

Income Tax

IMP. 293-1/R3

Lotteries

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Reference(s):

Taxation Act (CQLR, c. I-3), sections 80, 128, 293, 307, 312, 316.1, 316.2, 316.3 and 336

This version of interpretation bulletin IMP. 293-1 supersedes that of June 27, 2014. The bulletin was revised to ensure that it is relevant and up to date.

This bulletin states Revenu Québec's policy regarding the tax treatment of the following: prizes won in connection with a lottery; a winner's sharing of a prize with other persons; and income earned by lottery ticket vendors.

GENERAL POINTS

1. A lottery is a game of chance where organizers sell the right to obtain a chance to win a prize—for example, by selling a certain quantity of numbered tickets and awarding prizes to winners selected by chance. Among the products offered by Loto-Québec are instant lotteries in the form of scratch tickets (such as Mots cachés and Cadeau surprise), lotteries with drawings, which involve numbered tickets (such as Lotto 6/49, Lotto Max and La Mini), and lotteries involving betting on the outcome of an event (such as Mise-o-jeu).
2. Under section 293 of the *Taxation Act* (TA), the gain or loss of a taxpayer from the disposition of a chance to win a prize or a right to receive a cash prize, in connection with a lottery, is deemed nil. Therefore, such a prize is not taxable when received, and the amount or value thereof does not have to be included in computing the winner's income. Subject to point 5, this rule applies to prizes won in connection with instant lotteries, lotteries with drawings and lotteries involving betting on the outcome of an event.
3. According to section 307 of the TA, the cost of property received as a prize by a taxpayer in connection with a lottery corresponds to the fair market value of the prize at the time it is received.
4. Subject to the attribution rules referred to in point 6, the disposition by a taxpayer of all or part of a prize the taxpayer won in connection with a lottery does not have any specific tax consequences, other than the application of section 422 of the TA, whereby the proceeds of disposition of the property transferred by the taxpayer can be determined. In short, that section

provides that the proceeds of disposition of transferred property correspond to its fair market value at the time of the disposition.

5. Whether a prize is won in connection with an instant lottery or a lottery with a drawing, if the prize is not awarded in a single payment and takes the form of an annuity (as in the case of the Gagnant à vie and Grande vie products offered by Loto-Québec), a portion of the prize is taxable.¹ Under paragraph (c) of section 312 of the TA, an amount received as an annuity payment must generally be included in income. However, under paragraph (f) of section 336 of the TA, the portion of an annuity payment that constitutes the capital component thereof is deductible in computing income and, therefore, not taxable. The payer or issuer of the annuity determines the portions of the annuity that constitute income and capital, respectively, issues the RL-2 slip, *Revenus de retraite et rentes* (retirement and annuity income), and enters the income portion in box B.

ATTRIBUTION RULES

6. Where a taxpayer who received a prize in connection with a lottery transfers or loans any of the property constituting the prize to one or more close relatives, the attribution rules may apply. Such is the case where the property is transferred or loaned directly or indirectly by means of a trust or by any other means

- to or for the benefit of a person who is, or who later becomes, the taxpayer's spouse; or
- to or for the benefit of a person who is a minor not dealing at arm's length with the taxpayer or who is the taxpayer's niece or nephew, unless the person turns 18 before the end of the year.

RULES REGARDING LOANS MADE TO INDIVIDUALS

7. Under section 316.1 of the TA, where an individual loans property, directly or indirectly, to another individual with whom he or she is not dealing at arm's length, and it may reasonably be considered that one of the main reasons for the loan is to reduce or avoid income tax arising from the property or from any property substituted therefor, such income is considered income of the individual who loans the property and is not considered income of the individual who receives it. That rule does not apply where the attribution rules referred to in point 6 otherwise apply.

8. Section 316.2 of the TA provides for an exception to the rule referred to in point 7 where interest is charged on the loan at a rate equal to or greater than the lesser of the prescribed rate of interest in effect at the time of the loan and the rate that, having regard to all the circumstances, would have been agreed to at that time by parties dealing at arm's length with each other. However, that exception applies only where the interest payable for a particular year and every taxation year preceding the particular year in respect of the loan was paid not later than 30 days after the end of each such year.

9. Section 316.3 of the TA extends the application of the rule referred to in point 7 to property that is used to repay a loan contracted in order to acquire property or that is used to reduce an

¹ See *The Queen v. Rumack* (1992), 46 D.T.C. 6142 (F.C.A.).

amount owing in respect of such property. Thus, that rule applies to the property used to reduce the loan or debt, or to the property substituted therefor.

TICKET PURCHASES BY GROUPS OF PERSONS

10. Sometimes a person who wins a prize in connection with a lottery remits a portion of the prize to one or more other persons under an agreement they had entered into to that effect.

11. If the person who won the prize provides supporting documents to Revenu Québec, such as the original agreement (signed and dated), certification in writing from another person or any other relevant document that establishes that the remittance was made in accordance with an agreement, Revenu Québec will consider that the purchase was made by a group of persons and that no transfer by the person who won occurred at the time of the remittance.

12. Supporting documents must include the following information:

- (a) each purchaser's name and address;
- (b) the amount of each purchaser's wager;
- (c) the number of the ticket purchased;
- (d) the name of the person entrusted with the safekeeping of the ticket and where the ticket is to be kept;
- (e) the name of the person who is to claim the prize; and
- (f) how any prize is to be shared.

13. However, if the apparent winner fails to provide such supporting documents to Revenu Québec, the latter will presume that the apparent winner is the only winner of the prize. Thus, any amount paid out of the prize to another person would constitute a transaction to which the rules set out in points 1 through 9 may apply.

LOTTERY TICKET VENDORS

14. Points 15 through 17 deal with the taxation of amounts received or receivable by lottery ticket vendors. The term "vendors" means ticket retailers and distributors of tickets to retailers.

15. The earnings from the actual sale of tickets constitute business income within the meaning of section 80 of the TA.

16. Likewise, any prize receivable by a vendor by reason of the distribution or sale of a winning lottery ticket also constitutes business income.

17. Any prize or award received by a vendor also constitutes business income of the vendor, even if the amount or value thereof is based on the volume of tickets sold (as in the case of an incentive bonus).