



# TAXATION ON ONLINE GAMING



**Income Tax Department**  
**Central Board of Direct Taxes**

**1. Definition:** For taxation purposes, an online game is defined as a game available on the internet, accessible to users via a computer or any telecommunications device such as mobile, tablets, consoles etc.

**2. Taxation provisions for online gaming:** To clarify taxation treatment of income from online gaming in a more comprehensive manner, an amendment in the Income-tax Act, 1961 was carried out in Feb 2023.

This amendment to the Income-tax Act, 1961 introduced a separate section 115BBJ, dealing with income derived from winnings in online games. According to this section, if in a financial year, a taxpayer's total income includes winnings from online gaming, the total income tax payable will be the sum of the following:

- a) Income tax computed at a rate of 30 percent on the net winnings from online gaming.
- b) Income tax that would have been applicable to the taxpayer if his total income was reduced by the net winnings from online gaming.

**2.1 Rationale for specific provisions:** Earlier, income from online games was taxed under section 115BB of the Income-tax Act 1961 and tax was required to be deducted under section 194B of the Act. However, due to a substantial increase in the number of users of online games and diverse range of games being played, there was a need to bring in specific provisions regarding taxability of online gaming due to its different nature, being easily accessible via internet and computer resources with a variety of playing and payment options. Consequently, separate provisions were enacted for online gaming.

**3. TDS for online gaming:** Finance Act, 2023 introduced a new section 194BA in the Income-tax Act, 1961 with effect from 1<sup>st</sup> April 2023 related to online gaming which provides for tax deduction at source (TDS) at the rate of 30% on "net winnings" from online games, at the time of withdrawal as well as at end of the financial year.

**3.1 TDS for net winnings in kind:** In case where the net winnings are entirely in kind or a combination of cash and kind, but the cash portion is insufficient to cover the required tax deduction for the entire net winnings, the entity responsible for payment must ensure that the tax has been settled before disbursing the winnings. In such circumstances, the deductor will release the net winnings in kind only after the recipient furnishes evidence of having paid the necessary tax. The valuation of winnings in kind would be based on fair market value of the winnings in kind except in following cases:-

- (i) The online game intermediary has purchased the winnings before providing it to the user. In that case the purchase price shall be the value of winnings.

(ii) The online game intermediary manufactures such items given as winnings. In that case, the price that it charges to its customers for such items shall be the value of such winnings.

It is further clarified that GST will not be included for the purposes of valuation of winnings for TDS under section 194BA of the Act.

**3.2 TDS for insignificant withdrawal:** In order to remove difficulty in deducting tax at source under section 194BA of the Act for insignificant withdrawal, it is clarified that tax may not be deducted on withdrawal on satisfaction of all of the following conditions, namely:

- (i) Net winnings comprised in the amount withdrawn does not exceed Rs. 100 in a month;
- (ii) Tax, not deducted due to this exemption, is deducted when the net winnings involved in a withdrawal surpass Rs. 100 either in the same month or the subsequent month, or, in the absence of any withdrawal, by the end of the financial year;
- (iii) The deductor undertakes responsibility of paying the difference if the balance in the user account at the time of tax deduction under section 194BA of the Act is insufficient to meet the calculated tax deduction liability as per Rule 133.

**3.3 TDS for Bonuses, Referral rewards, and Incentives:** Certain deposits like bonuses, referral rewards, and incentives are typically considered part of net winnings and are subject to tax under section 194BA upon withdrawal or at the end of the financial year. However, there are specific incentives or bonuses credited exclusively for game play, inaccessible for withdrawal or alternate use. Rule 133 exempts these deposits from net winnings calculations, excluding them from non-taxable deposits, opening, and closing balances of user accounts. Nonetheless, the entity responsible for tax deduction under section 194BA must maintain separate records for these deposits. If these gameplay-only incentives or bonuses are later made available for withdrawal, they're treated as taxable deposits at that reclassification moment, becoming part of net winnings in that particular year.

**4. Clarification regarding withdrawal of amount:** According to Rule 133, transferring funds between user accounts within the same online gaming platform for the same user isn't seen as a deposit or withdrawal. However, moving money from a user account to any other account is considered a withdrawal. For a deductor, any transfer from a user account to an unregistered account with the online gaming platform they represent is also seen as a withdrawal. Moreover, issuing coupons or items from the user account for purchasing goods or services is also considered a withdrawal. It's the responsibility of the person mandated to deduct tax under section 194BA to ensure proper tax deduction before issuing such coupons or items in kind.

**5. Calculation of Net winnings:** Section 194BA imposes the obligation to withhold tax on the 'Net Winnings' component when there is any withdrawal from the user account and at the end of the financial year on the remaining Net Winning amount in the user account. Rule 133 accordingly provides for computation of Net Winnings.

**(1) Net winnings on withdrawal during previous year:**

Net winnings= **(A+D)-(B+C)**, where-

- » A= Aggregate amount withdrawn from the user account during the financial year.
- » B= Aggregate amount of non-taxable deposit made in the user account by the assessee during the financial year.
- » C= Opening balance of the user account at the beginning of the financial year.
- » D= Closing balance of the user account at the end of the financial year.

**(2) Net winnings on first withdrawal during FY:**

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.
- » C= Opening balance of the user account at the beginning of the financial year.

**(3) Net winnings in the formula given in sub-rule (2) shall be zero, if the sum of amounts B and C is equal to or greater than the amount A.**

**(4) Net winnings on subsequent withdrawals during FY:**

Net winnings= **A-(B+C+E)**, where-

- » A= Aggregate amount withdrawn from the user account during the financial year till the time of subsequent withdrawal including the amount of such subsequent withdrawal;
- » 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 subsequent withdrawal.
- » C= Opening balance of the user account at the beginning of the financial year.
- » E= Net winnings comprised in the earlier withdrawal or withdrawals computed under sub-rule (2), on which tax has been deducted u/s 194BA.

**(5) Net winnings in the formula given in sub-rule (4) shall be zero, if the sum of amounts B, C and E is equal to or greater than the amount A.**

**(6) Net winnings at end of FY:**

Net winnings= **(A+D)-(B+C+E)**, where-

- » A= Aggregate amount withdrawn from the user account

during the financial year,

- » B= Aggregate amount of non-taxable deposit made in the user account by the owner of such account during the financial year;
- » C= Opening balance of the user account at the beginning of the financial year,
- » D= Closing balance of the user account at the end of the financial year, and
- » E= Net winnings comprised in the earlier withdrawal or withdrawals computed under sub-rule (2), or sub-rule (4), on which tax has been deducted u/s 194BA.

**"Net Winnings" w.r.t. multiple wallets of one user:** Rule 133 defines a user account as any registered account with an online gaming platform where deposits, winnings, or withdrawals occur. When a user has multiple accounts, each is considered for net winnings calculation, combining all deposits, withdrawals, or balances. If a deductor manages multiple platforms without technological integration, they can calculate tax separately for each platform, but user accounts within one platform must be considered together for net winnings. Transfers within the same platform are not deemed withdrawals/deposits, but if tax is separately deducted for each platform, transfers across platforms count towards net winnings calculation as per Rule 133.

**(7) Net winnings in the formula given in sub-rule (6) shall be zero, if the sum of amounts B, C and E is equal to or greater than the sum of amount A and D.**

Explanation 1. – For the purposes of Rule 133 of IT Rules –

- (a) "non-taxable deposit" means the amount deposited by the user in his user account and which is not taxable;
- (b) "taxable deposit" means any amount deposited in the user account which is not a non-taxable deposit and includes any amount paid directly to the user not through the user account; and
- (c) "withdrawal" means any amount withdrawn by the user from any user account.

Explanation 2. – For the removal of doubts, it is clarified that –

- (a) User account shall include every account of user, by whatever name called, which is registered with the online gaming intermediary and where any taxable deposit, non-taxable deposit or the winnings made by the user is credited and withdrawal by the user is debited;
- (b) Whenever there is payment to the user in kind or in cash, or partly in kind and partly in cash, which is not from the user account, the provisions of this rule shall apply to calculate net winnings by deeming that the money equivalent to such payment has been deposited as taxable deposit in the user

account and the equivalent amount has been withdrawn from the user account at the same time and shall accordingly be included in amount A, as mentioned above;

- (c) Whenever there are multiple user accounts of the same user, each user account shall be considered for the purposes of calculating net winnings and the deposit, withdrawal or balance in the user account shall mean aggregate of deposit, withdrawal or balance in all user accounts;
- (d) Whenever there are multiple user accounts of the same user, transfer from one user account to another user account, maintained with the same online gaming intermediary, of the same user shall not be considered as withdrawal or deposit, as the case may be, for the purposes of deducting tax under section 194BA;
- (e) Whenever there is taxable deposit in the form of bonus, referral bonus, incentives, promotional money, discount by whatever name called; and such deposit can only be used for playing the online games and not for withdrawal or any other purposes, such deposit shall be ignored for the purposes of calculation of net winnings and shall not be included in amount B or amount C or amount D; and
- (f) Whenever any bonus, referral bonus, incentives, promotional money, discount, by whatever name called, is not considered as part of amount B or amount C or amount D under clause (e) and subsequently they are recharacterised and allowed to be withdrawn, they shall be deemed as taxable deposit at the time of such recharacterisation and it shall be deemed that the equivalent amount has been deposited in the user account at that time.



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