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[Third Party Communication:

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Release Date: 11/21/2025

From:

Sent: Monday, July 7, 2025 09:10:00 AM

To:

Cc:

Bcc:

Subject: RE: Question regarding IRC 3402(q) and sports book betting

██████,

Per the below analysis, the winnings were subject to 30% withholding pursuant to I.R.C. § 1441(a) and were reportable on Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, and Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding.

Gains from wagering transactions, including sports wagering, are included in gross income for Federal income tax purposes. Because sports betting transactions are considered wagering, they are subject to the information reporting requirements of I.R.C. § 6041. As outlined in Treas. Reg. § 31.3406(g)-2(d)(2), “[a] gambling winning . . . is a reportable gambling winning only if the amount paid with respect to the wager is \$600 or more **and** if the proceeds are at least 300 times as large as the amount wagered” (emphasis added). So, were your taxpayer not a foreign national, the casino would have been correct in not issuing a W-2G for the winnings received because they did not exceed at least 300 times the amount wagered. Similarly, pursuant to Treas. Reg. § 31.3402(q)-1(b)(1)(iii), withholding would not have been required on the winnings because it is only required on “other” wagering transactions, such as sports bets, that exceed \$5,000 **and** where the winnings are at least 300 times the amount wagered. This analysis would hold even with a hypothetically larger prize with a similar wager to proceeds ratio.

However, your taxpayer is a ████████ citizen and resident. Payments of gambling winnings to a nonresident alien individual aren't subject to reporting or withholding on Form W-2G, and they are generally exempt from withholding under section 3402(q)(2). Instead, gambling winnings paid to a foreign person that are not effectively connected with a U.S. trade or business are generally subject to 30% withholding under section 1441(a). Such payments are reportable on Form 1042 and Form 1042-S. Although not relevant here, winnings of a nonresident alien from blackjack, baccarat, craps, roulette, big-6 wheel, or a live dog or horse race in the United States from legal wagers initiated outside the United States in a parimutuel pool aren't subject to withholding or reporting under section 1441(a). See I.R.C. §§ 871(j); 1441(c)(11); Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

Gambling income of residents of certain foreign countries is not taxable by the United States pursuant to treaties with those countries. ████████ was not one of those countries as listed in Pub. 515 for 2022. Further, a reduced or zero rate of withholding of tax must not be applied by the payer in lieu of the rate imposed by the Code unless the person receiving the winnings has provided to the payer the documentation required to establish entitlement to treaty benefits. See

26 C.F.R. § 31.3402(q)-1; see *also* Pub 515. The U.S. treaty with the resident to claim wagering losses.

does, however, allow

Please let us know if you need any further information.

Respectfully,

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]