

MAY, 2023

NEWSLETTER

TAX

- Income Tax
- Goods and Services Tax



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Income Tax	
1. Double Tax Avoidance Agreement (DTAA) between India and Chile.	
	CBDT Notification No. 24/2023 dated 03.05.2023
<p>The Government of India and Chile has entered DTAA on 22nd Oct, 2022. DTAA is effective from 1st April, 2023. Vide this notification, CBDT has notified the provisions of DTAA.</p> <p>Notification No.24/2023</p>	
2. Mahila Samman Saving Certificate Scheme -2023.	
	CBDT Notification No.27/2023 dated 16.05.2023
<p>Vide this notification, CBDT has notified the Mahila Samman Saving Certificate Scheme -2023. The Mahila Samman Savings Certificate is a one-time scheme available for two years, from April 2023-March 2025.</p> <p>Salient features of the Scheme are as following:</p> <ul style="list-style-type: none"> ➤ A woman or the guardian of a minor girl child can open a Mahila Samman Saving Certificate scheme. ➤ The minimum deposit amount under the Mahila Samman Savings Certificate is Rs.1,000 and the maximum deposit amount is Rs. 2 lakh ➤ The maturity period of the Mahila Samman Savings Certificate account is two years. ➤ A partial withdrawal facility is provided under the Mahila Samman Saving Certificate scheme. The account holder can withdraw up to 40% of the account balance after one year from the account opening date. ➤ This scheme has a fixed interest rate of 7.5% Per Annum. ➤ Interest received under the scheme is taxable. <p>Notification No.27/2023</p>	
3. Income-tax (Fifth Amendment) Rules, 2023- Section 194BA.	
	CBDT Notification No.28/2023 dated 16.05.2023
<p>By this notification, CBDT has notified the rules for calculating Net winnings for the purpose of Tax Deduction as per Section 194BA.</p> <p>Section 194BA- Finance Act 2023 inserted a new section 194BA in the Income-tax Act, 1961 with effect from 1st April 2023. As per section 194BA, 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 deduct income-tax on the net winnings in the person's user account. Tax is required to be deducted at the time of withdrawal as well as at the end of the financial year.</p> <p>Net Winning defined in the rules are as under:</p> <p>1- Net Winnings during the year: (A+D)-(B+C)</p> <p>A = Aggregate amount withdrawn from the user account during the financial year.</p> <p>B = Aggregate amount of non-taxable deposit made in the user account by the assessee during the financial year.</p> <p>C = Opening balance of the user account at the beginning of the financial year.</p> <p>D= Closing balance of the user account at the end of the financial year.</p>	

2- Net Winnings at the time of first Withdrawal defined during the year: (A)-(B+C)

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 at the time of each subsequent Withdrawal defined during the year: (A)-(B+C+E)

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), or under this sub-rule, during the financial year till the time of subsequent withdrawal if tax has been deducted in accordance with the provision of section 194BA on winnings comprised in such withdrawal or withdrawals

4- Net Winnings at the end of the financial year: (A+D)-(B+C+E)

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

E = Net winnings comprised in the earlier withdrawal or withdrawals during the year.

[Notification No.28/2023](#)

4. Clarifications regarding calculation of Net Winnings- Section 194BA.

CBDT

Circular No.05/2023 dated 16.05.2023

Vide this circular, CBDT has clarified queries regarding calculation of Net Winnings for Tax Deduction as per section 194BA.

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

Ans. Yes, It is considered as Non Taxable Deposit.

- b. How will bonus, referral bonus, incentives etc. be treated.**

Ans. Bonus, referral bonus, incentives etc. are given by the online game intermediary to the user. They are to be considered as taxable deposit under Rule 133. The taxable deposit will increase the balance in user account and is not allowed to be deducted in calculation of net winnings as only non-taxable deposits are allowed to be deducted.

However, it is seen that there is some incentives/bonus which is credited in user account only for the purposes of playing and they cannot be withdrawn or used for any other purposes. Rule 133 has provided that such deposit shall be ignored for calculation of net winnings.

- c. **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 194BA of the Act for each insignificant withdrawal would increase compliance for tax deductor. Can there be relaxation to ease compliance.**

Ans. 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 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.
- (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 not sufficient to discharge the tax deduction liability calculated in accordance with Rule 133.

- d. **When the net winnings is in kind how will tax deduction under section 194BA operate?**

Ans. It is clarified that where money in user account is used to buy an item in kind and given to user then it is net winnings in cash only and the deductor is required to deduct tax at source under section 194BA of the Act accordingly.

However, there could be a situation where the winning of the game is a prize in kind. In that situation provision of sub-section (2) of section 194BA of the Act will operate. According to this where the net winnings are wholly in kind or partly in cash, and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings. In these situations, the person responsible for paying, shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings. In the above situation, the deductor will release the net winnings in kind after the deductee provides proof of payment of such tax (e.g. Challan details etc.).

- e. **How will the valuation of winnings in kind required to be carried out?**

Ans. The valuation 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 for 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 for such winnings.

[Circular No. 5/2023](#)

5- Leave Encashment limit for Non-Government employees.

CBDT

Notification No.31/2023 dated 24.05.2023

As per Budget, 2023 announcements- The tax exemption limit for leave encashment upon retirement for non-government salaried employees has been hiked to Rs 25 lakh from Rs. 3 Lakh.

Now, CBDT has issued notification to this effect.

[Notification No. 31/2023](#)

6- E-Appeals Scheme, 2023
<div data-bbox="1393 149 1461 174" data-label="Text">CBDT</div> <div data-bbox="977 180 1451 210" data-label="Text">Notification No.33/2023 dated 29.05.2023</div>
<div data-bbox="159 237 1464 300" data-label="Text"> <p>Budget, 2023 proposed new authority for hearing appeals: Joint Commissioner (Appeals). Now, CBDT has notified rules and procedure related to Joint Commissioner (Appeals).</p> </div> <div data-bbox="159 323 363 352" data-label="Text"> <p>Notification No.33</p> </div>

GST	
1. Limit of GST e- Invoicing reduced to Rs. 5 crore.	
	Notification No. 10/2023
<p>Vide this notification, CBIC has reduced the e-invoicing limit to Rs. 5 crore from earlier limit of Rs. 10 crore. New Limit is effective from 1st Aug, 2023.</p> <p>So, Every person registered under GST, having turnover more than Rs. 5 Crore in any financial year from 2017-18 is required to comply with the e-invoice provisions w.e.f. 1st August, 2023.</p> <p>Notification No.10</p>	
2. Due dates of GST Filings extended in the state of Manipur.	
	Notification No.11,12 and 13/2023
<p>Due to ongoing security situation in Manipur, CBIC has extend due date of GSTR-1, GSTR3B and GSTR7 to 31st May, 2023 for the month of April, 2023.</p> <p>Notification No.11,12,13</p>	

Disclaimer:

This is not a complete listing of all circulars/notifications issued during the month.
Instead, it is only a listing of some of the circulars/notifications that we considered important



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