

India's GST Regime To Increase Tax, Scrutiny For Online Operators

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Online skilled gaming and gambling operators targeting India's market face higher taxes and tougher scrutiny following last week's passage of the groundbreaking goods and services tax (GST) legislation.

The upper house of the Indian parliament on Thursday passed four supplementary bills to GST legislation without amendment, giving a green light to the government to implement the new tax regime on or around July 1.

Some 17 years after it was first proposed, and after considerable [political pressure](#), the GST is set to replace India's enormously complex tax regimes with a more national, streamlined structure that does away with a range of indirect tax obligations and redundant bureaucracy.

The new tax will also inherit recent reforms that ended central government tax exemptions for certain online businesses, including the gaming sector, therefore increasing the risk of enforcement for domestic and foreign companies targeting the Indian market.

But online operators are not clear what impact the GST will have, as it remains unconfirmed what rates will apply and how companies will be affected by differential tax obligations to the central and state governments.

It is "difficult to comment upon the GST and its impact as what is being implemented is different from what initially was designed", said Anuj Gupta, founder and CEO of poker and rummy site [Adda52.com](#).

"There are not only multiple rates of GST but now there is talk of multiple registrations in multiple states," Gupta told GamblingCompliance on Thursday.

A "dual" model GST will be imposed by the central and state governments, which places pressure on state governments to pass corresponding legislation ahead of the national rollout date.

As part of this reform, state governments will need to agree to both the national GST (CGST), a state GST (SGST) and a so-called “integrated GST” (IGST) that applies to transactions crossing state and national borders.

Gupta noted that an additional GST might apply to the nation’s Union Territories, adding another layer of obligations for online operators with national markets.

“Currently the certified accountants are studying it and I will have more clarity on it by end June or early July when the rollout happens,” he said.

Finance minister Arun Jaitley said on Thursday that “final approval” for rules and rates will be issued on May 17 or May 18.

“There would be hurdles or issues in implementation and those will be resolved by the GST Council as soon as possible,” Jaitley told reporters after the bills passed the upper house.

Meyyappan Nagappan, a lawyer and tax specialist with the Nishith Desai law firm in Mumbai, said online operators will pay more tax, and that the IGST will apply to online gaming as both inter-state and international transactions will fall under that tax mode.

Currently, services are taxed at 15 percent, but online gaming is likely to be taxed at an ISGT rate of at least 18 percent, but possibly much higher overall — to a maximum of 28 percent — not including any “sin tax” additions that governments might impose, Nagappan told GamblingCompliance today.

The GST Council is yet to consider online gaming, he said.

“But I think it’s only a matter of time before someone brings it up at the Council ... when the final rates are being discussed,” he added. “We’re in a wait and watch mode.”

Nagappan said that in the longer term, GST infrastructure will bring operators much closer to the tax authorities, and by extension increase enforcement risk, not only in regard to tax compliance, but also in regard to illegal gambling operations.

“In a GST regime ... all service providers, irrespective of the threshold or whatever turnover they make, if you are providing services in India, have to be registered under GST,” Nagappan said.

“So this gives a very easy reference point for the authorities to come and get information from you,” he added.

Although authorities in practice would tend to target players, the availability of tax data should concern grey-market companies that would be subject to steep penalties, he said. “I’m guessing in the medium term there is going to be more scrutiny of online transactions.”

He added that the government’s technological work on tax payment compliance by online companies in other sectors could affect the enforcement of online gaming compliance after three to five years.

The dual GST system will subsume a service tax revision in force from December 1 last year that ended a central government tax exemption for betting, gambling and lotteries.

The current service tax on online information and database access retrieval (OIDAR) services applies to both domestic and international customers of Indian gaming websites.

But the GST regime will also require offshore service providers to “appoint an authorised agent in India for payment of GST if [they do] not have physical presence in India”, Nagappan and Nishith Desai colleague Ranjana Adhikari said during a presentation in Mumbai last month.

The landmark package of GST legislation comes only months after the central government shocked India’s huge cash economy by withdrawing the 1,000 rupee (\$15) and 500 rupee notes from the market, sending a flood of people to banks to deposit their hoarded wealth.

The move damaged revenue and visitation at Goa’s casinos and India-facing casinos in Nepal, some of which closed temporarily to adjust to the change.