

Winnings from Lotteries, Crossword puzzles and Horse races [Sections 194B and 194BB]

(1) Rate of tax on casual income

Any income of a casual and non-recurring nature of the type of winnings from lotteries, crossword puzzles, card game and other game of any sort, races including horse races, etc. will be charged to income-tax at a flat rate of 30% [Section 115BB].

(2) TDS on winning from lotteries, crossword puzzles etc.

According to the provisions of section 194B, every person responsible for paying to any person, whether resident or non-resident, any income by way of winnings from lottery or crossword puzzle or card game and other game of any sort, is required to deduct income-tax therefrom at the rate of 30% if the amount of payment exceeds Rs. 10,000. Winnings by way of jack pot would also fall within the scope of section 194B.

(3) Cases where winnings are partly in kind and partly in cash

In a case where the 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 winnings -

The person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings.

(4) Person responsible for deduction of tax under section 194BB

Section 194BB casts responsibility on the following persons to deduct tax at source -

- (i) a bookmaker (bookie); or
- (ii) a person to whom a license has been granted by the Government under any law for the time being in force -
 - (a) for horse racing in any race course; or
 - (b) for arranging for wagering or betting in any race course.

ILLUSTRATION 5

Mr. Govind won the first prize in a lottery ticket and the prize was a Maruti car worth ` 5 lacs. What is the procedure to be adopted before handing over the Maruti Car to Mr. Govind?

SOLUTION

Section 194B provides that the person responsible for paying to any person, any income by way of winnings from any lottery or crossword puzzle, card game or any other game of any sort and the amount of winning exceeds Rs. 10,000, tax shall be deducted at source @30%.

However, in case where the winning is wholly in kind, the person responsible for paying the prize shall before releasing the winning, ensure that the tax has been paid in respect of such winning.

The Karnataka High Court in the case of CIT v. Hindustan Lever Ltd. (2014) 361 ITR 1

has held that where the winnings are wholly in kind, the responsibility cast under section 194B is to ensure that the tax is paid by the winner of the prize before the prize is released in his favour.

In this regard, the CBDT Circular No.763 dated 18/2/1998 clarifies that the person responsible for paying the winnings shall, before releasing such winnings, ensure that the tax is paid by the winner. He can do so, for example, by collecting from the winner a sum equal to the tax deductible at source on the winnings in kind, before releasing the winnings. For this purpose, the value of the winnings in kind shall be taken as the cost incurred by the payer in acquiring the said winnings in kind.

Therefore, in this case since the entire winning is in kind, it must be ensured that the sum equal to the tax deductible at source (i.e., ` 1,50,000, being @ 30% of ` 5 lacs) is paid by Mr. Govind, before the car is released in his favour. This can be done by collecting ` 1,50,000 from Mr. Govind before releasing the Maruti car to him and **remitting the said sum to the Government account or** verifying the tax payment by the winner and thereafter releasing the prize.