

INCOME TAX ON AWARDS

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Abstract: *In this paper we are aiming at synthesizing legal aspects related to the taxation of incomes from prizes. We will take into account the inclusion of incomes from prizes in the following two categories: a) prizes from contests and promotion of products and services, as a result of commercial practices; b) prizes from gambling. Taxpayers are natural persons who obtain incomes from prizes. The tax is calculated by applying the legal rate to the net income. The net income is obtained by deducting the amount of 600 RON, representing non-taxable income, from the gross income. For prizes from contests and gambling, the tax is calculated by withholding, it is declared and transferred to the prize payer. For remote gambling, prizes are taxed by the tax authority following the submission of the income statement by the taxpayer.*

Key words: lottery, tax, VAT, deductibility, accountancy

INTRODUCTION

The incomes from awards are taxed through the application of the tax rate on net income. Under art. 75 of the Fiscal Code, awards are incomes earned from contests, from the *promotion of products and services as a result of commercial practices*. Similar fiscal rules are also applicable in the case of incomes from gambling. This category includes gains collected as a result of the participation to gambling, including jack-pot type one.

MATERIALS AND METHODS

The determination of the net income from awards

The net income is the difference between the income from awards and the amount representing non-taxable income.

Net income=income from awards-non-taxable income

The net income from awards is taxed by applying the 16% tax rate. The net income from gambling is taxed by applying tax rates differentiated according to the gain size, as shown in Table no. 1. The income payer has the obligation to calculate, withhold and transfer the corresponding tax

Table no. 1

Tax rate related to incomes from awards		
It. no.	Amounts collected	Tax rate
1.	Do not exceed the RON equivalent of 15.000 Euro	1%
2	exceed the RON equivalent of 15,000 Euro	16%
3.	exceed the RON equivalent of 100,000 Euro	25%

The income tax is transferred to the government budget by and including the 25th day of the month following that when the tax was withheld. As an exception, in the case of incomes made by natural persons following the participation to on-line gambling, slot-machine, draws and poker contests, the tax is not withheld. In this case, the winner has the

obligation to declare the income by submitting the income statement. The submission deadline is 25th May of the year following that when the income was realized. Following the processing of the data in the statement, the competent tax authority has the obligation to determine the tax due and to issue the taxation decision. The taxation rates are shown in table no. 2.

Table no. 2

Tax rate related to incomes from awards

It. no.	Amounts collected	Tax rate
1.	Do not exceed the RON equivalent of 14.999 Euro	1%
2	exceed the RON equivalent of 15,000-99,999 Euro	16%
3.	exceed the RON equivalent of 100,000 Euro	25%

RESULTS AND DISCUSSIONS

An entity that produces soft drinks organizes a raffle for its collaborators, offering as prizes 5 computers in the total amount of 15.000 RON plus 24% VAT, The winners are natural persons.

The raffle organization rules establish that the entity should increase the value of the prizes by the amount representing the tax on the income from prizes. The accounting operations are presented in table no. 3.

Table no. 3

The accounting operations

It. no.	Explanations	Debt	=	Credit	Amount -RON-
1.	Computer purchase:	%	=	401	18,600
		371			15,000
		4426			3,600
2.	Payment of the computer purchase invoice:	401	=	5121	18,600
3.	Collection of VAT corresponding to non-deductible advertisement expenses:	635	=	4427	3,600
4.	Recording the inventory outflow of the computers given to winners	623	=	371	15,000
5.	Prize income tax	635	=	446	2,112
6.	Prize income tax payment	446	=	5121	2,112

The calculation of the income from the prizes granted as a result of commercial practices:

Net income=15.000-3x600=13.200 RON

Tax 13.000x16%2.112 RON

The 2112 RON tax is declared and paid by the raffle organizer. The declaration and payment deadline is until the 25th day of the month following the one when prizes were awarded.

Under art. 75 of the Fiscal code, incomes from prizes include prizes awarded with the purpose of promoting products and services as a result of commercial practices. This category does not include advertising materials such as samples and bonus points given to stimulate sales.

In the analysed case, the raffle is part of commercial practices for the promotion of products and services through advertising lottery. Advertising lottery gives the participants the hope they will obtain gains by drawing lots.

Ordinance no. 99/2000 republished on marketing products and services sets the organization and operation rules for advertising lottery. According to these regulations, the organizer has the obligation to draw up the advertising lottery organization and operation rules in authenticated form, hereinafter referred to as "regulation".

The regulation must include the mention that the advertising lottery has the obligation to publish the winners' names and the prizes awarded. Participants to the lottery are informed in relation to the prizes, their value and where they can receive an organization regulation. One original copy of the regulation is submitted with the General Management Directorate in the Ministry of Economy and Finance by the date when the advertising lottery starts.

For the verification of the appropriate operation of the contest/lottery, an original copy of the regulation may be requested by the representatives of the stakeholder authorities (the Ministry of Economy and Finance and the Ministry of Interior and Administrative Reform)

The organizer of the contest or of the lottery has the obligation to draw up prize handover records. These records must be signed both by winners and by the representative of the organizer, in such a way as one original copy be kept by each (the winner and the entity who organized the contest).

Advertising lottery does not include contests with prizes won exclusively due to the participants' ability, knowledge, perspicacity, the winner being designated exclusively according to the value of his or her performance, therefore, the advertising lottery regulation is not applicable to such contests.

On the other hand, advertising lottery does not include the random allocation of prizes, before supplying products/services for sale and the award of gains when products/services are purchased, even though prizes are received subsequently, this being an admitted commercial practice.

CONCLUSIONS

The tax on the incomes from prizes is determined based on the following principles:

- By applying the tax rate to the net taxable income (based on the net taxable income, 1%; 16%; 25%)
- The net taxable income is calculated as a difference between the gross income and the non-taxable income;
- The non-taxable income is 600 RON for each prize;
- The tax is calculated under the form of withholding tax, with the exception of the incomes obtained following the participation to on-line gambling, slot-machine, draws and poker contests,
- Where the tax is not withheld, the tax is calculated by the tax authority following the taxpayer's submission of the income statement;

- Where the tax is withheld, the tax on incomes from prizes is declared and paid by the organizer of the contest.

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