

CBDT GUIDELINES ON ONLINE GAMING



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To remove the difficulties arising U/S 194BA (3) the CBDT has issued guidelines to answer the queries related to the new provisions introduced under the Income Tax Act 1961:

There are multiple wallets under one user. How "net winnings" is to be computed with respect to multiple wallets of one user?

- If there are multiple user account under the name of one user then each user account shall be considered for the purpose of calculating net winnings.
- If one deductor has multiple gaming platform and he not able to integrate multiple user accounts across platforms then he has the option to calculate tax required to be deducted separately for each platform.
- Transfer from one user account to another user account under same online gaming intermediary across platforms would be considered as withdrawn.

[The formula for calculating the tax required to be deducted U/S 194BA is Net winnings = A-(B+C), where A = Amount withdrawn from the user account; B = Aggregate amount of non-taxable deposit made in the user account by the owner of such account during the financial year, till the time of such withdrawal; and C = Opening balance of the user account at the beginning of the financial year.]

If a user borrows some money and deposits in his user account, will it be considered taxable deposit or non-taxable deposit?

- Where a user borrows some money and deposit in his user account it shall be considered as non-taxable deposit.

How the bonus, referral, incentives etc. will be treated as?

- Bonus, referral bonus, incentives etc. are to be considered as taxable deposit under Rule 133 and be considered as net winnings from online games.
- Where the deposit of incentives/bonus are money equivalent, such as coins, coupons, vouchers etc., then the equivalence of money of those deposits would be considered as taxable deposit.
- If the bonus/incentive are deposited in the account of the user only for the purpose of playing and cannot be withdrawn then the same would be ignored while calculating the tax required for deduction.

[If the said incentive/bonus are re-characterised and they are allowed to be withdrawn, they would be treated as taxable deposit at the time when they are re-characterised.]

At what point we consider that amount has been withdrawn?

- When amount has been withdrawn from one user account to another user account then it will be considered as withdrawal.

There are a large number of gamers who play with very insignificant amount and withdraw also very small amount. Deducting tax at source under section {94BA of the Act for each insignificant withdrawal would increase compliance for tax deductor. can there be relaxation to ease compliance?

It is provided that the tax may not be deducted if the following conditions are fulfilled:

- Withdrawn does not exceed Rs 100 in a month.
- Tax not deducted on account of this concession is deducted at a time when the net winnings comprised in withdrawal exceeds Rs 100 in the same month or subsequent month or if there is no such withdrawal, at the end of the financial year.
- The deductor undertakes responsibility of paying the difference.

When the net winnings are in kind how will tax deduction under section 194BA operate?

- In this situation the person responsible to pay will ensure that the tax has already been paid on that winning in kind. This year Form 26Q also has included provisions for reporting such transactions under section 194BA of the Act.

How will the valuation of winnings in kind required to be carried out?

- The valuation of the winnings in kind will be carried out on the basis of fair market value. Two exceptions where the winnings in kinds will be carried out on the basis of the value for winnings are also provided regarding this situation:
 - When the online game intermediary has purchased the winnings before providing it.
 - When the online game intermediary is itself the manufacturer of the winnings.

These guidelines have been issued after 1.4.2023 while the law has come into effect from 1.4.2023. Will there be any relaxation on penal consequences in the intervening period i.e., between 1.4.2023 and the date on which the Rules / guidelines are issued?

- If there is a shortfall in deduction of tax due to time lag in issuance of Rule 133 or this Circular, for the month of April, 2023 that shortfall may be deposited with the tax deduction for the month of May 2023 by 7th June 2023. In that case there will not be any penal consequences.





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