

## **OBBBA and Gambling Losses- Surprise!**

**Take-Away:** Gambling losses just became even more costly under the One Big Beautiful Bill Act.

**Background:** Under existing law, an individual's gambling losses for the year are deductible only to the extent of the individual's gambling gains, including complimentary goods and services for that year. [IRC 165(d).] The 2017 Tax Act provided that for the period of 2018 through 2025, gambling losses included the individual's deductible expenses incurred in gambling, whether for a professional or recreational gambler. With the One Big Beautiful Bill Act (OBBBA) those rules were changed, without any fanfare, but apparently outrage from Nevada legislators.

**OBBBA:** While OBBBA made the 2017 changes to gambling earnings and deductions *permanent*, however, there was one major exception. Historically the Tax Code and its Regulations treated gambling earnings as taxable, but they permitted deductions for gambling losses solely up to an individual's winnings total when itemizing loss deductions on Schedule A. This framework ensured that if a gambler's outflows equaled or surpassed his/her inflows, the inflows would not be taxed due to the resulting net break-even or economic loss.

**Gambling Loss Limit:** With OBBBA there is now a **90% ceiling on allowable gambling deductions**. Restated, OBBBA confines gambling deductions to the smaller of a gambler's winnings, or 90% of his/her verified losses (encompassing associated costs for career gamblers.) Accordingly, with a break-even gambling situation, taxes could apply to 10% of the gambler's earnings. With this limit in gambling deductions, the Joint Committee on Taxation projects that the limitation in gambling loss and expense deductions will raise more than \$1.1 billion over the next ten years.

**Example:** Brad is a weekend better with \$20,000 in blackjack winnings, but he also has \$20,000 in gambling losses throughout the year. Prior to OBBBA, Brad's entire \$20,000 in winnings would result in no taxable income. With OBBBA, Brad's maximum gambling loss deduction will be \$18,000 (90% of his losses), leaving Brad with \$2,000 in taxable income despite no net gain for the calendar year.

**Example:** Fred is a professional card player in Las Vegas who earns \$400,000 from gambling events. However, Fred has \$440,000 in entry fees, lodging, and similar outlays associated with his gambling earnings. OBBBA's allowable gambling expense deduction limits Fred's deduction to \$396,000 [90% X \$440,000= \$396,000.] This leaves Fred with taxes on \$4,000 of gambling earnings where previously none would have existed, even though Fred the player was an overall 'loser' for the year. This limitation on gambling deductions applies to all of Fred's 'operational costs', such as tournament fees he paid and possible training expenses, categorized in the Regulations as 'betting setbacks.'

**Political Outrage:** OBBBA was passed on July 3<sup>rd</sup>. Yet on July 7 a Nevada Congresswoman filed a proposed Bill called the Fair Accounting for Income Realized from Betting Earnings Taxation, (aka the FAIR BET Act) HR 4304, which would restore the 100% deduction for gambling losses, which had seven cosponsors within the following 4 days. Not to be outdone with the clever acronyms, Nevada's Senator Masto, introduced a similar bill in the Senate, called the Facilitating Useful Loss Limitations to Help Our Unique Service Economy, (aka the FULL HOUSE Act) S.2230. So far, neither of these bills has gotten any traction in Congress, with Senator Wyden, the Finance Committee's ranking member noting "it's just not right to give a special home-state tax carve out" [leaving me wondering what he thought of Senator Murkowski's vote in favor of the OBBBA in exchange for 'pork' for her home state. Ah well.]

**Conclusion:** I do not gamble, but I know many people who are recreational gamblers for whom this deduction limitation could be important. This change complicates an already burdensome tracking process. Will this change provide new motivation to misreport or bypass official avenues of reporting? Will some gamblers now have an incentive to gamble at unlicensed international sites where there is minimal oversight and safeguards. This is just one of the many unintended consequences of the rushed-through OBBBA that we will watch be played out in the year(s) to come.

If you would like to read additional missives, [click here](#).