

## Laffer Curve of GST on Gaming : Experts Decode Nuances of Council's decision

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Despite the gaming sector's vehemence against a taxation model, the GST Council after several rounds of discussions arrived at a GST bracket of 28% in its [50th meeting](#) held last month and as evidenced yesterday, Govt. intends to stick to its guns on this issue. While the [51st meeting yesterday](#) witnessed dissenting voices from States, Council has recommended amendments to the CGST Act 2017 and IGST Act 2017, including amendment in Schedule III of the CGST Act, 2017 to provide clarity on taxation on supplies in Casinos, Horse Racing and Online Gaming, irrespective of whether the activities are a game of skill or chance. While industry and other stakeholders react to the GST Council's decision by bricking up their windows, it is set to have a ripple effect for the times to come.

Taxsutra brings to you the implications of this tax policy from the lens of eminent Tax Experts.



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*Levy of GST in casinos, horse racing and online gaming is evolving with every passing day; whereby certain amendments in the CGST Act 2017 and IGST Act 2017 are recommended. Amendments to the legal framework are carried out under the garb of "providing clarifications".*

*This Council also approved to insert a new provision in IGST Act, 2017 to provide for liability to pay GST on the supply of online money gaming by foreign companies to a person in India. All such foreign online gaming companies would need to be registered in India through a simplified registration scheme for payment of taxes.*

*The Constitution of India provides the legal framework for the distribution of powers between the central (federal) government and the state governments. According to the Seventh Schedule of the Indian Constitution, "betting and gambling" are included in the State List, which means that the regulation and control of gambling activities fall under the exclusive jurisdiction of state governments.*

*The gambling laws in India are complex and vary from state to state, but most states prohibit or heavily restrict foreign gambling companies from offering their services within the country. Would this new taxation mean that going forward, certain Indian states may permit foreign gambling companies?*

*In addition, the Council proposed a new value system for online gambling and casinos. The deposit with the supplier is intended to be taxed only once, rather than the bets put each time. Now comes the topic of player exit from the game, bonuses, incentives, referrals, forfeitures, and so on.*

*It is expected that GST Council has also recommended the issuance of certain new notifications/ amendments in notifications related to this issue. In all this background, it is believed that Tax department has vehemently filed SLP against the case of Karnataka High Court ruling in the case*

*of gamescraft. Now when the law itself is in evolution stage, GST council shall take policy level decision to burry the old litigation on “as is where is basis”.*

*Hope the Policy makers will come out with a workable solution for the entire industry to flourish in the tax ecosystem, rather than being a prey of inefficient taxation system.*