

US Gambling Return FAQ's for Canadians

1. What is a 'Gambling Return'?

The term 'gambling return' is a casual reference to Federal US Tax form 1040NR and its attached schedules which can be filed by Canadian residents to obtain a refund of US taxes withheld from gambling winnings earned while in the US. The filer would have no other US source income.

The US considers all gambling winnings to be taxable income. As such, non-US persons must pay 30% tax on any winnings. This tax is withheld by the payer at the time of winning. The US/Canada tax treaty allows Canadian residents to reduce their winnings by any losses they have incurred. The result is less winnings on which 30% is owed.

To obtain a refund you must be able to prove you had gambling losses. If you have no gambling losses to deduct from your winnings, there is no point to filing the return since you will not get a refund.

2. Who can file a Gambling Return?

To be able to file a 'gambling return' you must answer **ALL** of the following questions with 'No':

- ✦ Are you a US Citizen or Green Card Holder?
- ✦ Have you ever applied to be a green card holder?
- ✦ Do you live in the United States?
- ✦ Do you have any other US source income?

If you answered 'yes' to any of these questions, you may have additional tax obligations and you should consult a tax professional familiar with cross-border taxation.

3. What are gambling winnings?

Generally gambling winnings include (but are not limited to) money or prizes earned from: Casino games, slot machines, Keno, poker tournaments, lotteries, sweepstakes, raffles, betting pools, gameshows, horse or dog races, off-track betting and bingo. All winnings from all US sources for the entire year must be included on the return, including US winnings from online activities.

4. What are gambling losses?

A loss of money resulting from games of chance or wagers on events with uncertain outcomes (races) are considered gambling losses. These losses may be deducted from gambling winnings to reduce the amount of income on which tax is owed. The amount deducted may not exceed the amount won.

5. How do I prove losses?

To prove the losses you are deducting, you must have written records of all bets and/or gambles. If you have an account, such as a frequent player card, the gambling venue can sometimes provide statements that include a great deal of useful information. It is worth the effort to ask what kind of information they can provide and if it can be accessed online.

Specific Documents/records to keep include:

Horse racing and dog racing: A record of the actual races, numbers, date and times, the details and the results of each bet, and payment records from the racetrack.

Lotteries: The lottery name, dates, unredeemed tickets and details of each ticket including the amount paid and the result.

Slot Machines: Record the slot machine number and keep a record of winnings by date and time.

Poker and other table games: Record the table number where played and casino credit card data, if applicable, indicating whether credit was issued in the pit or at the cashier's cage

✦ **Do not** throw away tickets from losing bets, as they can also be used to prove losses.

If you do not have documents from the gambling venue, you should keep a simple diary with the following information:

- a. Date the gambling took place.
- b. Type of gambling activity
- c. Name and address of the location or event
- d. Names of other persons present
- e. The amount of money won and lost

Keep your records indefinitely. The IRS can audit returns and request proof of losses after a refund is issued.

6. **Is there any other way to get a refund?**

No. You must file a tax return to get a refund.

7. **When can I file a gambling return?**

A gambling return follows the same rules as a regular tax return and is filed the year following the year of your winnings. For example, 2019 winnings cannot be filed until 2020, when the 2019 tax forms become available (usually late January/early February).

8. **I have winnings from 3 years ago. Can I still file to get a refund?**

Yes. You may file for up to 3 years from due date of the tax return. For instance, 2016 winnings may be filed until April 15, 2020. Winnings from 2017 must be filed by April 15, 2021 and so on. After those dates, you cannot file to obtain a refund.

9. **How do I know how much money was withheld from my winnings?**

The gambling venue will provide you with either form:

1042-S "Foreign Person's US Source Income Subject to Withholding"

-OR-

W2G "Certain Gambling Winnings"

These forms may look similar to other government slips with numbered boxes or they may resemble a store receipt, depending on the venue. Regardless of appearance, the form will report the name of the payer, your name and address, the amount you won and the amount of tax withheld. The form may also include a taxpayer identification number. The forms may be provided to you on the day you win or sent to you at the end of the year. Be sure to keep up with these forms as they **MUST** be attached to your tax return.

10. **Are there any games that cannot be included in my total losses?**

You may **NOT** include losses for Blackjack, Baccarat, Craps, Roulette, or Big 6 Wheel as they are not taxed.

11. **Can I include losses from Canadian gambling?**

No. Only gambling losses that occurred while in the United States can be included on your tax return.

12. **Can I combine losses from different venues?**

Yes. All winnings from all US sources must be reported on the tax return, so all allowable losses may be combined for the deduction.

13. Can I deduct any of my travel expenses?

No. Only allowable gambling losses may be deducted from your tax return. Please see #4 above.

14. Will I have to file a US State return too?

It depends on the state. Generally, if no state taxes are withheld, you will not be required to file a state return. Since laws vary considerably from state to state, your tax professional will be able to advise you of your obligations at the time of filing.

15. Can my return be electronically filed?

Yes, provided that you already have a US Individual Tax Identification Number, or ITIN. (See #19 below). If you must mail your return, although not required, you should use a mail or courier service that provides tracking.

16. How long will it take to receive my refund?

It can take two months or more for the return to be processed and a check to be issued. If you had to apply for an ITIN along with your return, add another 6-8 weeks.

You may go to www.irs.gov and click on 'Where's My Refund?' Information about your return may be available 6-8 weeks after your return is efiled, or 10-12 weeks after it is mailed.

Please note that the IRS is currently taking an additional 6 months to process these types of returns as the IRS is using an additional process for examinations. Do not expect to receive your refund for 8-10 months after mailing the return.

17. How will I receive my refund?

You will receive a check in US Dollars.

18. Can I have my refund deposited directly in my bank account?

Only if you have a bank account located in the US. However, if you have a US bank account, you may have other US tax obligations and the 'gambling return' is not the correct way to file your return. Please speak with your tax professional to be sure your return is prepared properly.

19. What is an ITIN?

An ITIN (Individual Taxpayer Identification Number) is a unique number issued by the IRS to individuals who need to file a US Tax return, but are not eligible for a social security number. It allows the IRS to identify you in their system. A tax return cannot be filed without an identifying number.

20. How do I get an ITIN?

The application for the ITIN is known as form W-7 "Application for IRS Individual Taxpayer Identification Number". The application **MUST** include:

- a. Documents that prove your identity and foreign status. Although there are several types of documents that will satisfy this requirement, your passport is the only standalone document which proves both identity and foreign status. You can either send the IRS your original documents and the IRS will return them to you (we do not recommend this method) **OR** you can get a certified copy of your document from the issuing agency.
- b. A US tax return. ITIN numbers are only issued when needed and the tax return is proof that one is needed.

21. How do I get a certified copy of my passport?

Please visit <https://www.canada.ca/en/immigration-refugees-citizenship/services/canadian-passports/certified-true-copies.html> to get the most current information and instructions to get a certified copy of your passport. As of this writing, *Canada Passports* charges \$45.00 for up to 3 copies.

22. Do I have to get an ITIN every year?

No. As long as an ITIN is used on a US tax return at least once every 5 years, it will remain valid.

23. Can I apply ahead of time for an ITIN, so I have it when it's time to file my return?

No. ITIN numbers are only issued when there is a need and the tax return must be attached to prove the need.

24. Can American Expat Tax Services help me to get an ITIN?

Yes. When preparing your tax return, our tax professionals can prepare the application (form W7) for an ITIN as well. There is an additional fee for this service. In order to reduce potential errors (which will slow down your refund) we ask that you provide us with a copy of your passport (or other document(s)).

Our fee to prepare form W7 does not include any subsequent follow up services. The ITIN unit is currently experiencing difficulties. Follow up with ITIN unit issues will be subject to additional charges.

25. What do I need to provide to American Expat Tax Services?

1. Complete the [AET US 1040NR Non-Resident - Gambling Questionnaire](#) as completely as possible. Be sure to indicate the amount of your gambling losses. You do NOT have to provide proof of losses to your tax professional at American Expat Tax Services, but you must have the documents available if the IRS should ask to see them. See #5 above for guidance on proving your losses.
2. Copies of all of 1042S and/or W2G that you received from the gambling venue(s). You must also inform your tax professional of any winnings you may have that are not reported on a slip, for example a raffle prize.
3. Your ITIN (Individual Taxpayer Identification Number) if you have one. The ITIN is a US number issued for the purpose of filing a tax return. This is **NOT** your SIN (social insurance number). It is also **NOT** a SSN (social security number). If you have a SSN, please consult your tax professional as you may have other tax obligations and the 'gambling return' may not be the correct way for you to file. **You CANNOT file a US return without an ITIN or a SSN.**

26. What must I do when the return is complete?

If you already have an ITIN assigned to you, form 1040NR can be e-filed.

If your package includes form W7, the return will not be eligible for efile, so you must complete the last few steps. Generally, when your finished return is printed you will need to:

- ✦ Sign and date the return (and W7 if you have one)
- ✦ If you have a W7, you must attach your certified copy of your identification to the application.
- ✦ You will have to attach originals (or suitable copies) of your 1042s/W2G to the tax return.
- ✦ You will need to attach adequate postage and mail the tax return to the IRS.

Tax returns can vary in how they should be completed so we will provide you with detailed instructions tailored to your particular situation. We will also be available to answer any questions or concerns you may have.

✦ American Expat Tax Services is a boutique tax preparation firm that specializes in tax preparation and compliance for US Individuals, particularly those who are residents of Canada or Dual Citizens. We would be happy to discuss any situation free of charge. All fees are quoted up front and agreed to prior to commencement of any work. There are no surprises.