



Publication 130

January 2019

Who is Required to Withhold Illinois Income Tax

The information in this publication is current as of the date of the publication. Please visit our website at tax.illinois.gov to verify you have the most current revision.

This publication is written in the plain English style so the tax information is easier to understand. As a result, we do not directly quote Illinois statutes and the Illinois Administrative Code. The contents of this publication are informational only and do not take the place of statutes, rules, and court decisions. For many topics covered in this publication, we have provided a reference to the applicable section or part of the Illinois Administrative Code for further clarification or more detail. All of the sections and parts referenced can be found in Title 86 of the Code.

About this publication

Publication 130, Who is Required to Withhold Illinois Income Tax, is about Illinois income tax withholding requirements. The objectives of this publication are to identify

- who is an employer or payer;
- who is an employee or payee;
- when withholding must occur;
- other withholding requirements for payments of lottery or gambling winnings and purchases of rights to lottery winnings;
- what forms you must give to employees, payees, and lottery or gambling winners; and
- what records you should keep.

Related publications:

- **Publication 131**, Withholding Income Tax Payment and Filing Requirements;
- **Booklet IL-700-T**, Illinois Withholding Income Tax Tables, to calculate withholding;
- **Publication 110**, W-2, W-2c, W-2G, and 1099 Filing and Storage Requirements for Employers and Payers; and
- **Publication 121**, Illinois Income Tax Withholding for Household Employees.

Taxpayer Bill of Rights

You have the right to call the Department of Revenue for help in resolving tax problems.

You have the right to privacy and confidentiality under most tax laws.

You have the right to respond, within specified time periods, to Department notices by asking questions, paying the amount due, or providing proof to refute the Department's findings.

You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois

Independent Tax Tribunal, or by filing a complaint in circuit court.

If you have overpaid your taxes, you have the right, within specified time periods, to a credit (or, in some cases, a refund) of that overpayment.

For more information about these rights and other department procedures, you may write us at the following address:

Problems Resolution Office
Illinois Department of Revenue
PO Box 19014
Springfield, IL 62794-9014

Get Illinois Department of Revenue forms and information at tax.illinois.gov

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General Information

Who is required to withhold Illinois Income Tax?

Generally, you must withhold Illinois Income Tax if you are required to withhold (or have a voluntary agreement to withhold) federal income tax from payments you make for

- employee compensation (*i.e.*, wages and salaries including bonus, overtime, and commission pay) paid in Illinois, usually reported to a payee on Form W-2,
- non-wage income such as pensions, annuities, employment income, and sick pay, that you have agreed to voluntarily withhold, usually reported to a recipient on Form 1099.
- gambling or lottery winnings in Illinois paid to an Illinois resident, usually reported to a payee on Form W-2-G, or

- the purchase of the rights to Illinois lottery winnings, usually reported to the purchaser on Form 1099-MISC.

However, there are some situations that do not require you to withhold Illinois Income Tax. See “**When am I not required to withhold Illinois Income Tax?**” for more information. We do not require a separate agreement for payments covered by a federal voluntary withholding agreement. If requested by a payee, you can enter into a voluntary agreement and withhold Illinois Income Tax on Illinois income such as individual retirement accounts (IRAs) or pensions. **Note:** If you agree to a voluntary withholding agreement then you are required to withhold Illinois income tax.

General Information *(continued from Page 2)*

Note As a withholding agent (person who withholds income tax), you are liable for the taxes that you are required to withhold and that you volunteer to withhold. Because we are required to collect taxes (and issue assessments when these taxes are not paid), Illinois law states that the amounts required to be withheld and paid to us (and any penalties and interest) are considered to be a tax on **you**.

Who is an employer or payer?

You are an employer if you are any of the following:

- a person or organization who has an office or transacts business in Illinois for whom a worker performs a service as an employee and you are the person who is liable to withhold and pay federal income taxes to the Internal Revenue Service (IRS).
- a person or organization who has an office or transacts business in Illinois and who has control of the payment of wages for employee services, if the employer does not have control of the payment of wages.
- a payer who has an office or transacts business in Illinois and who makes payments from which federal income taxes are withheld (e.g., gambling or lottery winnings).

You are a payer if you are any of the following:

- a person or organization who pays non-wage income such as pensions, annuities, employment income, and sick pay, that you have agreed to voluntarily withhold;
- a person or organization that pays gambling or lottery winnings; or
- a person or organization who purchases the rights to lottery winnings.

See IRS Publication 15 Circular E, Employer's Tax Guide, for more information.

Who is an employee or payee?

An **employee** is either

- a person who performs services subject to the legal control and direction of an employer, or
- an Illinois resident who receives payments on which federal income tax is withheld by the employer.

A **payee** is a person who receives non-wage income, gambling or lottery winnings, or a lump sum payment for rights to lottery winnings.

See IRS Publication 15 Circular E, Employer's Tax Guide, for more information.

Must I register to withhold Illinois Income Tax?

If you are required to or voluntarily withhold Illinois Income Tax for your Illinois employees or payees, you must register with the Illinois Department of Revenue and tell us the date your Illinois payroll will begin. *Exception: Household employers should refer to Publication 121, Illinois Income Tax Withholding for Household Employees.*

To register your business you have the following options:

- register electronically with the online Illinois Business Registration Application on **MyTax Illinois** (registration confirmation generally available in 1-2 days) at **tax.illinois.gov**,
- complete and mail Form REG-1, Illinois Business Registration Application (registration confirmation generally available in 6-8 weeks) and any necessary schedules, or
- visit one of our regional offices (see Page 12).

You will receive a temporary tax account number unless you already have received your federal employer identification number (FEIN).

What happens after I register?

If you are a new registrant you are assigned to the monthly payer and quarterly return schedule. See Publication 131, Withholding Income Tax Payment and Filing Requirements. Visit our website at **tax.illinois.gov** for more information regarding our electronic options.

What should I do if I move or change my business name?

If your business name or address has changed from your last return without changing owners, check the appropriate box on Form IL-941, Step 1, and enter your new business name and address in Step 1. File your completed return (Form IL-941) by its due date. You also can make changes to your business name by completing and submitting Form REG-3-C and updates to your address on **MyTax Illinois**.

What should I do if I sell or transfer ownership of my business?

If you sell or transfer your business, you must file a final return (IL-941) at the end of the final filing period. You may also be required to file Form **CBS-1**, Notice of Sale, Purchase, or Transfer of Business Assets, at least 10 days prior to the sale.

What if I no longer have employees or payees from whom I withhold Illinois income tax or my business has closed?

If your business has permanently stopped withholding because it has closed or you no longer pay wages, complete Step 2, Line B, on Form IL-941, check the box to indicate that this is a final return, and enter the date you stopped paying wages. You also can cease your account on **MyTax Illinois**.

What if I am a seasonal employer?

If you are a seasonal business and have ceased paying wages temporarily (e.g., you will be rehiring employees during the next year), continue to file your returns. Even if you do not pay any wages or withhold any tax, you still must file a return (IL-941) for each reporting period. Report zero on Line 2 if you had no withholding for the filing period.

Withholding Illinois Income Tax for My Employees

When must I withhold Illinois Income Tax from my employee's compensation?

You must withhold Illinois Income Tax when you withhold federal income tax from compensation you paid in Illinois. Compensation is paid in Illinois when the employee's services are "localized" in Illinois. This statement applies to all individuals except qualifying residents of Iowa, Kentucky, Michigan, and Wisconsin, and military spouses. For further information, see "When am I not required to withhold Illinois Income Tax?"

When is compensation paid in Illinois?

If any of the following **localization** tests are met, compensation is paid in Illinois.

1. The employee's service is localized in Illinois because all of the service is performed in Illinois.
2. Some of the employee's services are performed outside Illinois, but the services outside Illinois are **incidental** to the services performed inside Illinois. The term "incidental" means any service which is necessary to or supportive of the primary service performed by the employee or which is temporary or transitory in nature or consists of isolated transactions. The incidental service may or may not be similar to the individual's normal occupation so long as it is performed within the same employer-employee relationship. That is, an individual who normally performs all of his service in Illinois may be sent by his employer to another state to perform service which is totally different in nature from his usual work or he may be sent to do similar work. So long as such service is temporary or consists merely of isolated transactions, it will be considered to be incidental. In every case, the ultimate determination to be made is whether the individual's service was intended to be and was in fact principally performed within Illinois and whether any service which was performed in another state was of a temporary or transitory nature or arose out of special circumstances at infrequent intervals. The amount of time spent or the amount of service performed outside Illinois, in itself, should not be regarded as decisive in determining whether such service is incidental to service performed within Illinois.
3. The employee's service is **not** localized in any state under either of the rules above, but some of the service is performed in Illinois, **and either**
 - the **base of operations** is in Illinois, (The term "base of operations" refers to the place or fixed center from which the individual works. An individual's base of operations may be his business office (which may be maintained in his home), or his contract of employment may specify a place at which the employee is to receive his directions and instructions. In the absence of more controlling factors, an individual's base of operations may be the place to which he has his business mail, supplies, and equipment sent or the place where he maintains his business records), **or**
 - there is **no** base of operations, but the place from which the service is directed or controlled is in Illinois.

The permanent place from which the employee's service is directed or controlled is relevant in determining whether wages are subject to withholding if the localization tests are not applicable and it is impossible to determine the base of operation for such individual. In such a case, if both the place from which the individual's service is directed or controlled is within Illinois, and some of the service is performed within Illinois, then his entire compensation will be subject to withholding.

4. The employee's service is **not** localized in any state under any of the rules above, but
 - some of the service is performed in Illinois,
 - the base of operations or the place from which the service is directed or controlled is **not** in any state in which some part of the service is performed, **and**
 - the employee is an Illinois resident. Residence is a factor in determining whether compensation paid to an individual is subject to withholding only when his service is not localized within some state; he performs no service in the state in which he has his base of operations (if he has a base of operations); and he performs no service in the state from which his service is directed or controlled. In such case, if the individual is a resident of Illinois, and some of his service is performed within Illinois, his entire compensation will be subject to withholding.
5. For compensation for services performed by a nonresident as a member of a professional athletic team, the amount that is paid in Illinois is the total compensation for services performed for the team during the year, multiplied by a fraction equal to the number of duty days spent within Illinois by the total number of duty days spent performing services for the team. See Section 304(a)(2)(B)(iv) of the Illinois Income Tax Act for more guidance.

Limited exceptions to localization tests above

There are three limited exceptions when you are **not** required to withhold Illinois Income Tax if a localization test described above is met. These exceptions are described as follows.

- **The employee works for an employer under the jurisdiction of the Surface Transportation Board (STB) and performs regularly assigned duties in more than one state.** Although a localization test may be met, **do not** withhold Illinois Income Tax unless the employee is an Illinois resident.
- **The employee works on an aircraft for an air carrier and performs regularly assigned duties in more than one state.** Although a localization test may be met, **do not** withhold Illinois Income Tax unless the employee is an Illinois resident, or, if the employee is not an Illinois resident, the employee earns more than 50 percent of the compensation in Illinois (Illinois flight miles versus all flight miles). Illinois flight miles do not include miles flown over Illinois without taking off or landing.
- **The employee works on a vessel and performs regularly assigned duties in more than one state.** Although a

localization test may be met, **do not** withhold Illinois Income Tax unless the employee is an Illinois resident.

Examples of compensation paid in Illinois

- 1 Your company, headquartered in Georgia, employs an Indiana resident to make sales for your company. You control your employee's services, all of which are performed in Illinois, from your Georgia office. Compensation is paid in Illinois because all of your employee's services are performed in Illinois.
- 2 Your company, headquartered in Maryland, employs a Missouri resident to make routine service calls in Missouri and Illinois. The office from which the employee works and receives instruction (*i.e.*, the base of operations) is in Illinois. Compensation is paid in Illinois because the base of operations is in Illinois and some of the services (non-incidentals) are performed in Illinois.
- 3 Your company, headquartered in Ohio, employs an Illinois resident. There is no base of operations. The employee is controlled from your Ohio headquarters, and services are performed in Illinois, Iowa, and Indiana. Therefore, the services are not localized in only one state. Compensation is paid in Illinois because your employee is an Illinois resident, some of the service is performed in Illinois, and no service is performed in Ohio.
- 4 Your airline company employs a Missouri resident to fly to various destinations in the United States. Your employee reports to and flies out of a terminal in Illinois. According to your records, 58 percent of your employee's compensation (flight time in Illinois versus flight time to other destinations) is earned in Illinois. Therefore, you withhold Illinois Income Tax because more than 50 percent of your employee's compensation was earned in Illinois. Illinois flight miles do not include miles flown over Illinois without taking off or landing.
- 5 Your consulting company, headquartered in California, employs an Illinois resident to travel to client sites in New York and Pennsylvania in addition to work performed in Illinois. The office from which the employee works and returns to after assignment (*i.e.*, the base of operations) is in Illinois. Compensation is paid in Illinois because the base of operations is in Illinois and some of the services (nonincidentals) are performed in Illinois.

When am I not required to withhold Illinois Income Tax?

Unless you enter into a voluntary withholding income tax agreement, you are **not** required to withhold Illinois Income Tax from the following:

- compensation paid to residents of **Iowa, Kentucky, Michigan, and Wisconsin** (due to reciprocal agreements with each of these states);
- compensation paid to a non-military employee whose spouse is in the military, both of whom are residents of the same state (other than Illinois), and are only in this state because the spouse is stationed here by the military;

- qualifying payments made for personal service contracts or prizes awarded from contests conducted in Illinois (Sections 1405.2 and 1405.3 of the Illinois Income Tax Act (IITA));
- compensation that will not be included in the recipient's base income (*e.g.*, annuity payments received from qualified employee benefit plans);
- payments subject to withholding under IRC, Sections 3405 or 3406;
- compensation paid by an employer under the jurisdiction of the Surface Transportation Board (STB), rail and motor carriers, to a nonresident employee who performs regularly assigned duties in more than one state;
- nonresident employees who work on aircraft for an air carrier, perform regularly assigned duties in more than one state, and do not earn more than 50 percent of the compensation in Illinois (Illinois flight miles versus all flight miles). Illinois flight miles do not include miles flown over Illinois without taking off or landing;
- compensation paid to a master or seaman on a vessel in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade, or an individual employed on a fishing vessel or any fish processing vessel. However, this income is still taxable to Illinois residents;
- compensation paid to an employee whose compensation is exempt from federal withholding requirements (*e.g.*, "wages" paid to certain types of ministers); or
- compensation paid to **household employees** as defined by the Internal Revenue Service (IRS). (For more information, visit www.irs.gov and refer to IRS Publication 926.) **Note:** Pursuant to a voluntary federal agreement, if you withhold federal income tax from your household employees, Illinois withholding is required. Also, you may enter a voluntary Illinois withholding agreement. *If you do withhold Illinois income tax*, you may report and pay these taxes annually on Form IL-1040, Illinois Individual Income Tax Return, Line 22 (No registration is required), or you may file Form IL-941 quarterly (requires registration as a withholding agent). For more detailed information, see Publication 121, Illinois Income Tax Withholding for Household Employees.

Examples for when withholding is not required

- 1 Your company, headquartered in Missouri, hires an Illinois resident to install computer networks for your Missouri-based clients. Occasionally, your employee travels to your clients' branch offices in Illinois to complete network installation. Compensation is not paid in Illinois because your company headquarters / base of operations is in Missouri. Therefore, you do not withhold Illinois Income Tax. (See the note below.)
- 2 Your company's main office is in Indiana. You employ an Illinois resident to honor copy machine routine maintenance contracts. Your employee works out of the main office and has clients in both Illinois and Indiana. You are not required to withhold Illinois Income Tax because your employee's base of operations is in Indiana and some of the service is performed in Indiana. (See the note below.)

Note Although in these two examples you are not required to withhold Illinois Income Tax, your employees' income **will** be taxed by Illinois because they are Illinois residents. Therefore, your employees will file returns in both states. We will give your employees a credit for taxes paid to the other state. If the amount of tax paid to the other state does not cover the Illinois tax liability, your employees may need to make estimated income tax payments to Illinois.

Am I required to withhold income tax for another state if my employee is not an Illinois resident?

If your employee is "paid in Illinois" and is a resident of Iowa, Kentucky, Michigan, or Wisconsin, you may, but are not required by Illinois law, to withhold income tax for the other state.

If your employee is a resident of a state with whom Illinois does not have a reciprocal agreement, you must withhold Illinois Income Tax on all income that is paid in Illinois. You may be required to withhold tax for another state in which the employee works or resides. You should contact those states to determine if you are required to register as a withholding agent.

What forms must my employee complete?

Form IL-W-4

Your employee must complete **Form IL-W-4**, Employee's Illinois Withholding Allowance Certificate. This is your record of the number of allowances that your employee is entitled to claim and would only be disregarded for the following circumstances:

- An employee claims total exemption from Illinois Income Tax withholding, but has not filed a federal Form W-4, U.S. Employee's Withholding Allowance Certificate, claiming total exemption.
- The IRS has instructed you to disregard the employee's federal Form W-4.
- You submitted the employee's Form IL-W-4 to us for review in response to a notice you received, and we instructed you to disregard the form. Form IL-W-4 is submitted for review if 15 or more exemptions are claimed on the Form IL-W-4 without claiming at least the same number of exemptions on the federal Form W-4, and the federal Form W-4 is not being reviewed by the IRS.

If a completed Form IL-W-4 is not filed, or you are required to disregard Form IL-W-4, you must withhold Illinois Income Tax with no allowances.

Note **Most retirement income is exempt from Illinois Income Tax** and no withholding is required, even if federal income tax is withheld. However, retired taxpayers may wish to enter into voluntary withholding agreements to avoid having to pay estimated taxes on their taxable income. Retired taxpayers who enter into such voluntary withholding agreements must also complete Form IL-W-4.

If an employee claimed exemption from withholding on federal Form W-4, you still may be required to withhold Illinois Income Tax

if the employee's pay is greater than the Illinois allowance amount. See the example below.

Before **December 1** of each year, have your employee review his or her Form IL-W-4. If your employee's Illinois withholding allowances change, the employee must complete a new Form IL-W-4.

Example:

Sam is single, does not have any dependents, and cannot be claimed on another person's tax return. He works for you part-time. Sam expects to earn \$4,000 this year.

Last year Sam earned \$3,000, did not have a federal tax liability, and received a total refund of the federal income tax that was withheld from his pay. Sam does not expect to owe any federal income tax this year. Therefore, he claims exemption from withholding on his federal Form W-4 for this year.

Although Sam may not owe federal income tax, he will owe Illinois Income Tax because he is entitled to only one withholding allowance. The exemption for this allowance is less than his total pay. Therefore, you must withhold Illinois Income Tax from Sam's pay.

Form IL-W-5

Form IL-W-5, Certificate of Residence in Illinois, is completed by an Illinois resident (not your employee) with whom you have a written contract who

- is paid for performing personal services (e.g., artistic or musical performances, or professional consulting services) and the income earned is taxable under Section 1405.2 of the IITA, or
- receives payment for prizes and awards from a contest conducted entirely in Illinois (e.g., game shows, amateur talent contests, dog or horse shows) and the income earned is taxable under Section 1405.3 of the IITA.

You are not required to provide annual information reports of the amounts you pay in either of these situations. You must, however, keep this information in your records and provide it to us if we request.

Note Instead of completing Form IL-W-5, the recipient may file a certificate of in-state residence on any invoice, billing statement, or contest application submitted to the withholding agent.

Form IL-W-5-NR

To be exempt from Illinois Income Tax withholding requirements you must complete Form IL-W-5-NR, Employee's Statement of Nonresidence in Illinois, if

- you are a resident of a state (Iowa, Kentucky, Michigan, and Wisconsin) with whom Illinois has a reciprocal agreement, or
- your spouse is in the military, you and your spouse are both residents of the same state (other than Illinois), and you are in Illinois only because your spouse is stationed here by the military.

If your employee does not complete this form, you must withhold Illinois Income Tax. If your employee moves out of the state of residence designated on the original Form IL-W-5-NR, the employee must notify you of the change within 10 days and file a new Form IL-W-5-NR, if applicable.

Do I owe other Illinois employment taxes?

Check with the Illinois Department of Employment Security (IDES) for more information about unemployment insurance contributions for employers. Visit ides.illinois.gov or call the IDES Employer Hotline at 800 247-4984.

What forms must I give my employee?

Before January 31 of each year, you must give your employee three copies of federal **Form W-2**, Wage and Tax Statement, or, if applicable, any version of **Form 1099** (e.g., Form 1099-MISC, Form 1099-INT, Form 1099-R).

If your employee permanently discontinues employment before the close of the calendar year or you terminate a federal voluntary withholding agreement, you must give the employee (or other person receiving payments subject to withholding) a completed federal Form W-2 within 30 days of the last payment for which withholding was required. You must keep undeliverable Forms W-2 and all Forms 1099 for at least three years after the date you are required to give the form to the employee.

What forms must I submit to the Illinois Department of Revenue?

You are required to electronically file Form IL-941, Illinois Withholding Income Tax Return, **quarterly**. See Publication 131 for more information on filing and payment requirements.

Starting with the 2017 tax year, you are **required** to electronically submit Forms W-2, W-2c, and W-2G to Illinois Department of Revenue by January 31.

If you are unable to file these forms, or Form IL-941, electronically, you may request Form IL-900-EW, Waiver Request, through our Taxpayer Assistance Division at 1 800 732-8866 or 217 782-3336. The Waiver Request must be completed and submitted back to the Department. You will be notified if the Waiver Request is approved or denied. See Publication 110, W-2, W-2c, W-2G, and 1099 Filing and Storage Requirements for Employers and Payers, for additional information.

How do I complete Form W-2 for my employee showing income and withholding for Illinois?

For Illinois purposes when completing the Form W-2, enter only the amount of wages paid in Illinois or paid to an Illinois resident employed in Iowa, Kentucky, Michigan, or Wisconsin in Box 16. If none of the employee's wages were paid in Illinois or for an Illinois resident's employment in a non-reciprocal state, report zero in Box 16 even if you withheld Illinois income tax from those wages. Illinois residents who pay income tax to other states need this information in order to correctly compute the credit allowed for those taxes. Make sure that the sum of the state wages are equal to Box 1.

Example: Tom is an Illinois resident who works only in Indiana (a non-reciprocal state). His employer is voluntarily withholding Illinois taxes because the Schedule CR credit Tom receives from his Indiana income will not cover his Illinois tax liability. His gross wages are \$33,165. The Form W-2 should be completed as follows:

15 State	Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name
IN	36-XXXXXXX	\$33,165	\$994.95	SAMPLE		
IL	36-XXXXXXX	\$0	\$829.13			

Form **W-2** Wage and Tax Statement 2018

Copy C—For EMPLOYEE'S RECORDS (See Notice to Employee on the back of Copy B.)

Department of the Treasury—Internal Revenue Service
Safe, accurate, FAST! Use

Note Only list State wages for Illinois if your employee physically worked in Illinois or a reciprocal state during the year. If you list State wages on the Illinois line of the Form W-2, when they did not physically work in Illinois, your employee will be required to get a letter from you specifying what income was earned in each state and what the withholding was for each state or you will need to complete and file a Form W-2c.

How do I complete Form W-2G or Form 1099 for my payee showing withholding for Illinois?

For Illinois purposes when completing federal Forms W-2G, or any Forms 1099, you must include any Illinois income tax withheld on the line for "State income tax withheld" or "State tax withheld." Follow the Instructions for the form. **Make sure to use the prefix "IL."**

Form W-2G sample:

13 State/Payer's state identification no. <i>IL 36-XXXXXXX</i>	14 State winnings \$ <i>2000.00</i>
15 State income tax withheld \$ <i>50.00</i>	16 Local winnings \$

Form 1099-MISC sample:

13 Excess golden parachute payments \$	14 Gross proceeds paid to an attorney \$
16 State tax withheld \$ <i>50.00</i>	17 State/Payer's state no. <i>IL 36-XXXXXXX</i>
	18 State income \$ <i>2000.00</i>

Form 1099-R sample:

12 State tax withheld \$ <i>50.00</i>	13 State/Payer's state no. <i>IL 36-XXXXXXX</i>	14 State distribution \$ <i>2000.00</i>
15 Local tax withheld \$	16 Name of locality	17 Local distribution \$

Form 1099-INT sample:

12 Bond premium on Treasury obligations \$	13 Bond premium on tax-exempt bond \$
14 Tax-exempt and tax credit bond CUSIP no.	15 State <i>IL</i>
	16 State identification no. <i>36-XXXXXXX</i>
	17 State tax withheld \$ <i>50.00</i>

www.irs.gov/form1099int Department of the Treasury - Internal Revenue Service

Withholding Illinois Income Tax for Lottery or Gambling Winnings

When must I withhold Illinois Income Tax from lottery winnings?

You must withhold Illinois Income Tax each time you make a single payment of Illinois lottery winnings of more than \$1,000. It does not matter that several individuals may jointly hold the winning ticket and each person's "share" is less than \$1,000. You must withhold Illinois Income Tax for both residents and nonresidents.

When must I withhold Illinois Income Tax from gambling winnings?

You must withhold Illinois Income Tax from gambling winnings you pay Illinois residents any time the winnings are subject to federal income tax withholding requirements and are not subject to another state's withholding requirements. You are not required to withhold Illinois Income Tax from nonresidents or if you are required to withhold another state's tax from an Illinois resident.

In general, winnings that currently are subject to federal income tax withholding include proceeds of \$5,000 or more in a single payment from

- wagering transactions (if these winnings are at least 300 times greater than the amount of the wager); or
- proceeds that are 300 times greater than an amount wagered in a sweepstakes, wagering pool, lottery (other than a state-conducted lottery), or wagering transaction in a pari-mutuel pool with respect to horse races, dog races, or jai alai.

Bingo and slot machine winnings are subject to federal withholding requirements for amounts of \$1,200 or more. Winnings from keno of \$1,500 or more also are subject to federal withholding requirements. Resident winners are taxed by Illinois. Nonresidents are not taxed unless they are professional gamblers.

See 26 USCA 3402(q) of the Internal Revenue Code and the IRS' instructions for federal Forms 5754 and W-2G for more information.

What forms must a winner complete?

Each time you pay lottery or gambling winnings of more than \$1,000 in a single payment, the winner must complete **Form IL-5754**, Statement by Person Receiving Gambling Winnings. This form helps you identify which winners are Illinois residents. Keep this form in your records to show who received winnings and to whom the winnings are taxable. You will use this information when you prepare federal Form W-2G.

What forms must I give each recipient?

By **January 31** of each year, you must give each recipient two copies of federal **Form W-2G**.

Note You must keep any undeliverable Form W-2G for at least three years after the date you are required to give the form to the recipient.

What forms must I submit to the Illinois Department of Revenue?

You are **required** to

- electronically submit Form W-2G to Illinois Department of Revenue by January 31.
- electronically file Form IL-941, Illinois Withholding Income Tax Return, **quarterly**. See Publication 131 for more information on filing and payment requirements.

If you are unable to file your forms electronically, you may request Form IL-900-EW, Waiver Request, through our Taxpayer Assistance Division at 1 800 732-8866 or 217 782-3336. The Waiver Request must be completed and submitted back to the Department. You will be notified if the Waiver Request is approved or denied.

Withholding Illinois Income Tax for Purchases of the Rights to Lottery Winnings

Do I have an obligation to withhold Illinois Income Tax from purchased lottery winnings?

You must withhold Illinois Income Tax from the purchase price of rights to future Illinois lottery winnings that you purchased from another entity. The Illinois Lottery notifies us of the purchase and we send instructions to you on how to remit the Illinois withholding to us. Make sure to follow the instructions you are sent and use the account number we assign to you.

When must I withhold Illinois Income Tax from purchased lottery winnings?

You must withhold Illinois Income Tax at the time you purchase the lottery rights. You must register and report the withholding for each purchase on Form IL-941. For more information, refer to Informational Bulletin FY 2014-08. The tax is withheld at the current income tax rate.

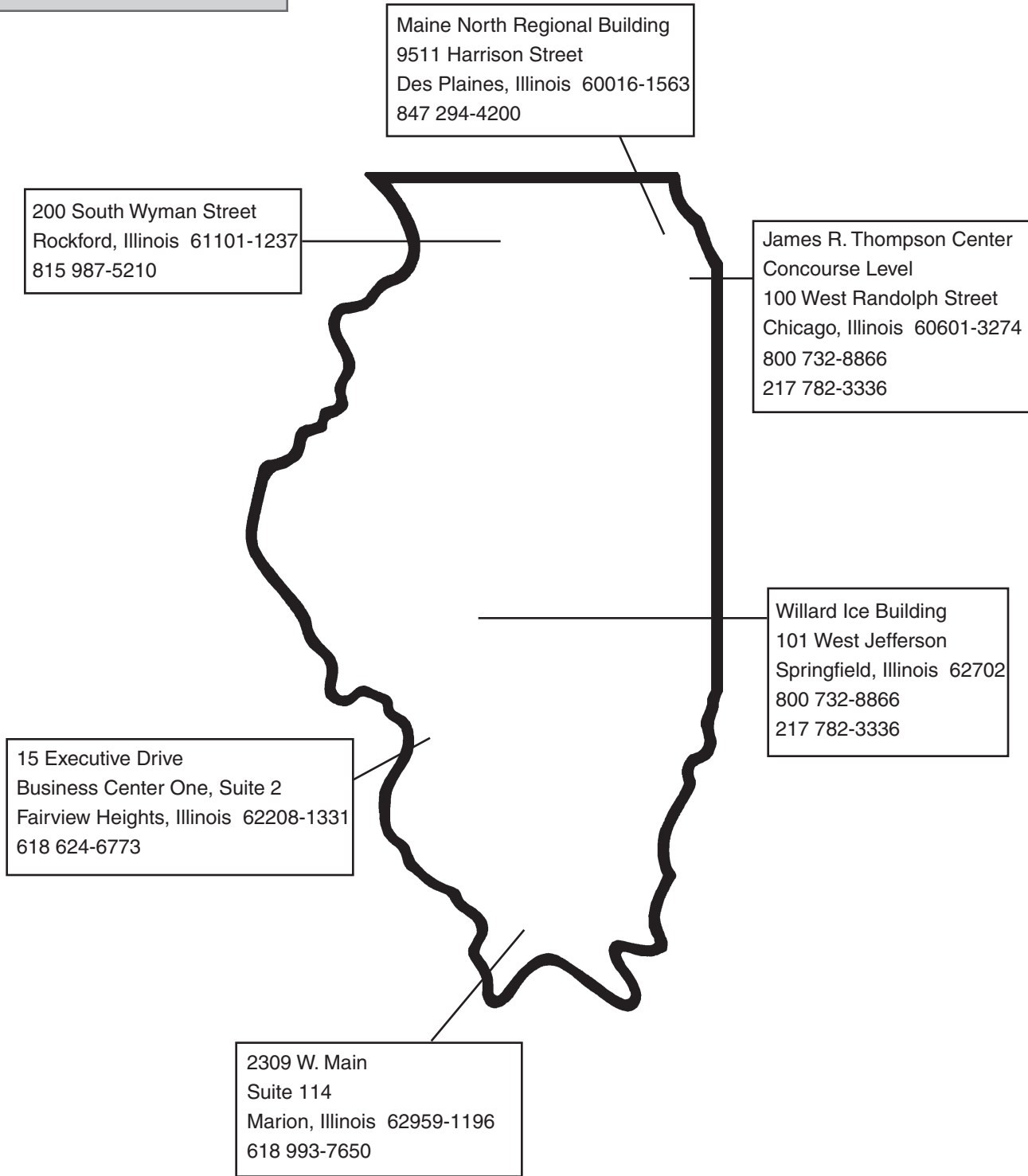
Illinois Income Tax Forms for Employees and Lottery or Gambling Winners

Forms completed by employees and lottery or gambling winners		
If	employee/payee completes	and for Illinois purposes, you withhold
you withhold federal income tax for an employee or other whose compensation is paid in Illinois	Form IL-W-4	based on the number of allowances claimed.
you enter into a voluntary withholding agreement with your employee or payee	Form IL-W-4	based on the number of allowances claimed.
you pay an Illinois resident for personal services, and the income is reportable under Section 1405.2 of the Illinois Income Tax Act	Form IL-W-5	zero.
you pay an Illinois resident prizes or awards from a contest entirely in Illinois and the income earned is reportable under Section 1405.3 of the Illinois Income Tax Act	Form IL-W-5	zero.
your employee is a resident of Iowa, Kentucky, Michigan, or Wisconsin or is a nonresident spouse of a military servicemember and is only in Illinois because the servicemember is stationed here	Form IL-W-5-NR	zero.
you pay lottery winnings of more than \$1,000 to an Illinois resident or nonresident	Form IL-5754	the full rate of tax (no exemptions).
you pay gambling winnings of more than \$1,000 but less than \$5,000 to an Illinois resident	Form IL-5754	zero.
you pay gambling winnings of more than \$5,000 to an Illinois resident	Form IL-5754	the full rate of tax (no exemptions).
you pay gambling winnings of more than \$1,000 to a nonresident	Form IL-5754	zero.
you purchase rights to Illinois Lottery Winnings and withhold Illinois income tax from the purchase price.	none	the full rate of tax (no exemptions).
Note	You must keep a copy of these forms in your records. By January 31 of each year, you must give your employee three copies of federal Form W-2, Wage and Tax Statement. If you withheld from gambling winnings, you must give each recipient two copies of federal Form W-2G.	
Note	You must submit your Forms W-2, W-2c, and W-2G electronically to the Illinois Department of Revenue by January 31 .	
Note	For the current tax rate, refer to the Tax Rate Database on our website.	

For additional withholding tax information, refer to these related publications:

- **Publication 131**, Withholding Income Tax Payment and Filing Requirements;
- **Booklet IL-700-T**, Illinois Withholding Income Tax Tables, to calculate withholding; and
- **Publication 110**, W-2, W-2c, W-2G, and 1099 Filing and Storage Requirements for Employers and Payers.

Office locations



For information

Visit our website at tax.illinois.gov.
Call us at **1 800 732-8866** or **217 782-3336**.
Call our TDD (telecommunications device for the deaf) at **1 800 544-5304**.
Write us at Illinois Department of Revenue, P.O. Box 19001, Springfield, IL 62794-9001.