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Winner never really takes it all

FEEL like the luckiest person alive because you won first prize in a game show? The taxman is even luckier: it has a share in your winnings, whether you like it or not.

Prizes—except those amounting to P10,000 or less, which are taxed as regular income—and other winnings (except Philippine Charity Sweepstakes Office lotto winnings) derived from sources within the Philippines are subject to 20-percent final tax if received by a citizen, resident alien and non-resident alien engaged in trade or business. If the recipient is a non-resident alien who is not engaged in trade or business, the prize is subject to 25-percent final withholding tax. And if the recipient is a corporation, whether domestic or foreign, a 30-percent corporate income tax is imposed.

On the other hand, prizes and awards made primarily in recognition of religious, charitable, scientific, educational, artistic, literary or civic achievements are exempt from taxation, but only if: (1) the recipient is selected without any action on his part to enter the contest or proceeding, and (2) the recipient is not required to render substantial future services as a condition to receiving the prize or award. In addition, prizes and awards granted to athletes in local and international sports competitions and tournaments in the Philippines or abroad and sanctioned by national sports associations are exempt from income tax.

Clearly, prizes and winnings received by individuals, unless exempted or amounting to P10,000 or below, are subject to final taxes. Final taxes are to be withheld and remitted by the payor. Thus, the prizes at stake in a contest or raffle may not be the exact amount received by the winner—these are supposedly net of final taxes payable to the Bureau of Internal Revenue (BIR). In case of non-cash prizes, such as a brand new house and lot, a vacation package or any other non-cash items, the recipient may even be required by the payor to pay the final tax first as a condition for the release of the winnings. As such, these non-cash prizes are often converted to "cash" for failure of the recipients to pay or shoulder the final tax that was due.

How about those prizes and winnings that are not subject to final tax, but to regular income tax, such as prizes received by individuals that amount to P10,000 or less, or those received by corporations regardless of the value—are these subject to any withholding tax?

Prizes are not included in the list of income payments subject to creditable withholding tax enumerated in withholding-tax regulations (RR 2-98). It would seem that since prizes are not included in the list, payments of such are not subject to withholding tax. Nevertheless, RR 2-98 includes an all-encompassing provision requiring that payments made by top 20,000 private corporations or top 5,000 individuals to their local resident suppliers of services are subject to 2-percent withholding tax. But prizes can still be exempted from withholding tax, considering that prizewinners are ordinarily not regular suppliers.

What if employees are the recipients of these tax-exempt prizes? Will these be subject to withholding tax on compensation? There is no clear rule on that. But in one ruling, the BIR held that used office computers worth P3,000 given by the employer to his or her employees through a raffle are considered compensation income subject to income tax, and consequently to withholding tax.

Prizes, whether in cash or kind, are incomes subject to tax unless exempted. Hence, the next time you join a contest, inquire if the prize at stake is net of tax; if not, accept the fact that you'll be sharing with the taxman a part of your precious winnings. Through the withholding-tax system, you may not necessarily get your prize, but the taxman's share is absolutely assured!

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