitute a common fund to be taken by the winner or winners.” *United States v. Berent*, 523 F.2d 1360, 1361 (9th Cir. 1975). Section 3402(q)(4)(A) provides that proceeds from a wager shall be determined by reducing the amount received by the amount of the wager.

.02. . *Information reporting under section 31.3402(q)-1(e).* Section 31.3402(q)-1(e) of the Employment Tax Regulations provides that each person who is to receive a payment of winnings subject to withholding shall furnish to the payer a statement on Form W-2G or Form 5754 (whichever is applicable) made under the penalties of perjury containing certain required information, including the name, address, and Taxpayer Identification

Number of the winning payee. Section 31.3402(q)-1(f)(1) provides that every person making a payment of winnings for which withholding is required shall file a Form W-2G with the IRS on or before February 28 (March 31 if filed electronically) of the calendar year following the calendar year in which the payment of winnings is made and shall furnish a copy of the Form to the payee.

4. Application

A poker tournament sponsor is required to withhold and report on payments of more than \$5,000 made to a winning payee in a taxable year by filing an information return with the IRS as prescribed by section 3402(q). The poker tournament sponsor must furnish a copy of the information return to the IRS on or before February 28 (March 31 if filed electronically) of the calendar year following the calendar year in which the payment is made, as prescribed by section 31.3402(q) of the regulations.

5. Scope

This revenue procedure applies to poker tournament sponsors, including casinos, which pay amounts to winners in a manner substantially similar to that described in section 2 of this revenue procedure.

6. Waiver Of Liability Under Section 3402 And Waiver Of Other Penalties Or Additions To Tax

The IRS will not assert any liability for additional tax or additions to tax for violations of any withholding obligation with respect to amounts paid to winners of poker tournaments under section 3402, provided that the poker tournament sponsor meets all of the requirements for information reporting under section 3402(q) and the regulations thereunder.

7. Effective Date

This revenue procedure is effective for payments made on or after March 4, 2008.

8. Drafting Information

The principal author of this revenue procedure is Blaise G. Dusenberry of the Office of Associate Chief Counsel (Procedure and Administration). For further information regarding this revenue procedure, contact Cynthia McGreevy at (202) 622-4910 (not a toll-free call).