

deducted can reasonably be expected to be \$18,000 or more for a semiannual period, a seasonal employer shall file semi-monthly employer returns with payment of the taxes withheld as provided under this section. If no tax was withheld during a particular month, a return is still required to be filed for such month with the reason for nonwithholding stated on the back, the date of the last payment of wages, and the date when the employer expects to resume paying taxes.

Recodified from N.J.A.C. 18:35-1.10 and amended by R.1998 d.195, effective April 20, 1998.

See: 30 N.J.R. 612(a), 30 N.J.R. 1428(a).

In (h), changed N.J.A.C. reference.

Amended by R.2006 d.327, effective September 18, 2006.

See: 38 N.J.R. 2402(a), 38 N.J.R. 3919(a).

Recodified (e) through (h) as (g) through (j); and added new (e) and (f).

18:35-7.4 Payment of contributions; wage and contribution reporting

(a) Pursuant to N.J.A.C. 12:16-5.3(c), the New Jersey Department of Labor and Workforce Development requires that payment of contributions shall be by electronic means.

(b) Pursuant to N.J.A.C. 12:16-13.7(e)7, the New Jersey Department of Labor and Workforce Development requires that for all calendar quarters subsequent to the quarter ending December 31, 2008, all employers and all third party processors shall file Form WR-30, "Employer Report of Wages Paid," and any amendments to the "Employer Report of Wages Paid," via electronic transmission in a form and manner prescribed by the Division of Revenue, within the Department of Treasury, regardless of the number of employees reported.

(c) Pursuant to N.J.A.C. 12:16-13.11(e)1, the New Jersey Department of Labor and Workforce Development requires that for all calendar quarters subsequent to the quarter ending December 31, 2008, all third party payroll processors and all employers other than employers of domestic service workers shall file Form NJ-927, "Employer's Quarterly Report" and any amendments to the "Employer's Quarterly Report," via electronic transmission in a form and manner prescribed by the Division of Revenue, within the Department of the Treasury.

(d) Pursuant to N.J.A.C. 12:16-13.11(e)2, the New Jersey Department of Labor and Workforce Development requires that for all calendar quarters subsequent to the quarter ending December 31, 2008, all employers of domestic service workers shall file Form NJ-927H, "Domestic Employer's Annual Report" and any amendments to the "Domestic Employer's Annual Report" via electronic transmission in a form and manner prescribed by the Division of Revenue, within the Department of the Treasury.

(e) Pursuant to N.J.A.C. 12:16-13.11(e)3, all inquiries pertaining to a waiver of the electronic reporting requirements in (c) and (d) above, shall be directed to the Commissioner of the New Jersey Department of Labor and Workforce Development or his designee.

New Rule, R.2009 d.145, effective May 4, 2009.

See: 40 N.J.R. 5565(a), 41 N.J.R. 2051(b).

Former N.J.A.C. 18:35-7.4, Summer payment plan, recodified to N.J.A.C. 18:35-7.5.

18:35-7.5 Summer payment plan

(a) Certain deferred payments, authorized under a so-called "summer payment plan" under N.J.S.A. 18A:29-3, whereby an amount equal to 10 percent of the employee's salary is withheld and paid to the participant in the plan at a later date are subject to tax under the New Jersey Gross Income Tax Law, P.L. 1976, c. 47 (N.J.S.A. 54A:1-1 et seq.), at the time withheld and not at the time paid, provided that a similar treatment is given under the Internal Revenue Code and regulations thereunder for Federal income tax purposes, subject to the following exception: if such similar treatment under Federal law were disallowed due to the civil union status of the employee, the employee shall nevertheless be allowed to receive the same State tax treatment as if he or she were married.

(b) Section 54A:8-3 of the New Jersey Gross Income Tax Act, P.L. 1976, c.47 (N.J.S.A. 54A:8-3), provides that a taxpayer's accounting method under this Act shall be the same as his accounting method for Federal income tax purposes. Therefore, if for Federal income tax purposes an employee who participates in such a deferral plan is deemed to have received the salary at the time that the salary was withheld and placed into a deferred salary escrow fund, such income will also be deemed to have been received and subject to tax for New Jersey gross income tax purposes at that time. Such salary would not then be subject to New Jersey gross income tax when the employee receives a payment from the deferred salary escrow fund.

R.1976 d.415, effective December 16, 1976.

See: 9 N.J.R. 52(a).

Recodified from N.J.A.C. 18:35-1.1 by R.1998 d.195, effective April 20, 1998.

See: 30 N.J.R. 612(a), 30 N.J.R. 1428(a).

Amended by R.2008 d.42, effective March 3, 2008.

See: 39 N.J.R. 4559(a), 40 N.J.R. 1373(b).

In (a), substituted "10" for "ten" and inserted ", subject to the following exception: . . . as if he or she were married".

Recodified from N.J.A.C. 18:35-7.4 by R.2009 d.145, effective May 4, 2009.

See: 40 N.J.R. 5565(a), 41 N.J.R. 2051(b).

Former N.J.A.C. 18:35-7.5, Gambling winnings subject to withholding, recodified to N.J.A.C. 18:35-7.6.

18:35-7.6 Gambling winnings subject to withholding

(a) Every payor of New Jersey gambling winnings which are subject to withholding, as defined in (d) below, shall deduct and withhold New Jersey gross income tax thereon in an amount equal to three percent of payments made to both New Jersey residents and nonresidents as defined in N.J.S.A. 54A:1-2(m) and (n). Such withholding shall be required in all instances wherein the payor of such winnings is required to withhold for Federal income tax purposes under subsection (q) of section 3402 of the Federal Internal Revenue Code of 1986 (26 U.S.C. § 3402), as amended.

(b) The tax imposed under N.J.S.A. 54A:7-1(c) and this section shall not apply:

1. With respect to the payment of winnings from the New Jersey Lottery; and

2. With respect to a payment of winnings from a slot machine, or a keno or bingo game.

(c) Any person receiving a payment of New Jersey gambling winnings subject to withholding must furnish the payor a statement made under the penalties of perjury containing:

1. The name, address, and taxpayer identification (social security) number of the winner accompanied by a declaration that no other person is entitled to any portion of such payment; or

2. The name, address, and taxpayer identification (social security) number of the recipient and of every person entitled to any portion of such payment.

3. The requirement set forth in (c)1 and 2 above may be satisfied by providing the payor with a copy of Federal Form W-2G or 5754, whichever is applicable.

(d) New Jersey gambling winnings subject to withholding means any payment from:

1. A wager placed in a sweepstakes, wagering pool or lottery, other than the New Jersey Lottery, but only if the proceeds from the wager exceed \$1,000; or

2. Any other wagering transaction, including but not limited to, a wagering transaction in a parimutuel pool with respect to horse races, but only if the proceeds from the wager:

i. Exceed \$1,000; and

ii. Are at least 300 times as large as the amount of the wager.

3. If proceeds from a wager as set forth in (d)1 and 2 above qualify as winnings subject to withholding, then the total proceeds from the wager, and not merely amounts in excess of \$1,000, are subject to withholding.

(e) Proceeds from a wager is the amount paid with respect to a wager, less the amount of the wager. Amounts paid with respect to identical wagers are treated as paid with respect to a single wager for purposes of calculating the amount of proceeds from a wager.

1. In determining the amount paid with respect to a wager, proceeds which are not money shall be taken into account at the fair market value.

2. Periodic payments, including installment payments or payments which are to be made periodically for the life of a person, are aggregated for purposes of determining the proceeds from a wager. The aggregate amount of period payments to be made for a person's life shall be based on

the person's life expectancy. For purposes of determining the amount subject to withholding, the first periodic payment shall be reduced by the amount of the wager.

(f) Payments to any person of winnings subject to withholding under this section shall be treated as if they are wages paid by an employer to an employee under the provisions of N.J.S.A. 54A:7-2 through N.J.S.A. 54A:7-7; provided, however, that such payments shall be considered gambling winnings for all other purposes under the Gross Income Tax Act (N.J.S.A. 54A:1-1 et seq.).

New Rule, R.1988 d.407, effective September 6, 1988.

See: 19 N.J.R. 2255(a), 20 N.J.R. 2310(c).

Recodified from N.J.A.C. 18:35-1.20 by R.1998 d.195, effective April 20, 1998.

See: 30 N.J.R. 612(a), 30 N.J.R. 1428(a).

Recodified from N.J.A.C. 18:35-7.5 by R.2009 d.145, effective May 4, 2009.

See: 40 N.J.R. 5565(a), 41 N.J.R. 2051(b).

Former N.J.A.C. 18:35-7.6, Filing of withholding returns by professional athletic teams, recodified to N.J.A.C. 18:35-7.7.

18:35-7.7 Filing of withholding returns by professional athletic teams

Any "professional athletic team" (as defined by N.J.A.C. 18:35-5.1(b)1) which pays compensation to a resident or nonresident individual for services rendered to the team within New Jersey shall be deemed to be an "employer" and shall be required to withhold New Jersey gross income tax return from that portion of the compensation attributable to "duty days" spent in New Jersey, as defined in N.J.A.C. 18:35-5.1(b)3.

Recodified from N.J.A.C. 18:35-1.22(c) and amended by R.1998 d.195, effective April 20, 1998.

See: 30 N.J.R. 612(a), 30 N.J.R. 1428(a).

Changed N.J.A.C. references.

Recodified from N.J.A.C. 18:35-7.6 by R.2009 d.145, effective May 4, 2009.

See: 40 N.J.R. 5565(a), 41 N.J.R. 2051(b).

Former N.J.A.C. 18:35-7.7, Commuter transportation benefits reporting by employer, recodified to N.J.A.C. 18:35-7.8.

18:35-7.8 Commuter transportation benefits reporting by employer

(a) Pursuant to N.J.S.A. 54A:7-2, an employer shall provide an employee with a written statement as prescribed by the Director in (g) below showing the cost of commuter transportation benefits paid by the employer to the employee.

(b) Employer-provided commuter transportation benefits for using an alternate form of commuting (such as public transportation, carpools, etc.) are excluded from New Jersey gross income up to and including the limit per taxable year per employee. The limit per taxable year is as follows:

1. \$720.00 for the taxable years beginning on and after January 1, 1993 but before January 1, 1994;

2. \$735.00 for the taxable years beginning on and after January 1, 1994 but before January 1, 1995;