LOTTERY COMMISSION

Cashing out lottery prize annuities

- Allows a lottery prize winner who previously agreed to be paid in installments via an annuity to cash out the full amount of the annuity only in a single transaction, unless the Lottery Commission's (LOT) rules permit additional transfers.
- Prohibits a transferee from then transferring the annuity rights to a third person.
- Modifies the type of independent professional advice a winner must receive, and from whom the winner may receive it, before the transfer can occur.
- Requires signed documentation that the winner received independent professional advice.

Withholding from gambling winnings

- Changes the person responsible for withholding taxes and certain debts from lottery sports gaming and video lottery terminal (VLT) winnings that meet or exceed a threshold amount.
- Specifies that the sports gaming proprietor generally is responsible for withholding all amounts from lottery sports gaming winnings, including in a VLT facility (racino).
- Requires LOT to withhold all amounts from lottery sports gaming winnings won on a terminal that also offers other lottery games.
- Clarifies that the video lottery sales agent who operates a VLT facility must withhold all amounts from VLT prize winnings.
- Applies the changes described above beginning on January 1, 2026.
- Eliminates requirements that at the end of each calendar year, a video lottery sales agent, casino operator, or sports gaming proprietor give the Tax Commissioner a copy of each patron's IRS Form W-2G for the year.

Cashing out lottery prize annuities

(R.C. 3770.072, 3770.10, 3770.12, 3770.121, and 3770.13)

The act makes several changes to the process by which a lottery prize winner may cash out the winner's annuity for a one-time payment by selling it to a third party.

Background on lottery prize annuities

Under continuing law, a lottery winner who wins a large sum can choose between two options:

- Receive the full prize amount from the Lottery Commission (LOT) in the form of regular payments over a set period of time or over the winner's lifetime (an annuity);

- Receive a smaller lump sum – about half the full prize amount – from LOT immediately.

When a winner chooses an annuity, LOT puts the full value of the prize in the Deferred Prizes Trust Fund for investment by the Treasurer of State. Then, LOT makes regular payments to the winner. Any excess interest earned by the Deferred Prizes Trust Fund, above what is needed to cover annuity payments to winners, goes to the Lottery Profits Education Fund.[107]

A winner who initially chooses an annuity might later wish to cash out the remaining value of the annuity in the form of a lump sum received immediately. LOT does not offer this service, but many private companies do. In what the Revised Code calls a "transfer agreement," a winner can sign over the right to receive future LOT annuity payments to another person, the "transferee," in exchange for an agreed upon payment from the transferee. The transferee then has the right to receive ongoing annuity payments from LOT in place of the winner.

The transferee must apply to a court in advance for approval of the transfer based on several factors. If the factors are met, the transfer is presumed to be fair and reasonable and in the winner's best interests. The transferee also must notify LOT of the application, and LOT has the right to intervene in the proceeding.

Annuity transfer changes under the act

Number of transfers

The act makes several changes to the transfer process. First, it allows a winner to cash out the full amount of the annuity only in a single transaction, unless LOT's rules permit additional transfers. Prior law allowed a winner to cash out a single prize annuity through a maximum of three partial transfers, unless LOT permitted a greater number of transfers by rule. However, a partial transfer was allowed only if the value of each portion of the annuity to be transferred was at least $500,000.

Second, the act prohibits a transferee from then transferring the annuity rights to a third person in a manner that would require LOT to make annuity payments to that third person. The previous law included several provisions that accounted for this possibility and laid out procedures for taxing the parties involved, depending on their business structures. LOT was able to object to a transfer to a third person if the annuity had been transferred within the last 12 months. If LOT objected, and the court found that the prize was transferred within the last 12 months, the court was required to disapprove the transfer.

Independent professional advice

Finally, the act modifies the law that requires a winner to receive independent professional advice before the court can approve a transfer. Under continuing law, as a condition of approval, the court must find that the winner has received independent professional advice regarding the legal and other implications of the transfer. The adviser must not be affiliated in

[107] R.C. 3770.06, not in the act, and Ohio Lottery, Cash Option Values, available at ohiolottery.com under "Claim Prizes."

any manner with, or compensated in any manner by, the transferee. And, the adviser's compensation must not be affected by whether the transfer occurs.

The act adds a requirement that the independent professional advice include advice concerning the financial implications of the transfer, in addition to the "legal and other" implications. Further, under the act, the adviser must be one of the following:

- An attorney;
- A certified public accountant;
- An actuary;
- A financial planner who is accredited by a nationally recognized accreditation agency.

Prior law required the adviser to be "an attorney, a certified public accountant, an actuary, or any other licensed professional adviser," and did not mention a financial planner.

For a court to approve a transfer, the act requires the transferee to submit a statement, signed under penalty of perjury by the winner and the winner's licensed professional adviser, evidencing that the winner received the required advice. Under prior law, the court had to determine that the winner received that advice, but the law did not require documentation.

Withholding from gambling winnings

(R.C. 718.031, 3121.441, 3123.89, 3123.90, 3770.071, 3770.072, 3770.073, 3770.074, 3770.075, 3770.10, 3770.25, 3775.16, 5747.062, 5747.063, and 5747.064; Section 801.120)

Background on gambling winnings withholding

Under continuing law, when a person's winnings from the Ohio Lottery, sports gaming, or casino gaming meet or exceed a given dollar threshold (in most cases, $600), the agency or business that pays out the winnings first must collect identifying information from the winner and withhold the following amounts:

- State income tax;
- Municipal income tax, in the case of casino winnings, winnings at a physical sports gaming facility, or winnings at a video lottery terminal (VLT) facility located at a horse racetrack, also known as a racino;
- Any past due child or spousal support the winner owes, according to a database maintained by JFS;
- Any debts the winner owes to the state or a political subdivision, according to a database maintained by the Attorney General.

For all four categories, the withholding threshold is the dollar threshold at which the agency or business paying out the winnings also must report the payout to the Internal Revenue

Service (IRS) on Form W-2G.[108] A person whose payout is less than the threshold amount still must pay income taxes on the person's net gambling winnings for the year, but the taxes are due when the person files a tax return instead of being withheld up front.

Responsibility for withholding under the act

The act makes changes and clarifications to specify whether LOT, a video lottery sales agent, or a sports gaming proprietor is responsible for withholding from winnings, based on the type of game. The act assigns responsibility for withholding from winnings as follows:

- LOT generally must withhold amounts from lottery winnings, such as from scratch-off tickets, drawings, KENO, and instant games (continuing law);
- Video lottery sales agents must withhold amounts from VLT winnings;
- Sports gaming proprietors generally must withhold amounts from lottery sports gaming winnings;
- But, in the case of lottery sports gaming conducted on a terminal that also offers other lottery games, LOT must withhold amounts from winnings from bets placed through the terminal.

Prior law was unclear or contradictory in some places regarding who actually paid out winnings from lottery sports gaming and from VLTs, and thus who was responsible for withholding. Both types of gaming are administered by LOT in conjunction with private businesses – sports gaming proprietors in the case of lottery sports gaming, and video lottery sales agents in the case of VLTs.

In particular, the act removes language that required that when a VLT facility offered lottery sports gaming, the video lottery sales agent had to withhold amounts from lottery sports gaming payouts. The act also adds references to withholding procedures for video lottery sales agents to clarify that those agents, not LOT, conduct all types of withholding from VLT winnings.

Further, the act clarifies that a sports gaming proprietor is responsible for withholding all amounts from lottery sports gaming winnings. But, under the act, if the lottery sports gaming is operated on a terminal that also offers other lottery games (such as instant games), LOT must handle the withholding for all payouts won on the terminal. The act's withholding changes apply beginning on January 1, 2026.

Copies of Form W-2G filed with TAX

The act also eliminates requirements that at the end of each calendar year, a VLT agent, casino operator, or sports gaming proprietor give the Tax Commissioner a copy of each patron's IRS Form W-2G for the year. Gambling operators still must file those forms with the IRS and provide copies to their patrons.

[108] 26 U.S.C. 6041 and Internal Revenue Service, Instructions for Forms W-2G and 5754, Revised January 2021 (PDF), available at irs.gov under "Forms & Instructions."