



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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The Honorable Barbara Boxer
United States Senator
1700 Montgomery Street
Suite 240
San Francisco, CA 94111

Attention:

Dear Senator Boxer:

I am responding to your inquiry, dated July 19, 2010, on behalf of your constituent, . wrote about the taxability of social security benefits when combined with income or losses from gambling.

Taxpayers must include the full amount of gambling winnings in gross income [section 61 of the Internal Revenue Code (the Code)]. Taxpayers cannot reduce gambling winnings by gambling losses with only the net difference included in gross income. Instead, taxpayers can deduct gambling losses (up to the amount of gambling winnings) as an itemized deduction. See section 165(d) of the Code and Publication 529, *Miscellaneous Deductions*. The result is that adjusted gross income includes gambling winnings, unreduced by gambling losses.

Calculation of Taxable Portion of Social Security Benefits

Taxpayers must include a portion of social security benefits they receive in gross income, and these benefits are taxable if the recipient's "provisional income" exceeds certain threshold levels [section 86 of the Code]. The term "provisional income" describes the sum of modified adjusted gross income and one-half of the social security benefits reported to the taxpayer on Form SSA-1099. The Code does not define the term "provisional income", but the legislative history of section 86 refers to it. See H. Rep. No. 103-111, 103d Cong., 1st Sess. 654 (1993), 1993-3 C.B. 167, 230.

To determine the amount of taxable social security benefits, the taxpayer must first determine his or her adjusted gross income. Generally, the lower a person's adjusted gross income (and, thus the provisional income), the lower the portion of social security benefits, if any, that will be taxed. For this purpose, adjusted gross income does not include any of the social security benefits reported on Form SSA-1099.

Second, the taxpayer must calculate his or her modified adjusted gross income [section 86(b)(2) of the Code]. To calculate modified adjusted gross income, the taxpayer must add the items below to adjusted gross income:

- Exclusions for income on savings bonds used to pay higher education expenses under section 135
- Exclusions for amounts paid under an adoption assistance program of the employer under section 137
- Deductions for interest on qualified educational loans under section 221
- Exclusions applicable to citizens or residents of the United States living aboard under section 911
- Exclusions for income from sources within possessions of the United States under section 931
- Exclusions for income from sources within Puerto Rico under section 933
- Tax-exempt interest the taxpayer received or accrued during the taxable year

Third, the taxpayer must add 50 percent of his or her social security benefits to the modified adjusted gross income to determine provisional income. If the provisional income exceeds \$25,000 for a single taxpayer and \$34,000 for a married couple filing a joint tax return, up to 50 percent of the social security benefit may be taxable. If the provisional income exceeds \$32,000 for a single taxpayer or \$44,000 for a married couple filing a joint tax return, up to 85 percent of the social security benefits may be taxable. The taxable amount depends on how much the provisional income exceeds the thresholds.

A detailed explanation of the taxation of social security benefits is available in the enclosed Publication 915, *Social Security and Equivalent Railroad Retirement Benefits*. The publication contains worksheets for calculating the taxable portion of social security benefits.

By lowering provisional income, a taxpayer could possibly lower the percentage of taxable social security benefits or even avoid taxation on social security benefits altogether. However, taxpayers must include gambling winnings, as mentioned previously, in adjusted gross income and, thus, gambling winnings are included in provisional income for purposes of calculating the taxability of social security benefits.

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I hope this information is helpful. If you need further information, please contact me or
at .

Sincerely,

Janine Cook
Chief, Employment Tax, Branch1
Division Counsel/Associate Chief Counsel
(Tax Exempt & Government Entities)