

# Taxability of Income from Winnings of Online Games

By CA Ayesha Aziz & CA Ameet Patel

In the current situation that almost the entire world is facing, being locked up at home with very little work to do is commonplace. People are getting bored and restless and are desperately looking for something to pass their time. In such circumstances, many of us would be getting messages either through emails or through mobiles exhorting us to play various types of online games and win attractive prizes.

Have you ever played rummy? Is black jack your jam? Well, the cash prizes are generous. Amid the lockdown in India due to COVID-19, online gaming is catching up. It is an attractive prospect since it affords an opportunity to earn money from home through betting, playing online games and winning cash prizes. Games like PUBG, MPL, LOCO, etc. are hosting a number of tournaments and quizzes offering a chance to win money from home.

## But what about the **taxability** of these winnings?

Winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any form or nature whatsoever are taxable under the head of '**Income from other sources**' under section 115BB of the Income Tax Act, 1961. Income from winnings from online games would fall under the income covered in section 115BB and accordingly be taxed at the rate prescribed in the said section.

As contained in the provisions of section 115BB, the abovementioned winnings would be taxable at a flat rate of 30% which means where the total income of a person includes winnings under this section, the income tax payable would be the aggregate of:

- Winnings taxed @ 30% **AND**
- Other income taxed as per normal slab rates or relevant special rates as the case may be

Let us understand this with the help of an example

<b>Name: Mr. ABC</b>	
<b>Financial Year: 2020-21 (as per new tax regime)</b>	
<b>PARTICULARS</b>	<b>AMOUNT</b>
<b>Salary Income</b> (without any deductions/exemptions)	7,00,000
<b>Income from Short Term Capital Gains u/s 111A</b>	50,000
<b>Income from Other Sources</b>	
Winnings from online gaming	30,000
<b>Total Taxable Income</b>	<b>7,80,000</b>
Short Term Capital Gains u/s 111A taxable @ 15% of 50,000	7,500
Winnings from online gaming taxable @ 30% of 30,000	9,000
Balance income taxable at slab rates	32,500
<b>Income tax payable</b>	<b>49,000</b>
Add: Health and education cess @4%	1,960
<b>Total Tax Payable</b>	<b>50,960</b>

The next aspect deals with **tax deducted at source** (TDS) from these winnings.

Section 194B of the Income Tax Act, 1961 deals with TDS on winnings from lottery, crossword puzzles, card game, and any other game. The person responsible for making payment of winning amount to any person is required to deduct income tax there on at the rates in force before making the payment **IF** the amount exceeds Rs.10,000/-.

Sometimes winnings from such games are not necessarily in cash but in kind like a car, mobile phone, foreign trip etc. In such cases, the value of the prize is taken at the relevant market value and the prize is to be released only after the TDS amount is collected from the payee (receiver).

Another scenario may involve winnings being paid partly in cash and partly in kind. In such cases, even if the value is less than Rs.10,000/- individually, TDS is to be deducted taking into consideration the entire value of the winning.

An example will help us understand how the provisions of TDS are applied

Mr. Roshan won Rs.10,00,000 on winning an online quiz competition. The amount of tax that should be deducted will be Rs.3,00,000 (i.e. Rs.10,00,000 x 30%) and will receive the net amount of Rs.7,00,000. On the other hand, if the prize was not cash but a motor car worth Rs. 10,00,000. In such a case, the agency that gives the prize will need to first recover Rs 300,000 from Mr Roshan and pay the same to the government and only then hand over the prize in the form of the car to Mr Roshan.

An important point to be noted is that, **no expenses** can be claimed against these winnings as per section 58 of the Income Tax Act, 1961.

Instead of winnings, there exists a possibility of losing money in these games. The question that arises is whether the lost money can be set off against other gains or be carried forward to future years? The answer is **NO**. The provisions of the Income Tax Act, 1961 do not permit set off and carry forward of losses against gains from winning from lotteries, crosswords, puzzles, card games or other gambling. Also, very importantly, the activity of participating in online games may be an organised activity and may even be the main activity of a person. But yet, this cannot be considered as a business. Thus, it would not be possible to offer the income / loss from gaming under the head "profits and gains of business or profession".

So, if you are getting bored and are likely to play online games with the hope of winning some money, please note that the winnings would not be tax free income. You will have to pay a hefty 30% by way of tax. It may also be noted that while the rate of TDS is 30%, ultimately, sur charge and education cess as applicable will also need to be paid by the winner by way of advance tax or by way of self assessment tax at the time of filing the return of income.