

Online Gambling And Taxation: Possible Win For The Indian Economy

written by Richa K Gaurav | June 21, 2021



“Policy-making invariably involves taking measured risks in the face of uncertainty, for one has neither a prior template nor the luxury of indecision.” – Raghuram G. Rajan

Gambling tax in India

India's rich history is not complete without a mention of gambling– which has been a long-standing tradition of the country. The sport has ancient roots in Indian culture and lately, its' relevance as a favoured way to pass the time has only grown in popularity and relevance in both urban and rural regions. In particular, a culture of online gaming has lately secured a strong foothold in India despite the legislations that have been formulated in an attempt to keep a check on it. Admittedly, these legislations have been murky in nature.

For instance, the Income Tax department does not impose limits on those who earn through gambling – it only requests that the gamblers pay gambling tax in India on their winnings. Clearly, what remains of paramount priority, regardless of the times, is that the individual engaged in gambling must pay their dues to the government.

However, it is such uncertainty around gambling and its taxability that raises concerns over the vague legislation currently in place. As mentioned above, gambling online experienced increased participation following the mid-1990s and this grew further in spurts following the Modi government's Digital India drive, which improved network infrastructure across the country. Further, digital payment systems witnessed a growth spurt as well after demonetisation.

Such factors are what have contributed to the rapid surge in online gambling's potential as an enormously profitable market, but experts remain increasingly puzzled over why governmental authorities have hesitated to legislate an extremely viable source of income.

For example, there is recently published data from a Sevenjackpots taxation research article^[1] that raises some serious concerns about several offshore casinos that do not charge any tax on the winning numbers of their online players, thus putting the onus of reporting these taxes manually upon the winning players themselves.^[2] This is of concern since reporting on winnings depends upon the personal ethics of the players – a dubious reliance at best and one that does not guarantee a steady tax rate.

Gambling Tax In India: The Current Scenario

Currently, betting or gambling is somewhat illegal in most of India and mostly unregulated. Drawing up clear regulations around gambling, whether digital or non-digital, could potentially lead to the curbing of black money, money laundering and corruption in sports. A flat 30% tax on any gambling winnings could potentially translate into lakhs of crore for the government to put to good use.

This theory is backed by good data. For instance, a report published by KPMG^[3] has shown that the betting market in the country has been growing rapidly at a rate of over 7% in the span of 6 years from 2012 to 2018; from 88 billion US dollars to 130 billion US Dollars. Therefore, the regulation of this market should bring in a good amount of revenue to the government. The amount collected with the licensing money would be a sizable contribution to the public budget and further, the operators would also be obliged to pay Corporate Income Tax (CIT) to the Indian government.

It is valuable to note that any income gained through the channels of betting or gambling does not fall under the deduction category of Section 80C of the Income Tax Law, which means that the whole amount accrued is to be fully taxed by the government without making any such deductions from investment, house rent, and medical insurance and so on.

Casinos-India estimates that if the authorities levy a 30% Gambling tax in India on online casino winnings and modify the local operations of online casinos, India could stand to gain around 393 million US dollars within a year. By 2024, sales could even go over 1 billion US dollars. That is how much India is losing out on by not regulating online gambling.

Legalising Online Gambling: The Complications

Even today, there is a major confusion between the terms “game of chance” and “game of skills”. The Indian government has notified that betting in “game of chance” is illegal whereas betting in “game of skills” is legal. It is difficult to distinguish between the two. For example, the Supreme Court has declared rummy as a “game of skill” since players are required to have basic memorization skills. However, these apps and websites remain at the mercy of price systems and state governments that can block a certain app/website by declaring “legislative ambiguity”.

Some state governments such as Telangana & Andhra Pradesh have banned online gambling apps. This occurred when several individuals committed suicide due to heavy debts caused by online gambling. Tamil Nadu recently joined these states in banning such apps; specifically targeting online gambling sites and those entities which facilitated the transactions.

The Tamil Nadu authorities stated, “...in order to avoid such cases of suicide and protect innocent people from the evils of online gambling, the government has submitted a proposal to promulgate an ordinance by amending Tamil Nadu Gaming Act 1930, Chennai Police Act 1988 and Tamil Nadu District Police Act 1859”.

Overseeing the usage of gambling apps is further complicated by differing policy stances of private technological countries operating on an international level. For example, in its policy, Google has excluded India from the list of countries where gambling is allowed, which is also why gambling apps cannot be found in the Google PlayStore. For example, Paytm First Games was recently blocked as they violated the terms of services of Google’s PlayStore. Apple’s AppStore on the other hand does allow the

installation of gambling apps on its platform.

Despite such complications and efforts by various state governments to ban it completely, online gambling has grown at a steady rate in India. In fact, this growth steepened after the lockdown following the COVID-19 pandemic. Experts agree on the tremendous potential for profit this sector has in a market like India.

It is also a double-edged sword i.e., while it is a potential boon for the economy, it has also been a bane for the youth of the country. Arguably, the greatest issue is the lack of clarity regarding its presence in the country since it is a grey area i.e., while it isn't completely illegal to gamble online, it isn't exactly legal either.

Legalisation And Benefits

The primary argument by state governments who support the regulation of gambling is the possible increase in tax sales. The increase in sales tax could be a serious boost to the Indian economic system and the fiscal resources acquired could be re-invested and redirected towards more viable social causes.

A regulated gambling market would also open new employment possibilities. India is the world's second most populated country, and regulation of gambling could reduce unemployment rates; for example, allowing businesses to run online casinos locally could also create tremendous employment opportunity. It is estimated that around 100,000 jobs can be created if the government regulates gambling throughout the country. States like Goa and Sikkim have already spoken in favour of this move and it would not be challenging to implement related legislation.

Gambling regulations could also be beneficial to other industries. Tourism is certainly one of them because investors could get the opportunity to build luxurious casinos inside hotels. It would entice many visitors from all around the globe to experience stunning infrastructure while enjoying brand new casinos. Despite the bad reputation gambling has in society, it admittedly does carry certain benefits that could help India get through currently rough economic times.

Conclusion

As demonstrated above, a massive debate surrounds the issue of whether or not India must legalize gambling or not. The reality is that laws cannot always keep pace with modern developments. The Public Gambling Act of 1867 no longer consists of any amendments concerning contemporary ways of gambling, such as online casinos.

No matter the case, gambling is here to stay. And while it's here, the government might as well take advantage of it through legislative regulation. After all, desperate times do call for desperate measures. Under-the-table operations taking place in the country are bound to be of interest to authorities and thus, any tax levied to keep a check on the same cannot rightfully be considered unethical or wrong. The overall betterment of the country should be of primary concern and the focus should not shift from the same.

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- [1]MadjovS, S., 2021. *Income tax on gambling winnings - SevenJackpots - India's Best Online Casino Guide*.
 - [2] Gambling Laws and Regulations, ICLG
 - [3]Gambling Tax in India
 - [4]India, KPMG, 2021. *The evolving landscape of sports gaming in India*.

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