



## Ohio Revised Code

### Section 5747.064 Withholding from video lottery winnings.

Effective: June 11, 2012

Legislation: House Bill 386 - 129th General Assembly

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(A) As used in this section, "video lottery terminal" has the same meaning as in section 3770.21 of the Revised Code.

(B) If a person's prize award from a video lottery terminal is an amount for which reporting to the internal revenue service of the amount is required by section 6041 of the Internal Revenue Code, as amended, the lottery sales agent shall deduct and withhold Ohio income tax from the person's prize award at a rate of four per cent of the amount won and shall deduct and withhold municipal income tax from the person's winnings at the rate of tax of the municipal corporation in which the video lottery terminal facility is located. The lottery sales agent shall issue, to a person from whose prize award an amount has been deducted or withheld, a receipt for the amount deducted and withheld, and also shall obtain from the person additional information that will be necessary for the lottery sales agent to prepare the returns required by this section.

(C) Amounts deducted and withheld by a lottery sales agent are held in trust for the benefit of the state and municipal corporations, as applicable.

(1) On or before the tenth day of each month, the lottery sales agent shall file a return electronically with the tax commissioner and the tax administrator of the municipal corporation, as applicable, identifying the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding month, the amount of the prize award from which each such amount was withheld, and any other information required by the commissioner and the tax administrator of the municipal corporation, as applicable. With the return, the lottery sales agent shall remit electronically to the commissioner and the tax administrator of the municipal corporation, as applicable, all the amounts deducted and withheld during the preceding month.

(2) A lottery sales agent shall maintain a record of all receipts issued under division (B) of this section and shall make those records available to the commissioner and the tax administrator of the



municipal corporation, as applicable, upon request. Such records shall be maintained in accordance with section 5747.17 of the Revised Code and any rules adopted pursuant thereto.

(3) Annually, on or before the thirty-first day of January, a lottery sales agent shall file an annual return electronically with the tax commissioner and the tax administrator of the municipal corporation, as applicable, indicating the total amount deducted and withheld during the preceding calendar year. The lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the identity of a person and the amount deducted and withheld with respect to that person were omitted on a monthly return, that information shall be indicated on the annual return.

(4)(a) A lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. The commissioner and the tax administrator of the municipal corporation, as applicable, may impose a penalty of up to one thousand dollars if a return is filed late, if amounts deducted and withheld are remitted late, if a return is not filed, or if amounts deducted and withheld are not remitted. Interest accrues on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Revised Code. The commissioner and the tax administrator of the municipal corporation, as applicable, may collect past due amounts deducted and withheld and penalties and interest thereon by assessment under section 5747.13 of the Revised Code as if they were income taxes collected by an employer.

(b) If a lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld and any penalties and interest thereon are immediately due and payable. A successor of the lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld and penalties and interest thereon until the predecessor lottery sales agent produces either a receipt from the tax commissioner and the tax administrator of the municipal corporation, as applicable, showing that the amounts deducted and withheld and penalties and interest thereon have been paid or a certificate from the commissioner and the tax administrator of the municipal corporation, as applicable, indicating that no amounts deducted and withheld or penalties and interest thereon are due. If the successor fails to withhold purchase money, the successor is personally liable for payment of the amounts deducted and withheld and penalties and interest thereon, up to the amount of the purchase money.



(D)(1) Annually, on or before the thirty-first day of January, a lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount deducted from the person's prize award by the lottery sales agent during the preceding year.

(2) Annually, on or before the thirty-first day of January, a lottery sales agent shall provide to the tax commissioner and the tax administrator of the municipal corporation, as applicable, a copy of each information return issued under division (D)(1) of this section for the preceding calendar year. The commissioner and the tax administrator of the municipal corporation, as applicable, may require that such copies be transmitted electronically.

(E) Amounts deducted and withheld shall be allowed as a credit against payment of the tax imposed by section 5747.02 of the Revised Code and shall be treated as taxes paid for purposes of section 5747.09 of the Revised Code. This division applies only to the person for whom the amount is deducted and withheld.

(F) The failure of a lottery sales agent to deduct and withhold the required amount from a person's prize award does not relieve the person from liability for the tax imposed by section 5747.02 of the Revised Code with respect to that income. Compliance with this section does not relieve a lottery sales agent or a person who has a prize award from compliance with relevant provisions of federal tax laws.

(G) The commissioner and the tax administrator of the municipal corporation, as applicable, shall prescribe the form of the receipt and returns required by this section and the commissioner may promulgate any rules necessary to administer the section.