Budget Act's Deduction Limit Penalizes Losing Gamblers

By **Walter Bourdaghs** (August 5, 2025, 5:58 PM EDT)

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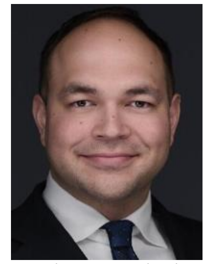

Walter Bourdaghs

Beginning Jan. 1, 2026, it will become extraordinarily difficult to be a professional gambler in the U.S.

As advertising for online gambling and sports betting reaches all-time highs, a last-minute addition to the One Big Beautiful Bill Act, **signed** by the president on July 4, poses a threat to all gamblers, both professional and recreational, by changing how players are taxed.

As it stands, the bill risks pushing the industry overseas and harming gamblers, even though the vast majority of bets they place are already unprofitable in the long run.

Previously, gamblers were taxed only on their net profits. The bill amends the Internal Revenue Code so that gamblers will be allowed to deduct only 90% of their losses against their winnings. This will potentially lead to counterintuitive outcomes in which some gamblers owe taxes despite having had a net loss for the year.

For example, currently, if someone wins $100,000 in bets and loses $99,000, they are responsible only for taxes on the $1,000 profit. However, after the amendment goes into effect, the gambler in this scenario will have to pay taxes on $10,900 — $100,000 minus 90% of $99,000 — despite only pocketing $1,000.

Specifically, Section 70114 amends Internal Revenue Code, Section 165, which currently allows deductions for losses incurred in a trade or business, or in transactions entered into for profit. Starting Jan. 1, 2026, the allowable deductions for wagering transactions will be capped at 90% of the total losses incurred for that taxable year, and cannot exceed the total gains for that year.[1]

Consequently, a professional poker player who accumulates $1 million in losses and $1 million in winnings will have made $0 that year, but will incur tax liability on $100,000 — $1 million in winnings minus 90% of $1 million in losses.

To see what makes Section 70114 particularly harmful to professionals requires a basic understanding of short- and long-term variance.

Professional poker players earn their living through very thin margins. At the low to mid-stakes, they may barely "beat the rake" — the casino's cut of each hand.

One analogy is a weighted coin that lands on heads 51% of the time and tails 49% of the time. The small edge resembles a professional poker player's skill advantage over others. Flip the coin once or twice, and the outcome is unpredictable. Flip the coin a million times, and it is virtually certain that heads will outnumber tails.

To mitigate short-term variance, poker players strive for as much volume as possible, i.e., flip the biased coin as many times as they can over the course of a year. For games like online poker, professionals often play hundreds of thousands of individual hands per year, over the course of hundreds of sessions. However, Section 70114 effectively penalizes volume.

Someone who flips the coin twice and ends up even will have gravely different tax consequences than someone who flips the coin 1,000 times and gets 500 heads and 500 tails — despite their having the same net result.

Although professionals will undoubtedly be hit the hardest, Section 70114 also threatens to harm recreational players, who already operate at a disadvantage.

While professional gamblers typically maintain detailed records of their winnings and losses, recreational players often do not. This may be due in part to an implicit understanding that most recreational players expect to lose money in the long run, unless they hit it big on a parlay or other long-shot wager.

More likely, recreational players simply do not account for taxes when they play. For recreational players who think they are being responsible by only wagering what they can afford to lose, Section 70114 may result in an unpleasant surprise come tax season.

Imagine John, an avid but recreational gambler who decides that he can reasonably afford to lose up to $10,000 annually. He sets aside $10,000 as his bankroll for the year, separate from his ordinary life expenses.

Every weekend, John places 10 even-money $500 bets on sports. Most weekends, he breaks even. Over the course of a year, John places 520 bets, winning 250 and losing 270, a reasonable outcome given a sportsbook's inherent slight advantage.

John's ends the year having lost the $10,000 he put aside. What John likely doesn't realize is that under Section 70114, he still owes taxes on $3,500 in winnings, despite being down $10,000 overall.

Although John is an active gambler, the numbers above are very modest in comparison to a professional gambler's and, unfortunately, those of individuals struggling with gambling addictions.

Section 70114 may also drive players to unregulated offshore gambling platforms. In the poker world, many shady offshore sites have emerged since the U.S. Department of Justice **shut down** PokerStars, Full Tilt Poker and Absolute Poker — the three largest online operators in the U.S. — on April 15, 2011.

Currently, only six states offer legal and regulated online poker: Pennsylvania, New Jersey, Nevada, Delaware, West Virginia and Michigan.[2] Although it is well known that hundreds of thousands of players from other states continue to play online through unregulated offshore sites and apps, Section 70114 may undermine the movement toward legalized and regulated online poker by encouraging players from those six states to abandon the regulated sites altogether.

It is worth noting that there is bipartisan support to nullify the effects of Section 70114 and restore the prior tax structure that is based solely on net winnings.

Notable critics of Section 70114 include Sens. Ted Cruz, R-Texas, and Catherine Cortez

Masto, D-Nev., as well as Rep. Dina Titus, D-Nev., among others. Unsurprisingly, prominent voices in the poker community, such as professionals Doug Polk and Phil Galfond, have also been sounding the alarm.

The success or failure of opposition to Section 70114 will have a profound, far-reaching impact on the gaming industry and gamblers alike. Section 70114 will harm bettors and drive business in the gaming industry overseas.

The changes are also a backward step in the movement to legalize and regulate online poker in all 50 states, which aims to generate taxes while also protecting players from scams, cheating and unfair or deceptive business practices.

The unjust taxation of players who have and will likely continue to incur gambling losses once the provision goes into effect makes clear that immediate change is necessary.

Walter O. Bourdaghs is an associate at Kang Haggerty LLC.

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[1] See H.R. 1, 119th Cong. § 70114 (2025) (available at https://www.congress.gov/bill/119th-congress/house-bill/1/text).

[2] Connecticut and Rhode Island have legalized online poker but do not yet have a functioning and regulated operator in the state.