

India

India Issues Guidance on Withholding Tax on Net Winnings from Online Games

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On 22 May 2023, the Central Board of Direct Taxes (CBDT) issued a circular providing guidance on withholding tax on net winnings from online games. The circular provides that:

- each wallet will be considered as part of the user account for the purposes of computing net winnings. The deposit, withdrawal or balance in the user account means the aggregate of deposits, withdrawals or balances in all user accounts (excluding transfers from one account to another);
- borrowed money deposited in any user account will be considered as a non-taxable deposit;
- any deposit in the form of a bonus, referral bonus, incentive, etc., as well as money equivalents of coins, coupons, vouchers and counters will be considered as taxable deposits. Such deposits will be included under net winnings. Any incentive/bonus which cannot be withdrawn will be considered taxable deposit only after removal of the restriction on withdrawal;
- when an amount is withdrawn from one user account to any other account (apart from an account with the same online gaming company), it shall be considered as a withdrawal. For this purpose, any account of user which is not registered with the online game company, is an account which is not a user account;
- where net winnings are in-kind, the company must ensure that the user pays tax or the company may itself withhold tax on the fair market value of the winnings in-kind; and
- no tax is required to be withheld if the net winnings withdrawn do not exceed INR 100 per month, subject to meeting other specified conditions.

Note: Section 194BA of the Income Tax Act, inserted from 1 April 2023, mandates a person who is responsible for paying to any person any income by way of winnings from any online game during the financial year to withhold tax on the net winnings in the person's user account. Tax is required to be withheld at the time of withdrawal as well as at the end of the financial year at the rates applicable to the user.

Details of these guidelines were published in Circular 5/2023, available [here](#) (as a PDF).

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