

Impact of new GST law on skill-based online games

June 2024



Contents

01	Executive Summary	04
02	Introduction	10
03	Overview of the Indian online skill-based money gaming industry	12
04	Indian position: impact of the current GST policy on the skill-based online money gaming industry in India	20
05	Industry analysis of impact of GST on online skill-based money gaming industry: USISPF survey	28
06	Policy recommendations	34





Executive

Rise of online skill gaming in India

Gaming sector may primarily be categorized into two broad categories basis the involvement of element of skill and chance - **skill-based games** (games where the outcome is predominantly dependent upon presence of player's skills, knowledge, training, etc. in playing the game with less/minimal dependence on chance factor) and **chance-based games** (games where the outcome is primarily dependent upon chance and wherein player's skills, knowledge, etc. have limited influence over the same).

The **online skill-based gaming industry** in India may be categorised into **real money games (RMG)** (a game where a user makes a deposit in cash or kind with the aim of earning winnings on the deposit) and **non-real money games (non-RMG)**. Skill based games are played in one of the following formats, namely - casual games, card games, fantasy sports, etc.

Taxation framework of online skill gaming industry

Prior to 1 October 2023, online skill gaming operators were subject to GST @**18% of the Gross Gaming Revenue/Platform fees** (i.e., the amount retained by the online gaming platform).

However, the amendment in the GST law from 1 October 2023, following a recommendation in the 51st GST Council Meeting, has made online money games subject to the highest **GST rate of 28% on the total money deposited with the platform**. This significant change resulted in a higher tax burden for companies operating in this sector, many of which had to absorb the increase of tax to sustain their operations.

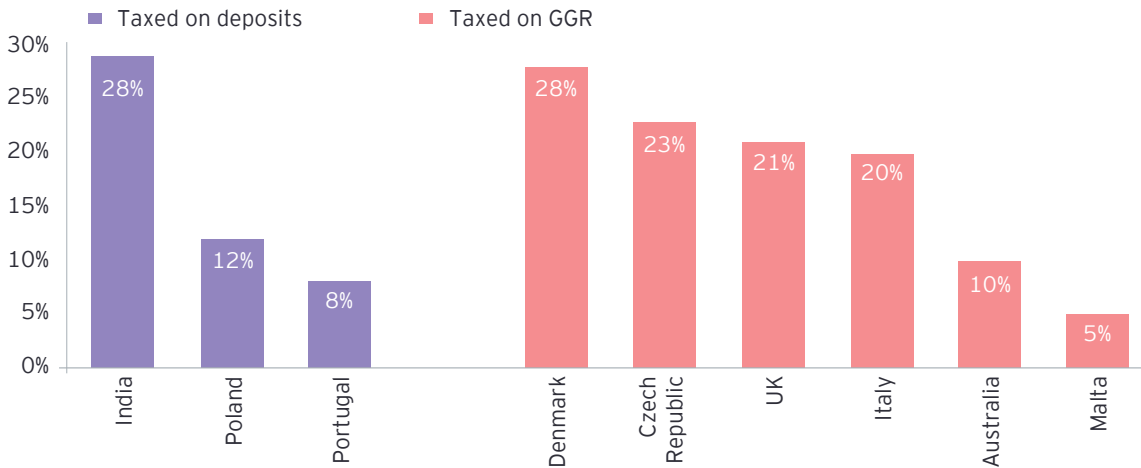
To understand the impact of GST @28% on total deposits on online skill-based gaming platforms, the report provides the findings of the survey conducted by US India Strategic Partnership Forum (USISPF) of 12 companies in this sector, and the global best practices to reach the recommendation.



Summary

Global benchmarks

Landscape of the global online RMG taxation

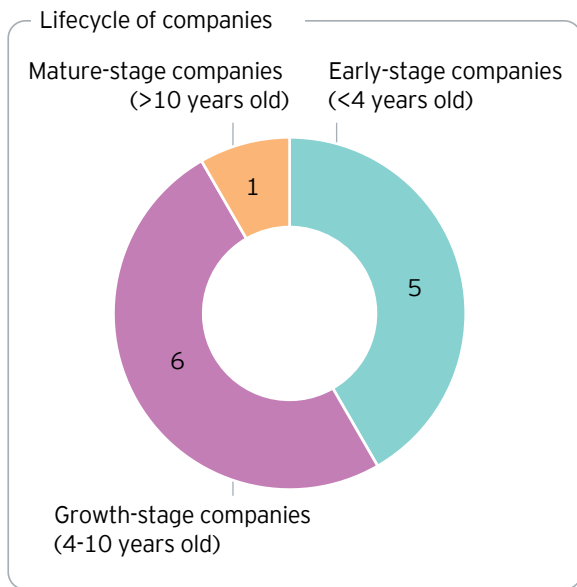


Source: New frontiers - Navigating the evolving landscape for online gaming in India, EY report
Report titled GST on online gaming, July 2023
Report titled Online Gaming in India: Taxation Quandary

India has the most onerous Indirect Taxation regime for online skill gaming: Globally, most countries levy tax on Gross Gaming Revenue (GGR i.e., the amount retained by the gaming platform). In limited cases where countries levy indirect taxes on total deposits, the tax rate is nominal to maintain parity with tax levied under GGR model and not burden the sector with unduly heavy tax liability.

Survey findings

Industry impact



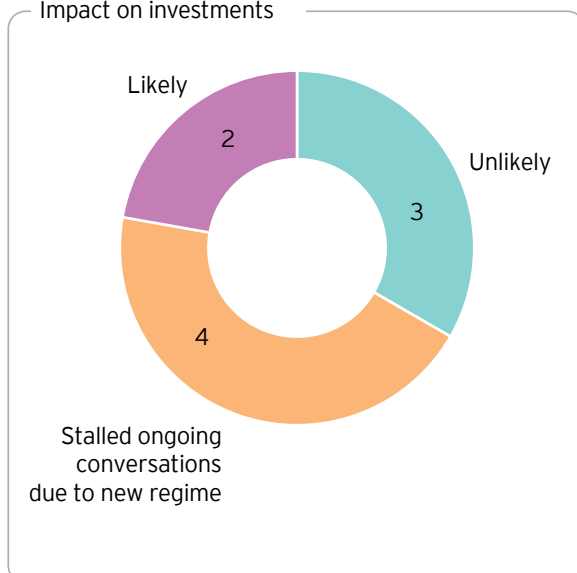
Stage of operation: To analyze the impact of high taxation on the pay-to-play online skill gaming sector, a survey was conducted by the USISPF in April-May 2024 wherein responses from **12 companies** belonging to different stages of operations identified by them were sourced and provided to us

1

Funding winter:

Out of the 12 companies, eight companies had raised funding until December 2022. This funding ranged from US\$0.5 million to as high as more than US\$400 million. Since January 2023, only two companies have been able to raise funding.

Impact on investments



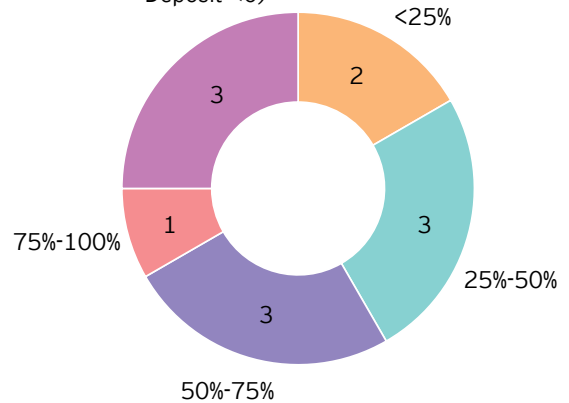
2

GST amendment's steep impact on margins:

Prior to the amendment (i.e., before 1 October 2023), GST accounted for around 15% of the revenue of online skill gaming companies. Out of the 12 companies surveyed by USISPF, seven companies have decided not to pass on the cost to the users. For as many as four companies, the GST share has jumped to 50% to 100% of revenue (net deposit). For three early-stage companies for whom net deposits are negative, the GST cost is over 100% of the revenue.

% of revenue paid into GST

>100% (For early stage companies with Net Deposit <0)

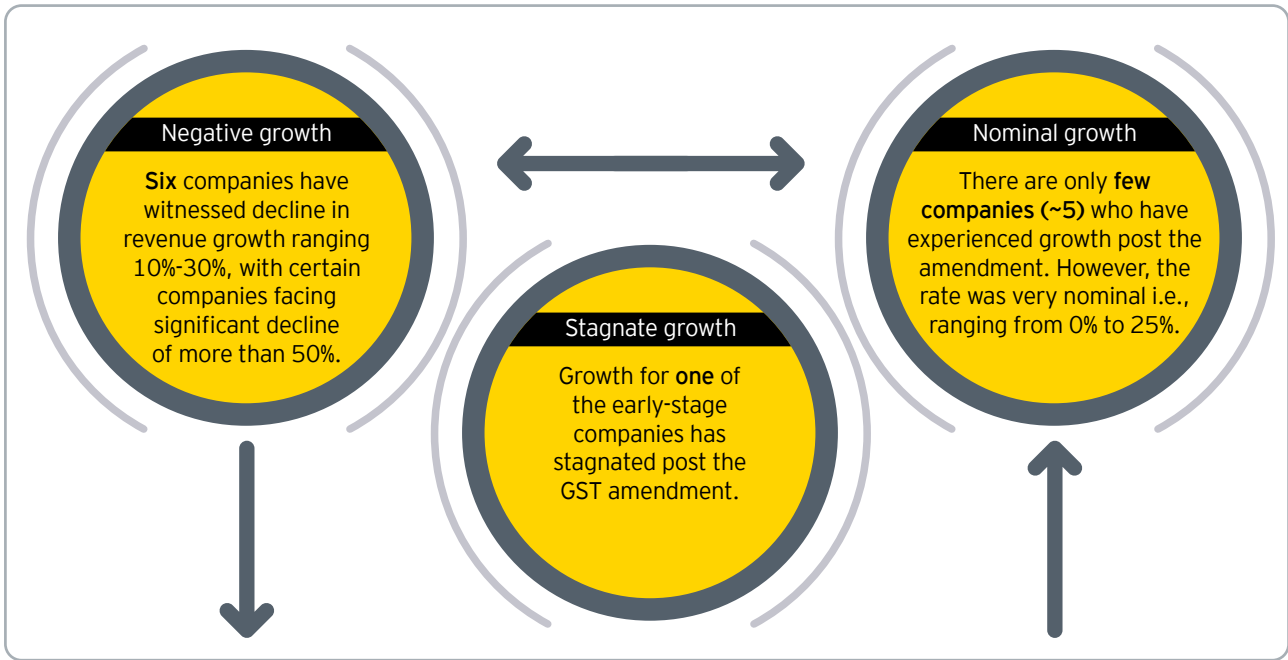


Source: USISPF

3

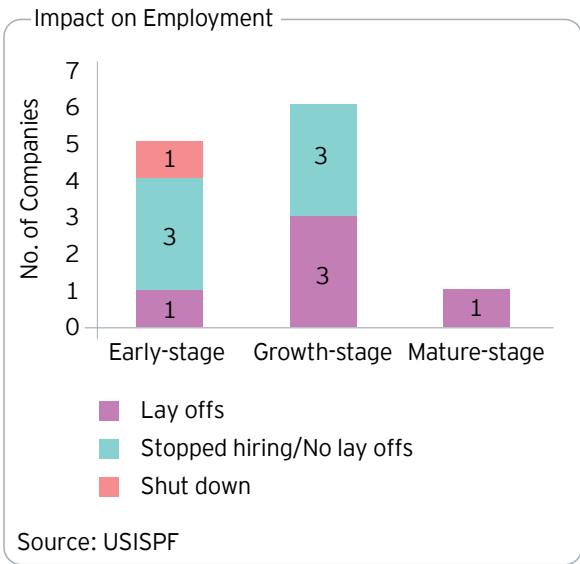
Stalled revenue growth:

Out of the 12 companies surveyed, only five companies were able to record revenue growth since the GST amendment whereas seven companies had either recorded degrowth or had to face stagnant revenues. In case of degrowth, the decline is as high as up to 50% for two companies. Such decline in revenue growth stands in contrast to an industry which was recording exponential growth rates.



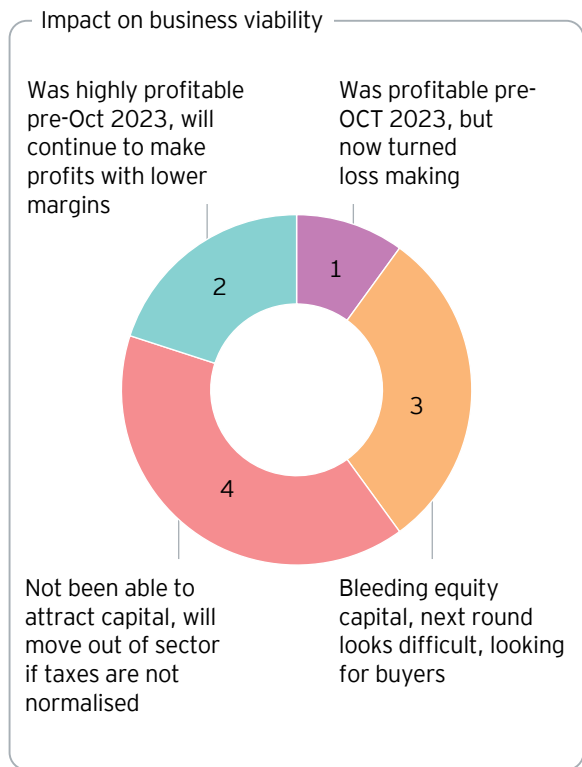
4 Job Erosion:

Decreased margins on account of increased GST (being absorbed by the companies) had a ripple down effect in the form of employee layoffs and/ or reduced hiring . Jobs have been impacted for most companies in terms of no hirings, layoffs and shutting the operations altogether.



5 Bleak future:

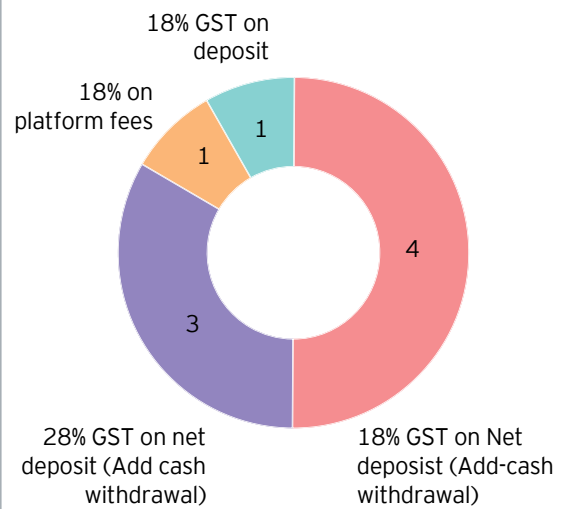
Owing to all the above reasons, only a minority of entities remain profitable and at lower margins as compared with prior to the 1 October 2023 scenario. Post 1 October 2023, most companies have turned into loss-making entities, experiencing financial outflow, and **have highlighted that they may need to move out of the sector or take the business to another country if taxes are not normalized.**





Most companies have recommended to amend the GST valuation mechanism to a 'net deposit' model (i.e., GGR/platform fee) with certain companies recommending to reduce the total withdrawals (either winnings or otherwise) from the total deposits for GST purposes.

Survey recommendations

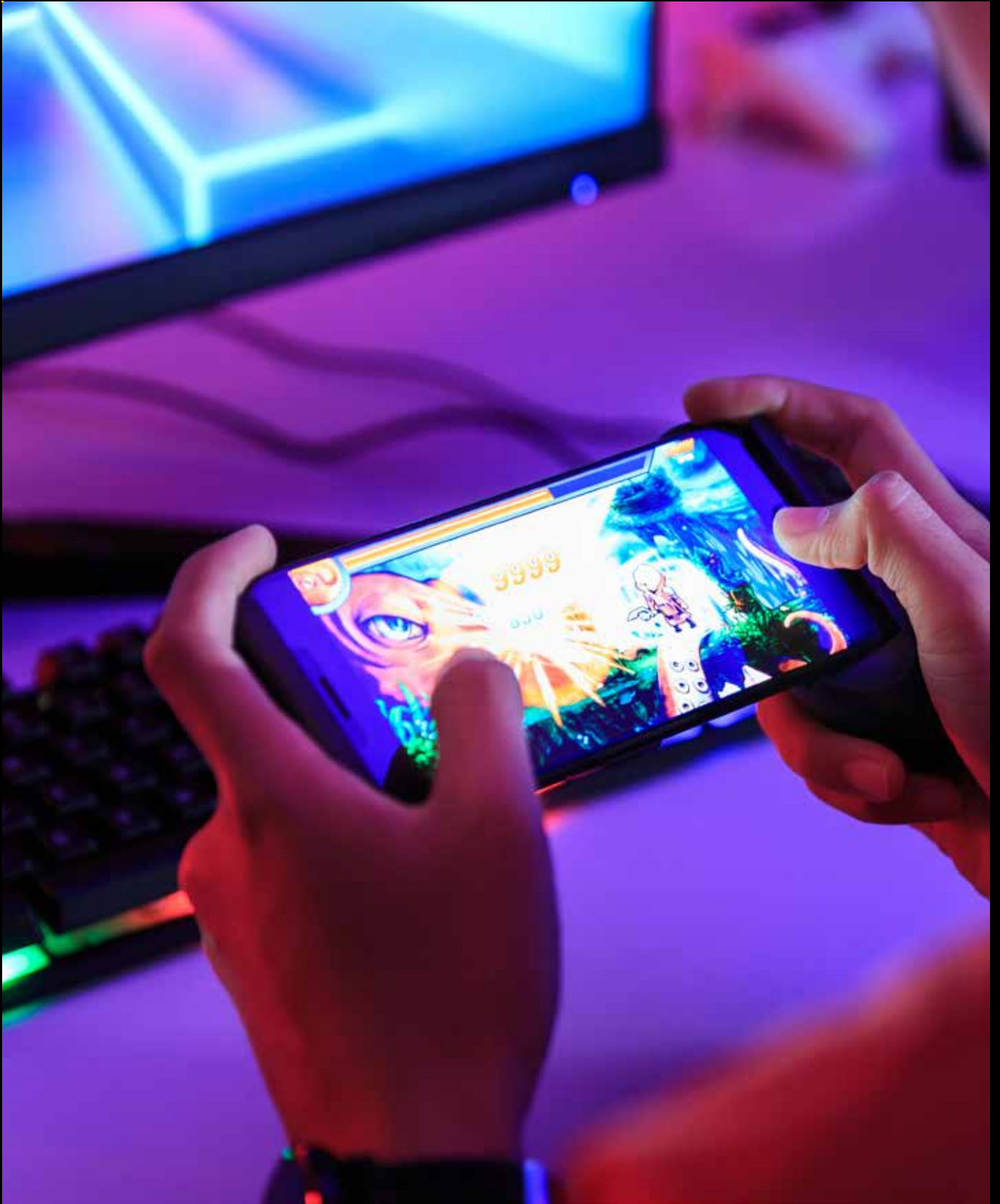


Policy recommendation

Levy GST on GGR/Platform Fees for online skill gaming platforms

Amend the valuation mechanism for online money games to levy GST from the current 'full-face value of total deposits' to GGR/platform fees, i.e., the amount retained by online gaming platforms for operating a game.

Introduction





Skill-based online money gaming industry

In today's tech-driven society, the skill-based online money gaming industry stands out as fast evolving and innovative. Given its wide-ranging influence on job creation, innovation in frontier tech industries, and content creation and consumption, the industry has become one of the most thrilling sectors across the globe.¹

The skill-based online gaming industry has become one of the fastest growing industries across the globe. While the full potential of this industry is yet to be realized, the industry has shown an exponential growth in the past few decades to become a multi-billion-dollar industry in India with significant growth potential.² This explosive growth can be attributed to factors such as digitization, the advent of smartphones, increased purchasing power and the digital payment ecosystem, increased internet penetration, surge in mobile gaming, and a growing consumer base seeking diverse and immersive gaming experiences. The industry has transformed from a niche hobby into a mainstream form of entertainment and an avenue for forming social connections, capturing the attention of a global audience.

In the year 2020, when the entire world was forced to stay indoors due to the lockdowns imposed as a result of the pandemic, there was a significant surge in the skill-based online gaming industry, leading to a notable increase in the number of gamers. With a large population able to afford and access both smartphones and the internet, combined with localization of apps and services, India presents itself as a distinct market with a huge potential for growth. The online gaming industry in India has witnessed an unprecedented rise, attracting huge capital investments from domestic as well as international investors.

The industry also generates substantial revenue and tax contributions while creating diverse employment opportunities. The total revenue of the online gaming industry stood at INR181 billion in 2022, which grew year on year to INR220 billion in 2023.³ It is notable that in 2023, the revenue of the money gaming sector accounted for INR182 billion while that of the other sub-sectors accounted for INR38 billion.⁴ The industry is further expected to grow at a Compound Annual Growth Rate (CAGR) of 21% to reach INR388 billion by 2026.⁵

Further, to ensure continuous growth of the industry and promote responsible gaming, the central government amended the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules). In April 2023, the central government announced the amended IT Rules that empower the Ministry of Electronics and Information Technology (MeitY) to designate Self-Regulating Bodies (SRB) for the purposes of verifying a skill-based online money game as a "permissible online real money game".

Despite the industry's remarkable growth, certain challenges and opportunities seem to converge within India's skill-based online money gaming landscape. Amendments to the Goods and Services Tax (GST) law pursuant to the 51st GST Council meeting levied GST @28% of the 'total deposits' on online money gaming platforms replacing the existing levy of 18% on the Gross Gaming Revenue (GGR) paid.⁶ This has led to an uncertain taxation regime, and a higher GST impact, adding to the threat of retrospective taxation.

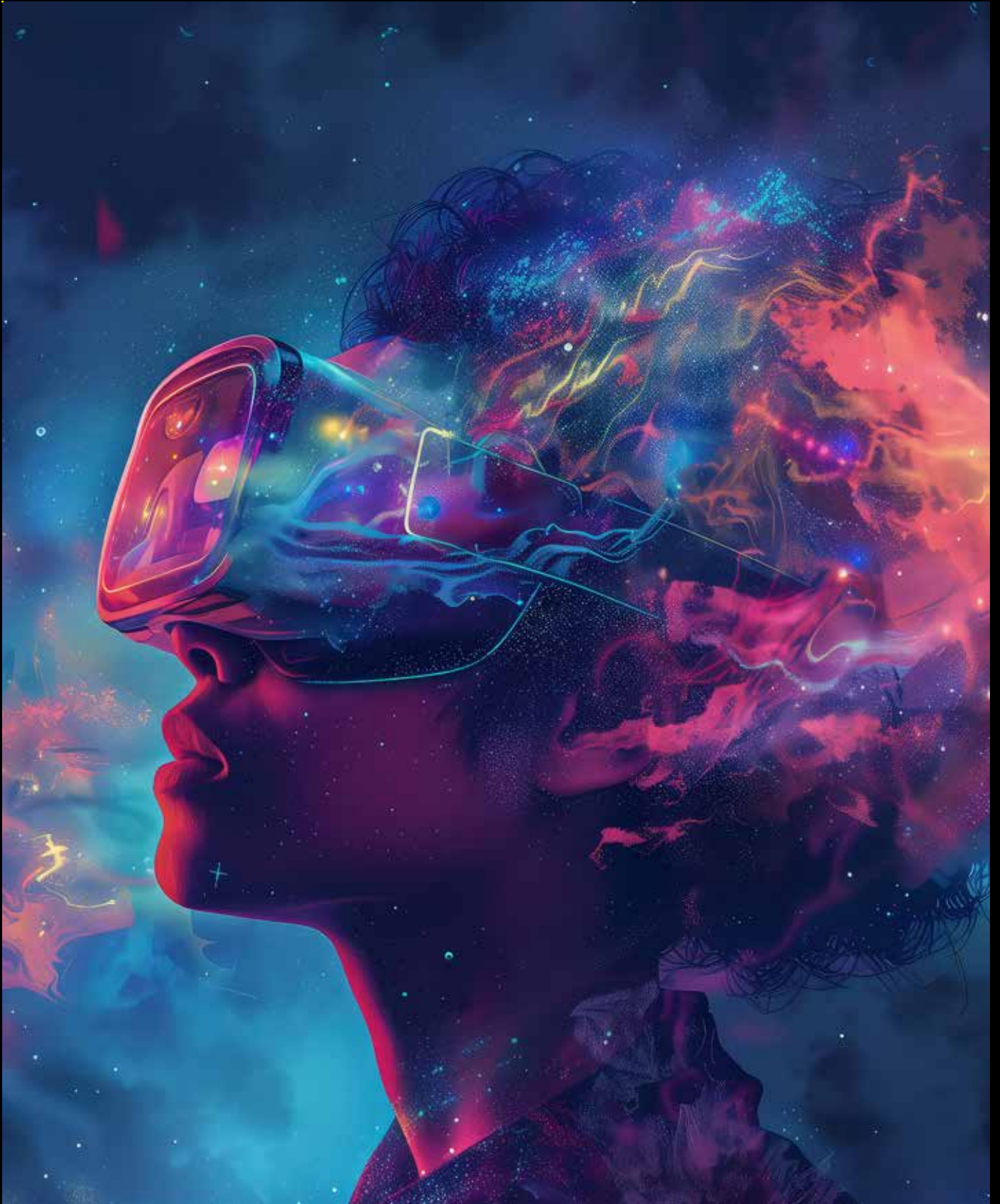
Globally, several countries have adopted the GGR instead of the total deposits as a valuation mechanism to levy tax. However, different jurisdictions have used varying approaches in terms of legislative framework, taxing regulations, due diligence requirements, user safety, and content regulation for the online gaming industry.

In an era where digital interactions transcend borders, understanding how India aligns with or diverges from global trends is crucial. This report aims to provide a panoramic view of the opportunities being lost and challenges that lie ahead.

In undertaking this analysis, USISPF has conducted a survey with 12 gaming companies on the business impact on the Indian skill-based online money gaming industry based on the new GST amendments. Through the said survey, the association has unpacked the multi-layered impact of the GST amendment - from FDI inflow to hiring, from revenue growth to expansion, and from absorbing GST cost increase to realignment of business models.

To begin with, the next chapters in the report navigate through the Indian landscape, global market trends, impact of GST law, and emerging patterns that can provide valuable insights into the industry's trajectory.

Overview of the Indian online real money gaming industry

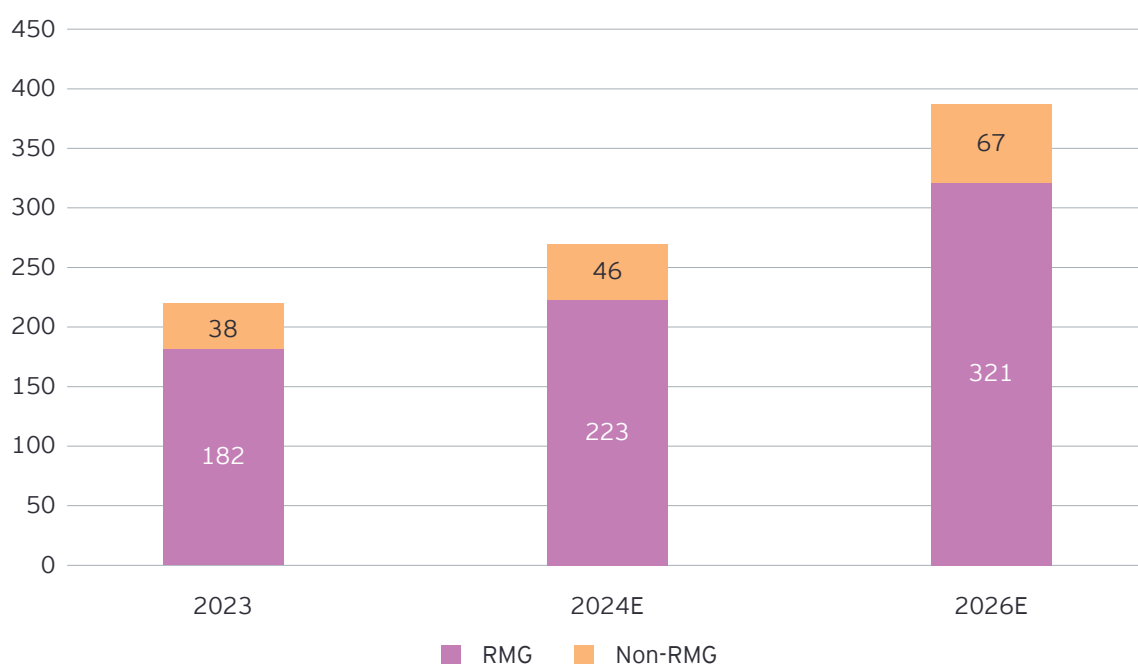




The skill-based online gaming industry has emerged as a major segment in India's media and entertainment landscape. The industry has the potential to converge innovation, interactive entertainment, and economic growth at the same time. The skill-based online gaming industry recorded exceptional growth during the pandemic, and it continues to grow on the back of factors such as digital transactions specially through the Unified Payment Interface (UPI), widespread smartphone penetration, enhanced internet connectivity, youth population, and the development of local gaming content tailored to individual preferences.

The online gaming industry as a whole is one of the fastest growing segments in India with a revenue growth of 22% from INR181 billion in 2022 to INR220 billion in 2023. The industry is further expected to grow at a CAGR of 21% to reach INR388 billion by 2026.⁷ The industry undoubtedly has the potential to generate substantial revenue, increase tax contributions and create diverse employment opportunities in areas like game development, technology and marketing, in turn fostering innovation and entrepreneurship within the gaming sector. The following figure illustrates the current and projected market revenues of the online money gaming sector (also called Real Money Gaming or RMG) and non-money gaming sectors (also called non-RMG).

Figure 1: Indian online gaming segment revenue (INR billion) (gross of taxes)



Source: EY-FICCI report⁸

Online gaming's rise is also evident in the large number of gamers in India. The rise of the online gaming is also reflected in the large number of gamers in India. The number of online gamers in India grew to 455 million gamers in 2023 and, this number is expected to reach 491 million by 2024.⁹ The Indian gaming audience is predominantly young and finds interest in popular genres like fantasy sports, casual games and card games amongst others.

Furthermore, the growth of the skill-based online gaming industry has initiated a positive chain reaction towards digital inclusion (by reaching to remote areas) and technological advancements by empowering individuals to engage with and embrace the digital ecosystem.

Monetization models in online gaming sector

The online gaming platforms have multiple revenue generating alternatives such as in-app purchases, in-game advertisements and subscription-based/ pay-to-play business models. Major revenue generating models are:

- ▶ **In-game purchases (or in-app purchases)** - In this model, the gaming operators make it possible for users to download and play their game without charge, but they charge for additional game content or features. One-time payments, such as new character skins or level packs, or recurring subscriptions that unlock premium features or allow access to exclusive material are examples of the kind of purchases that fall under this category.¹⁰
- ▶ **In-game advertisements** - It is the advertisement displayed by brands to game players on the gaming platform. It may be in the form of banner ads, interstitial ads (i.e., full screen advertisements displayed to players during game interruptions), aston bands, video ads, rewarded video ads (where the player is offered the choice to watch an advertisement in exchange for an in-game reward), etc.¹¹
- ▶ **Pay-to-play** - Players pay to play the online gaming platform to access the game and a part of the said amount (GGR/ platform fee) accrues to the platform.

Despite its rapid ascent in terms of game consumption and one of the largest user bases, India's online gaming segment constitutes a mere 1.1% of the global online gaming revenue.¹² This is largely due to the fact that monetization models such as in-app purchases and advertising revenue yield disproportionately lower returns in India than global averages owing to India's distinct demographics and paying preferences. For instance, while in-app purchase revenue per download in India is a mere US\$0.02 compared to US\$3.95 in the US and a global average of \$0.97, the Ads revenue eCPM (effective cost per mille) in the US can reach up to US\$13.32, whereas in India, it stands at just US\$0.80.¹³

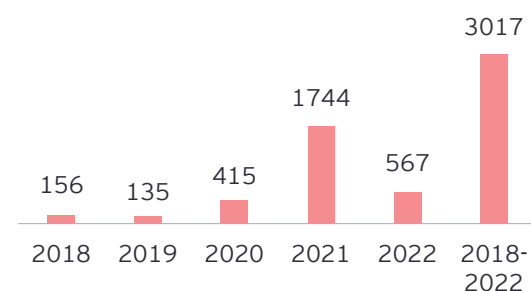
This massive difference between monetization models in India vis-à-vis other major gaming economies likely reflects the lower market share of the Indian online gaming (i.e., 1.1%) in the global online gaming market. Further, it highlights the reason why the skill-based online gaming industry in India took off only when the economy witnessed widespread adoption of digital payments.



Investment

The growth of the online money gaming industry makes it attractive for investors in both the domestic and international markets. The influx of investment in the industry was US\$156 million in 2018 and reached US\$567 million in 2022, cumulating a total investment of US\$3,017 million.¹⁴

Figure 2: Investments in the gaming industry of India (US\$ million)



Source: Lumikai - State of India Gaming Report FY23

Starting from the pandemic years till date, the online gaming industry has seen over 1,400 start-ups.¹⁵ Since 2021, India has seen the rise of three gaming unicorns, more than six strategic exits, and a successful Initial Public Offering (IPO).¹⁶ Such monumental growth of a new sector aligns with the government's Start-up India and Atmanirbhar Bharat initiatives, aimed at fostering a vibrant start-up culture and cultivating a robust, inclusive ecosystem for innovation, self-reliance, and entrepreneurship in India.

Renowned global players are targeting India for investments. For instance, one of the leading South Korean gaming companies, Krafton, launched the Krafton India gaming incubator fund and has made multiple investments, with an outlay of US\$50,000 to US\$150,000 per investment.¹⁷

Besides the incoming investment, Indian companies are also exploring global investment opportunities. In 2022, a leading online gaming company in India announced its plan of expansion with US\$25 million investment in Brazil.¹⁸ Another domestic company announced an investment of US\$0.5 million (~INR4.15 crore) in an Israel-based game developer along with signing an exclusive publishing deal.¹⁹



Employment

One of the highlights of the online money gaming industry in India has been the job creation that has kept pace with the industry's growth. It is estimated that the sector currently employs around 100,000 individuals either directly or indirectly with the prospect of expanding to 250,000 job opportunities by 2025.²⁰ India continues to supply the workforce for the global gaming industry and a robust domestic industry adds to the competitive advantage in employment. Besides, the industry has an intricate connection with the digital economy and frontier technology ecosystems. Thus, the growth of the online money gaming industry leads to job creation across profiles like graphic design, animation, game development, cybersecurity, FinTech, data sciences, and software engineering to integrate emerging technologies such as Artificial Intelligence (AI), Machine Learning (ML), Cloud Computing, amongst others for better user experience.

Growth drivers of skill-based online money gaming industry in India

The country is witnessing increasing financial and digital inclusion boosting the growth of the gaming industry in India. The growth mainly is driven by the following factors:



1 Increasing smartphone usage

India, with the highest population in the world at 1.4 billion²¹ also boasts of one of the largest markets for smartphones. The smartphone penetration in the country stood at 40% in 2023 with 574 million users, up from 538 million in 2022, accounting for a penetration of 40% of India's population.²²

This increased digital penetration catalysed by the affordability of mobile data and accessibility of smartphones is further supporting the expansion of the skill-based online gaming industry in India. Another pertinent development is the burgeoning production of smartphones in India that has led to the availability of advanced specifications of smartphones at an affordable rate. This is helping to bridge the digital gap in the country by promoting digital inclusion. Combined with the government's Digital India program, this is democratizing the way people use and access technology and entertainment.²³



2 Rise in Digital Users

The soaring numbers of internet users in India is another factor contributing towards the online gaming industry's growth. At the end of June 2023, India had 895.83 million internet subscriptions, which increased to 918.19 million by the end of September 2023, registering a quarterly growth rate of 2.5%.²⁴ The penetration of online money gaming industry within the active internet user base stood at 46%, with urban India accounting for 40% and rural India accounting for 35% of the total share.²⁵

This penetration may be further driven by an increasing number of online gamers in the country which has already grown to 455 million in 2023 and is further expected to reach 491 million gamers by 2024.²⁶ The rise in online population translates into increasing demand for the products and services offered by the skill-based online gaming companies enabling economies of scale and availability of a variety of interactive entertainment.



3 Rise of 5G

As 5G services are rolled out throughout the country, it may unlock a new era of cloud gaming, super-fast downloads, high-quality live streams, and seamless multiplayer online gaming:

- ▶ With 5G, gamers can use fast and reliable networks empowering them to stream games on any gadget leading to widened digital access and a superior gaming experience.²⁷
- ▶ The high bandwidth offered by 5G may permit more vivid multiplayer gaming experiences.²⁸
- ▶ 5G latency is significantly lower than that of 4G which may ensure smoother gameplay with a large number of concurrent users on the network.²⁹
- ▶ 5G may also enable more realistic Extended Reality (XR) and empower large-scale, platform-agnostic events and social experiences with seamless interactions between users.³⁰
- ▶ 5G may also facilitate improvements in adaptive gaming experiences with the boost from AI. It may enable players to have more control over the game insight by basing the gameplay on their actions and decisions.

4**Pandemic-induced change in consumption patterns**

It is estimated that time spent on gaming apps increased by 21% during the initial days of the national lockdown.³¹ This trend is being carried on as is visible from the latest EY-LoCo Gamer survey data³²-

- ▶ 40% of the participating gamers played almost daily in 2023.
- ▶ 43% of gamers indicated that their playing time increased in 2023 over 2022.

Leading gaming platforms in the country witnessed increased user activity as compared to the pre-pandemic levels. For instance, India has ranked first in mobile game downloads during the first three quarters of CY2020 with 7.3 billion game downloads, nearly 17% of worldwide downloads.³³ The findings of the EY-LoCo survey indicate that the playing time is also expected to increase in the aftermath of the pandemic for a significant section of gamers.

5**Young demographic**

In absolute numbers, India may have a working-age population of more than a billion by 2030. With the largest youth population in the world, the median age in the country is just 28.4 years.³⁴ A young demographic means an increasing inclination towards various types of gaming products and services available in the market. As per a survey of gamers conducted in 2023, 94% of the gamers were below the age of 34 indicating the high preference of gaming as a mode of entertainment for the youth.³⁵

Additionally, a young demographic also presents new frontiers for online gaming as a career option, further bolstering the growth prospects of the industry as more youngsters find jobs and entrepreneurship opportunities in the industry.

6**Gamification of educational learning**

Apart from entertainment, online games have also been consistently leveraged for educational and skilling purposes.³⁶ For instance, a qualitative study held in 2021 concluded that online games have a positive impact on college students' psychological and intellectual growth. As India's Ed-tech market expands to US \$10billion by 2025³⁸, the uptake of online gaming for educational learning may just increase from here on.

7**Collaboration with evolved gaming economies**

To further the goals of resilient supply chains and global digital inclusion, both India and the US have entered an alliance for strategic innovation. Within the alliance, the countries have introduced an institutional mechanism for critical and emerging technologies, set up a task force dedicated to 5G/6G and announced cooperation in AI and quantum technologies among other initiatives.³⁹ This bilateral strategic partnership may facilitate movement and development of newer technology which may further cement the growth of the online gaming sector in the country.

8**Startup ecosystem**

With the third largest startup ecosystem⁴⁰ in the world, India is also witnessing an increasing growth of gaming startups in the country.⁴¹ Over 1,400 gaming startups in the country⁴² are well poised to drive further growth of the online gaming sector in India. These startups work closely with their counterparts in the sectors of frontier technologies, FinTech and digital payments, edtech, cloud solutions, cyber security, among others. In the process, they may fuel innovation and job creation across these sectors.

9**Usage of emerging technology**

Emerging technologies such as AI/ ML, Cloud Computing and Analytics have already been used in cutting-edge business practices to build innovative games in India. As more startups increase their uptake of such technology, it may only result in better user experience and innovation. For instance:⁴³

- ▶ Integration of AR/VR technology which may immerse players in live and multiplayer experiences fostering a stronger sense of connection among players.
- ▶ Cloud gaming may reduce the need for high-end gaming hardware and allow users to seamlessly switch between different devices without losing progress.

Hence, it can be ascertained that with the growth and adoption of such emerging technology in the country,⁴⁴ the skill-based online money gaming industry is likely to get a further boost.



10 Rising digital payments

In the online space, e-commerce, **gaming**, utilities, government and financial services amounted to about 80% of the total transaction volume and about 74% of the total transaction value.⁴⁵

Further, as the friction around digital payments reduces and consumers increasingly view gaming as a viable digital phone offering, the potential for generating revenue from in-app purchases may rise. This growth may be driven by a combination of strategic purchases and impulse buys, leveraging the seamless payment experience and the growing acceptance of gaming on mobile platforms.⁴⁶

All of the above factors indicate that faster internet speed, convenience of accessibility and affordability, and innovative methods of gaming may result in a manifold increase in the popularity of skill-based online gaming by the end of this decade.

Types of skill-based online gaming

The online skill-based gaming industry may be categorized into two broad categories - **real money games (RMG)** and **non-real money games (non-RMG)**.

The MeITY has also recognized a permissible online real money game ("PORMG") as an online real money game verified by an online gaming self-regulatory body. 'Online real money game' means an online game where a user makes a deposit in cash or kind with the expectation of earning winnings on that deposit⁴⁷.

In non-real money games, the app or the gaming platform itself is free or where any additional activity such as retaining a player's life, extending the game progress, boosting performance of the player, etc. could be chargeable *and there is no expectation of a monetary return on any cash payment made*. Such games are often complex requiring high proficiency levels to master. Non-RMG games majorly earn through in-app advertising on and in-app purchases such as ad-free games or buying add-ons.⁴⁸ The primary reason for their limited market share is because monetization models such as in-app purchases and advertising revenue yield lower returns in India than global averages as explained in the previous sections.

Skill based online games may be played in several formats which include:

Fantasy game

Meaning⁴⁹

Users create virtual teams composed of real players' proxies of any given sport, e.g., cricket, soccer, etc. based on the statistical performance of the players. The win outcome is decided on the basis of the actual performance of the players in the game. Some fantasy games can involve a very large number of players.

As per the data available, the revenue of the fantasy sports market in India reached US\$0.8 billion in FY22 and is expected to reach US\$3.05 billion by FY27.⁵⁰ An increasing trend of fantasy sports users is also witnessed in the country which is set to increase from 180 million in FY23 to an expected 500 million in FY2027.⁵¹

Card game

Meaning

In India, several types of card games are played online, usually with just 2-6 players each, that include:

- ▶ Rummy: A 13-card game based on the matching of cards of the same rank or sequence and same unit on a virtual table.⁵²
- ▶ Bridge: Bridge is a four-player game, two against two as partners where a standard deck of 52 cards is dealt one at a time and the object of play is to win tricks.⁵³
- ▶ Others include Indian Poker, etc.

The total revenue of card games market in India is estimated to grow at a CAGR of 18.85% between FY22 to FY27 resulting in a projected market volume of US\$118.1 million by FY27.⁵⁴

Casual games

Meaning

Other skill-based games being played online⁵⁵

The revenue in the casual games market is expected to grow annually at 13.68% during FY22-27 to reach a market volume of US\$124.8 million by FY27.⁵⁶

The above games have time and again been held as games of skill by the Hon'ble Supreme Court and various other High Courts. Some judicial precedents are provided below:

- ▶ The Hon'ble Supreme Court has observed that a *"game of skill—although the element of chance necessarily cannot be entirely eliminated—is one in which success depends principally upon the superior knowledge, training, attention, experience and adroitness of the player. Golf, chess and even rummy are considered to be games of skill. The courts have reasoned that there are few games, if any, which consist purely of chance or skill, and as such a game of chance is one in which the element of chance predominates over the element of skill, and a game of skill is one in which the element of skill predominates over the element of chance. It is the dominant element— "skill" or "chance"—which determines the character of the game".*⁵⁷
- ▶ The Madras High Court ruled that games such as Carrom and Chess require skill and hence in view of Section 12, the Act (i.e. The Public Gaming Act, 1867 which states "Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played") itself has no application.⁵⁸
- ▶ The Hon'ble Supreme Court has held that rummy requires a certain amount of skill because fall of the cards has to be memorized and the building up of rummy requires considerable skill in holding and discarding cards. Thus, the court held that it is mainly and preponderantly a game of skill⁵⁹
- ▶ The Punjab and Haryana High Court held that the fantasy games cannot be said to be falling within the gambling activities as the same involves the substantial skills.⁶⁰ The Hon'ble Supreme Court of India dismissed SLPs against this order of the Punjab & Haryana High Court through its order dated 15 September 2021.⁶¹

GST perspective

Given the varied landscape of the industry, a Group of Ministers (GoM) was constituted by the GST Council in 2021 to examine the taxability of the online gaming industry. In the 47th GST Council meeting (June 2022), the GoM submitted its report and recommended GST at 28% on full value of consideration, by whatever name it may be called, including Contest Entry Amount without providing any distinction between the Games of Skill and Chance. Finally, in the 51st GST Council (August 2023), decision on implementation of increased rate and method of computation along with the proposed changes in the GST law were finalized. The GST Council recommended, 'a GST of 28% on the amount deposited with the supplier' which came into effect from 1 October 2023 applicable on all the games in the online gaming industry.⁶²

Based on the decision of the GST Council and the relevant notifications thereof, it is essential to discuss its repercussions on the sector and the Indian economy. The multi-fold increase in taxation has resulted in closures of some emerging skill-based online money gaming startups in the country, impacted Foreign Direct Investment (FDI) inflow, led to employee layoffs, and lowered incentives for existing companies to innovate. Heavy taxation of a sunrise industry may not bode well for investor sentiments. This may lead to an increase in grey market activities specially from across the borders and fall in tax revenue for the exchequer in the long run. These are discussed in detail in the next chapter.





Indian position: impact of the current GST policy on the skill-based online money gaming industry in India





The issue of GST on the skill-based online money gaming industry has been a matter of constant debate. One of the major challenges in the levy of GST at the rate of 28% on “total deposit” is that the entire deposit may not be treated as a supply as it is not retained by the gaming platforms and only portion of the amount retained by the gaming platform (i.e., GGR/ platform fee) should be leviable to GST.

Another issue that is a challenge before the industry is the imposition of amended GST law retrospectively. For context, though the amendment does not provide for a retrospective applicability of the provisions, however the central government in various statements as available in online media has maintained that the amendment made with respect to GST on online gaming was “merely clarificatory”. This resulted in the issuance of a series of retrospective demand notices by the GST authorities against several skill-based online money gaming companies. The demand notices were challenged in various high courts and some of these litigations is before the Hon’ble Supreme Court.

Recently, the Hon’ble Supreme Court group these petitions and decided to hear them together. However, the decision on these petitions is pending.⁶³ The levy of 28% of GST on deposit combined with retrospective notices has resulted in significant impact on the entire online skill gaming ecosystem of the economy. The section below evaluates the regulatory system surrounding the skill-based online gaming industry in India before discussing the impact on the industry due to recent changes in GST.

Regulatory framework for skill-based online money gaming sector in India

Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2023

On 23 December 2022, the Government of India (Allocation of Business) (Three Hundred and Seventieth Amendment) Rules, 2022, were notified which amended the rules to include matters relating to online gaming under MeitY.⁶⁴

Thereafter, MeitY published the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2023 in April 2023.⁶⁵ The rules for the first time introduced an enabling regulatory regime for online gaming intermediaries by defining “online game”, “online gaming intermediary” and “permissible online real money game” along with providing a framework for operation of such permissible online real money games by these online gaming intermediaries.⁶⁶

Prominent features of the IT Rules⁶⁷

- ▶ MeitY to designate online gaming SRBs that shall provide membership to any online gaming intermediary subject to the intermediary complying to the laws of the country.
- ▶ SRB’s are bestowed with the responsibility to ensure its members are providing “permissible online real money games”, i.e., games which are not in the nature of gambling, betting and wagering and are in compliance with the due-diligence requirements.
- ▶ It also restricts hosting or publishing of any information that encourages gambling.

Income tax⁶⁸

The Finance Act, 2023 introduced specific provisions into the Income Tax Act, 1961, such as Section-115BBJ and 194BA for taxability of income arising from online gaming. As per these provisions, the “net winnings” from online games shall be subject to tax by the online gaming intermediaries at a rate of 30%.

Goods and services tax (GST)

For the purpose of this report, the provisions pertaining to GST applicable on online gaming, along with its evolution within the indirect tax regime is discussed in the next section.

The GST conundrum

Initial law and treatment under GST

Online skill-based gaming was taxable as ‘other online content’ (Chapter Heading 998439) at 18% levied on Platform Fees or “GGR”.⁶⁹ Further, players’ contribution to the prize pool was treated as an actionable claim and thus, was not taxed.

Extensive deliberations began in 2021 when the GST Council constituted a GoM to examine whether any change in legal provisions is required for taxation and valuation of services rendered by online gaming operators, racecourses and casinos.⁷¹ In the 47th GST Council meeting (June 2022), the GoM submitted its report and recommended GST at 28% on full value of consideration, by whatever name it may be called, including Contest Entry Amount without any distinction between the games of skill or chance.⁷²



51st GST Council Meeting and further developments

In the 51st GST Council Meeting (August 2023), amendments were recommended in the GST laws including changes in Schedule-III to the Central Goods and Services (CGST) Act, 2017. The government revised the rate of taxation to 28% and made several amendments to the GST laws **w.e.f. 1 October 2023**:

- ▶ Definition of 'online money gaming' inserted in section 2 of the CGST Act, 2017 to mean online gaming in which players pay or deposit money or money's worth, including virtual digital assets, in the expectation of winning money or money's worth, including virtual digital assets, in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force.⁷³
- ▶ Exclusion of 'specified actionable claim' (Activities or transactions which shall be treated neither supply of goods nor supply of services) including online gaming from Schedule III to the CGST Act, 2017.⁷⁴
- ▶ Insertion of specific valuation mechanism in relation to online gaming including online money gaming to provide **'total amount paid or payable to or deposited with the supplier by way of money or money's worth, including virtual digital assets, by or on behalf of the player'** as value for the purpose of tax applicability.⁷⁵
- ▶ The amendments to the GST law disregarded the distinction between a game of skill and a game of chance as 28% GST on total deposits is now on all types of online games. This tax treatment is similar to the taxation of betting, gambling, casino, horse racing and lotteries.

Impact of the change in GST legislation

FY24 saw a significant change in taxation policies for skill-based online money gaming. The tax rate was raised from 18% on the Platform Fee or GGR to 28% on the total deposits made by players to the gaming platforms. Given that the skill-based online money gaming sector is relatively new and developing, the higher burden of taxation has a significant negative impact on the industry.

Till now, the tax burden is being absorbed by the majority of the skill-based online money gaming platforms. However, to remain viable, they might be compelled to eventually transfer this cost to consumers, in this case the real time versus player mode might stand unviable.

Business model viability on online skill-based games

Post the change in GST rules introduced from October 2023, online skill-based online gaming companies absorbed the impact, and by cushioning the player, ensured growth rates were not significantly disturbed, though margins were impacted.

While all companies and players were impacted, the impact on players was significant in case of games with fewer number of players. Under the new GST regime, in some cases, winners are also losing money, while losers lose 35.7% more (as illustrated below). The impact on the net cash flows to individual players on account of increase in tax rates and change in the valuation mechanism from GGR/Platform Fee to total deposit value has been illustrated below:

Case 1: GST@18% on Platform Fees (GGR) (Erstwhile GST regime)

In case of a given game wherein two Players X and Y play 5 games each against each other. Each player contributes INR100 in each game inclusive of gaming Platform Fee @ 11% and GST@18% on the GGR/Platform Fee. Hence, the total prize pool for each round is approx. INR 174.04*. Assuming, X wins (3 games) and Y wins (2 games), the net cash flow position for each player at the end of round 5 will be as follows:





Characteristics	Contribution (Player X) (In INR)	Contribution (Player Y) (In INR)	Platform Fee @ 11%	GST @ 18% on Platform Fee	Prize Pool (In INR)	Winner
Round 1	100	100	22	3.96	174.04	X
Round 2	100 (from the winning pool)	100	22	3.96	174.04*	Y
Round 3	74.04 (from winning pool) +25.96 additional contribution	100 (from the winning pool)	22	3.96	174.04	X
Round 4	100 (from the winning pool)	74.04 (from winning pool) +25.96 additional contribution	22	3.96	174.04	Y
Round 5	74.04 (from winning pool) +25.96 additional contribution	100 (from the winning pool)	22	3.96	174.04	X

* **Prize pool** = Contribution of Players -Platform fees- GST. Platform Fees is usually in the range of 10-12%. We have assumed 11% for this calculation.

Note: Since each game is for INR 100, the winning player is not deploying any additional amount. The loser is deploying the amount.

Final cash flow for both the players

Player	Net Contribution (A)	Net Amount Won (B)	Differential (B-A)
Player X - wins 3 rounds	151.92	174.04	22.12
Player Y - wins 2 rounds	225.96	74.04	-151.92

At the end of round 5, the overall net cash flow position stands at INR22.12 for Player X and (-) INR151.92 for Player Y.

Case 2: GST@28% on total deposit value (Present GST regime)

The below illustration shows the impact of GST @28% on total deposit value in a given small player format game with a similar winning scenario of players X and Y (as shown in case 1). In this case, the prize pool amounts to only INR178 and the net cash flow position for each player at the end of round 5 will be as follows:



Rounds	Contribution (Player X) (In INR) Inclusive of GST	Contribution (Player X) (In INR) Inclusive of GST	Platform Fee @ 11%	GST @ 18% on Platform Fee	Prize Pool (In INR)	Winner
Round 1	128	128	22	56	178	X
Round 2	100 (from winning pool)	128	22	28	178	Y
Round 3	78 (from winning pool) + 28.16 additional contribution (inclusive of GST)	100 (from winning pool)	22	6.16	178	X
Round 4	100 (from winning pool)	78 (from winning pool) + 28.16 additional contribution (inclusive of GST)	22	6.16	178	Y
Round 5	78 (from winning pool) + 28.16 additional contribution (inclusive of GST)	100 (from winning pool)	22	6.16	178	X

*Prize Pool = Deposit-GST-Platform Fees. Platform Fees is usually in the range of 10-12%. We have assumed 11% for this calculation.

Note: Since each game is for INR100, the winning player is not deploying any additional amount. The loser is deploying the balance amount.

Final cash flow for both the players

Player	Net Contribution (A)	Net Amount Won (B)	Differential (B-A)
Player X - wins 3 rounds	184.32	178	-6.32
Player Y - wins 2 rounds	284.16	78	-206.16

At the end of 5 games, in a possibly short span of time, the net outcome for both the players stands negative indicating that both the players are losing money irrespective of whether they are winning or losing the game.

Post the amendment in GST to be levied @28% on total deposits, X incurs a net cash flow of (-) INR 6.32 even after winning 3 out of 5 rounds from a positive net cash flow of (+) INR 22.12 under the erstwhile GST regime. For Y, the negative net cash flow has increased by 35.7% from (-) INR151.92 to (-) INR 206.16.

The above is just one example for the purpose of illustration. Different games would be impacted differently.

This reversal from positive cash flow to a negative cash flow for Player X illustrates how an increase in taxation on online gaming disincentivizes the player to play the game. Such negative cash flows:

- ▶ erode the incentive for players to engage in online gaming activities again, potentially leading to a decline in overall player participation and retention.
- ▶ push the users to access offshore apps that do not comply with GST regulations.



Increase in grey market: proliferation of illegal offshore platforms

As described above, the increased tax burden results in increased costs for the customers resulting in declining user base on certain gaming platforms under the new GST regime.⁷⁷ An increase in price has a direct impact on the demand. As a consequence, the increase in GST cost may lead customers to move towards alternative options such as offshore or illegitimate platforms which do not charge GST or impose lower rates resulting in an increase in gambling addiction, fuelling of the offshore market and loss of revenue for the exchequer.⁷⁸

Case study 1:

Poland

As per a study by NALSAR, Poland levies a "turnover-based" tax on online gaming, which is one of the highest in the European Union (EU). It is estimated that only 2 out of 20 companies which hold online sports betting licenses in the country return a profit.⁷⁹ This has caused players to shift to unlicensed or offshore operators in the gray market that captures 60% of the online gaming market in the country. This also means that the Polish online gaming entities are unable to compete with offshore operators who face relatively less fiscal burden and thrive by evading regulations.⁸⁰

Case study 2:

Sweden

As per a study by Copenhagen Economics, in Sweden, at a tax rate above 20%, customers are expected to gamble less at licensed operators. This reduction was expected to happen because customers increasingly relied on foreign operators for their gambling activity at such higher tax rate.

Note: Although Case Study 2 is in the context of gambling, it provides a crucial lesson on how high rates of taxation can push users towards the gray market.

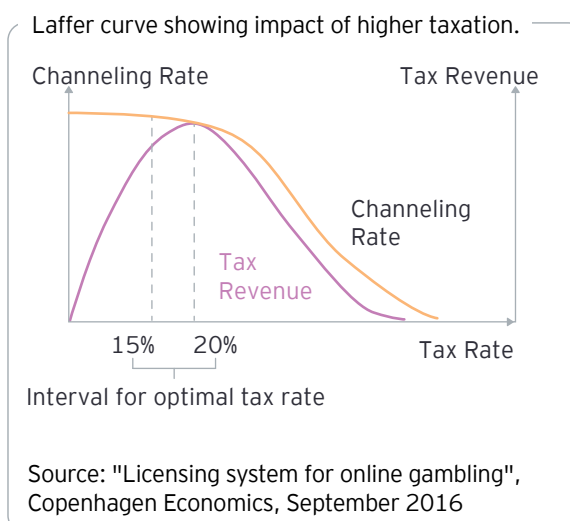
A news report has quoted AIGF, a gaming industry body in India, who estimates that offshore illegal betting and gambling entities are causing the national exchequer to lose US \$2.5 billion per annum. Some factors posing challenges in the effective regulation of offshore platforms are:⁸³

- ▶ Mirror websites: Exact replicas of primary betting websites are housed under different Uniform Resource Locators (URLs) which are often algorithmically generated and used to evade regulatory attention, effectively staying several steps ahead of authorities by running hundreds of mirror websites on the same server to ensure services remain uninterrupted in the event that a URL is shut down by the government authorities.⁸⁴ Accordingly shutting down websites alone does not suffice.
- ▶ Sports websites and events: The revised IT Rules prohibit publication of any content which promotes gambling.⁸⁵ Yet, numerous news reports indicate that a variety of online sports streaming services frequently broadcast advertisements for gambling.⁸⁶ This leads to more visibility of such platforms and thus, increased accessibility for users.

Impact on government revenue

The theory of the Laffer curve⁸⁷ illustrates that any higher taxation beyond the optimum level of taxation could decrease the government revenues.⁸⁸ Hence, this increased taxation of 28% on total deposits which is intended to boost the state's coffers can end up leading to a decline in the revenue collection cultivated by increase in the underground economy of gaming market.⁸⁹

It is also evident from above that there may be significant impact on the consumers in the form of migration to offshore or underground gaming websites, resulting in a decrease in both volume and value of transactions contributing to the treasury.



Case study 3:

Denmark

As per a study by the Danish Gambling Online Association, the Danish government raised the tax rate from 20% to 28% of GGR anticipating an increase in tax revenue. However, it was observed that given the low-profit margin of the operators, any significant increase in tax rates would lead to a reduction in the marketing costs thereby affecting profitability. It was further estimated that due to an increase in tax rates, the market would witness a 22% decline with negative impacts on consumer welfare as consumers move to offshore sites.

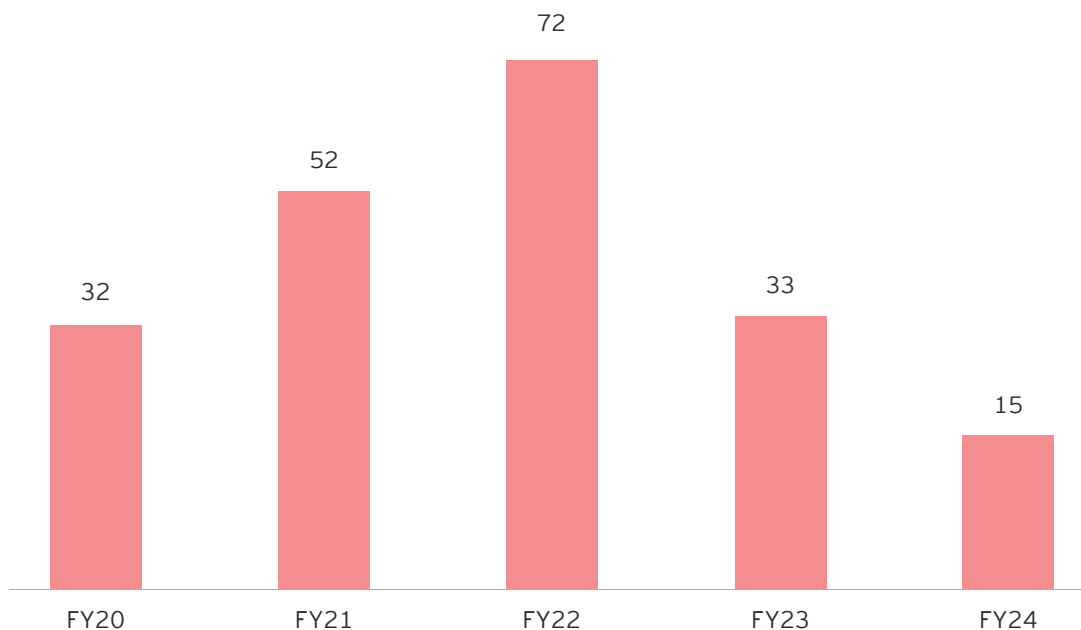
Hence, a higher tax rate means that it will become more expensive for customers and less attractive for gambling operators to operate in the licensing system. If the tax rate is too high, both channelization and tax revenues will fall. The tax rate therefore needs to be balanced to achieve both channelization as well as high tax revenues.

Note: Although Case Study 3 is in the context of gambling, it provides a crucial lesson on how high rates of taxation can cause the government revenues from the industry to plummet.

Drop in foreign investment

A higher taxation rate on the online gaming sector may reduce the attractiveness of the sector for foreign investors as well.⁹² In addition to the users shifting to illegal offshore betting and gambling platforms such a tax policy may also lead to movement of the gaming industry into the grey market or other favourable taxing jurisdictions which may lead to loss in substantial foreign investment and adversely impact the investor sentiments, especially on the consumer tech segment.⁹³ The following is also evident from the fall in the number of deals in the online gaming sector from FY22 to FY24 as shown in Figure 5.⁹⁴

Figure 5: Number of deals in the online gaming sector



Source: New frontiers - Navigating the evolving landscape for online gaming in India, EY report, December 2023

From the above, it is evident that a higher tax rate, especially on the entire value paid to the supplier, has detrimental impact not only on the online gaming ecosystem but on the economy as a whole. This merits an urgent intervention by the regulatory authorities to take corrective measures and carve out distinction between the types of online money games based on skill and chance.

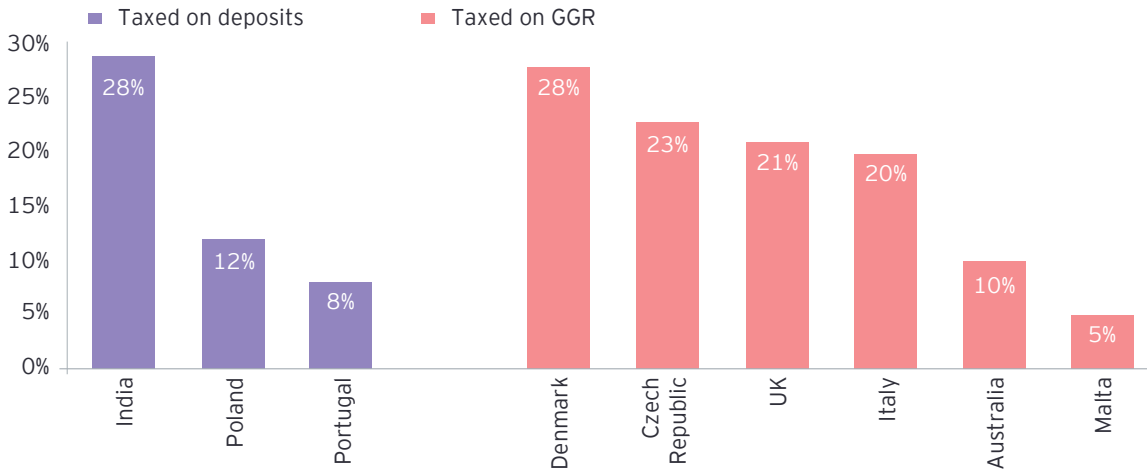
In summary, the recent GST amendments with respect to skill-based online money gaming in India have sparked a negative chain reaction. The transition from taxing on the GGR/Platform Fee to levying GST on the total deposit value has significantly altered the financial landscape for both gaming platforms and players alike. This shift is coupled with the substantial increase in tax rates, including diminished revenues for gaming platforms, disincentivizing players to play the game, and even closures and layoffs within the sector. In addition, the repercussions extend beyond the gaming industry, affecting ancillary sectors and potentially deterring foreign investment. Moreover, users migrating to offshore or illicit



platforms are posing challenges to regulation and revenue collection. Therefore, it is imperative to learn from global practices discussed in the next chapter and recalibrate the GST framework to foster a sustainable and thriving skill-based online money gaming ecosystem in India.

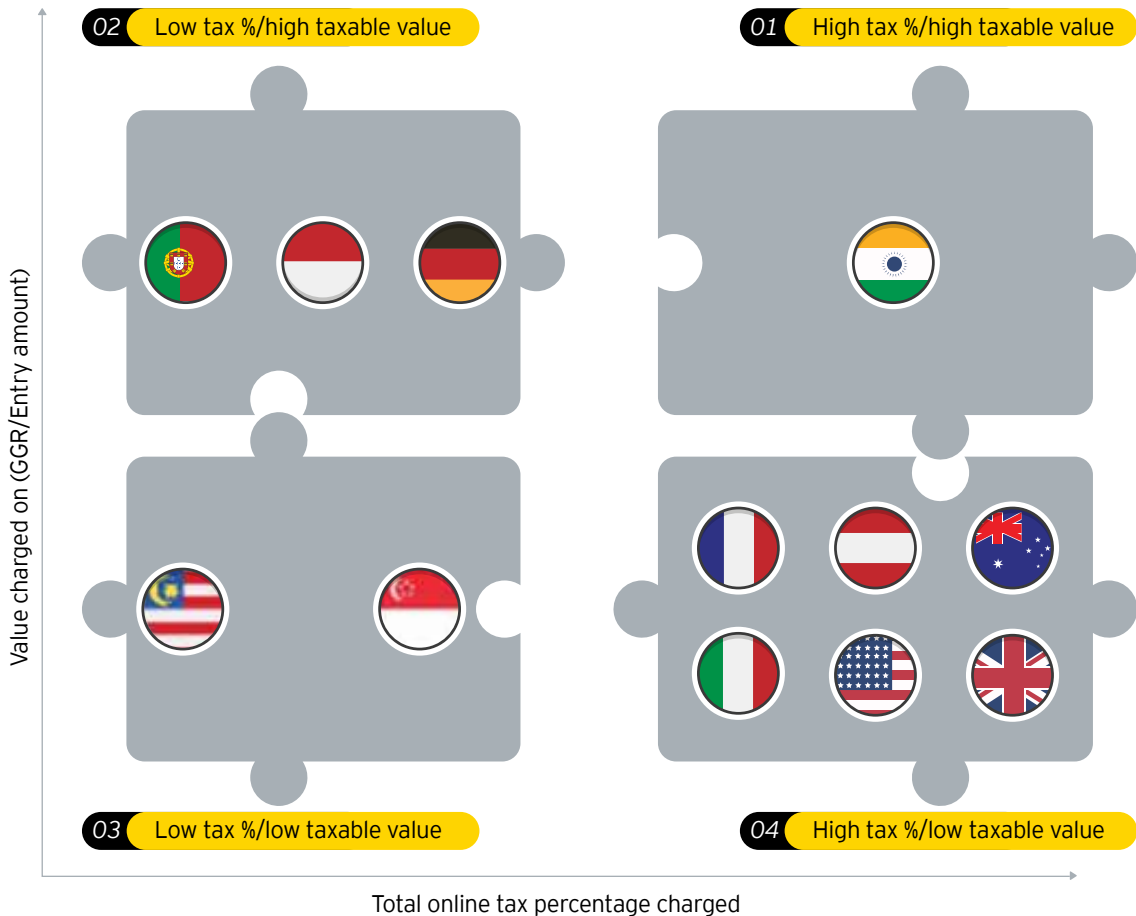
Further, the below graphs/ charts provide an overview of global taxation landscape in case of online RMG:

Landscape of the global online RMG taxation



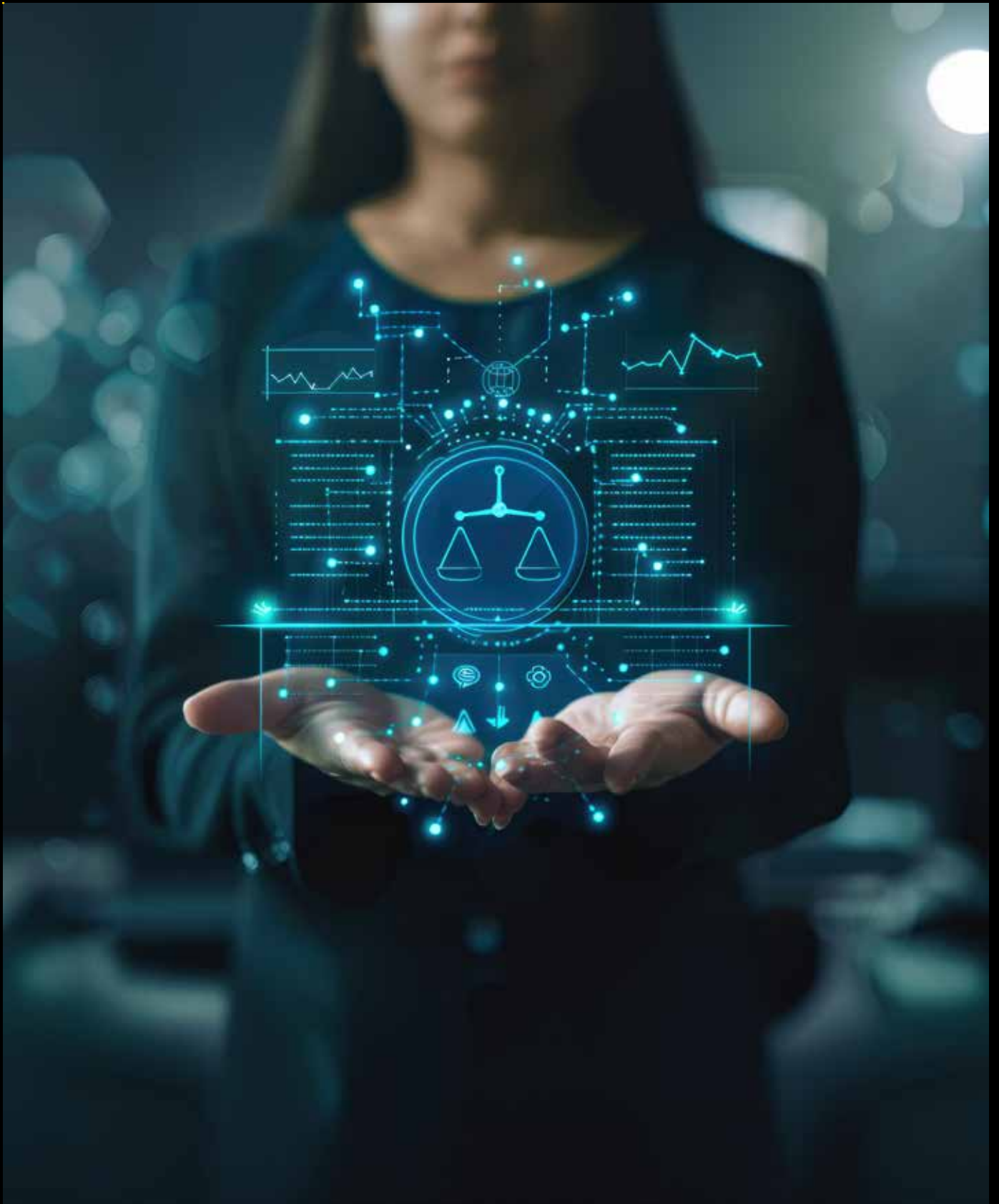
Source: New frontiers - Navigating the evolving landscape for online gaming in India, EY report
 Report titled GST on online gaming, July 2023
 Report titled Online Gaming in India: Taxation Quandary

Landscape of the global online RMG taxation



Source: New frontiers - Navigating the evolving landscape for online gaming in India, EY report

Industry analysis of impact of GST on online skill-based money gaming industry: USISPF survey



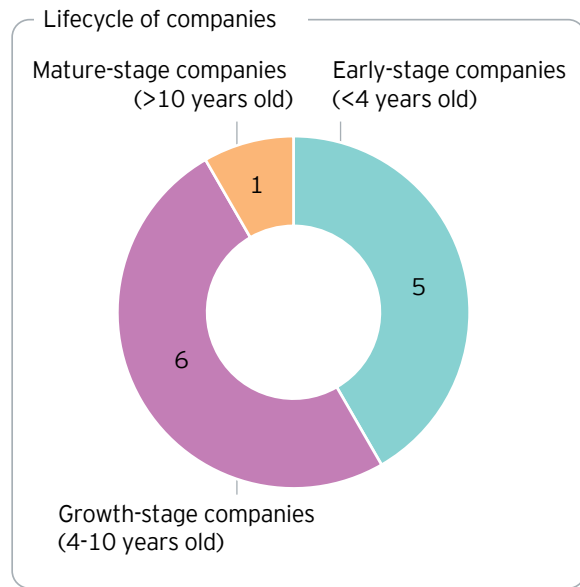


To analyze the impact of high taxation on the skill-based online money gaming industry, a survey was conducted by USISPF in April-May 2024 wherein responses from 12 gaming companies identified by them, belonging to different stages of operations and growth, were collected and examined. The questionnaire is attached as an Annexure X.

The business impact analysis undertaken as part of this survey focuses on key areas such as:

- ▶ Tax rate comparison with major global economies
- ▶ YoY revenue and margin impact
- ▶ Employment
- ▶ New investments

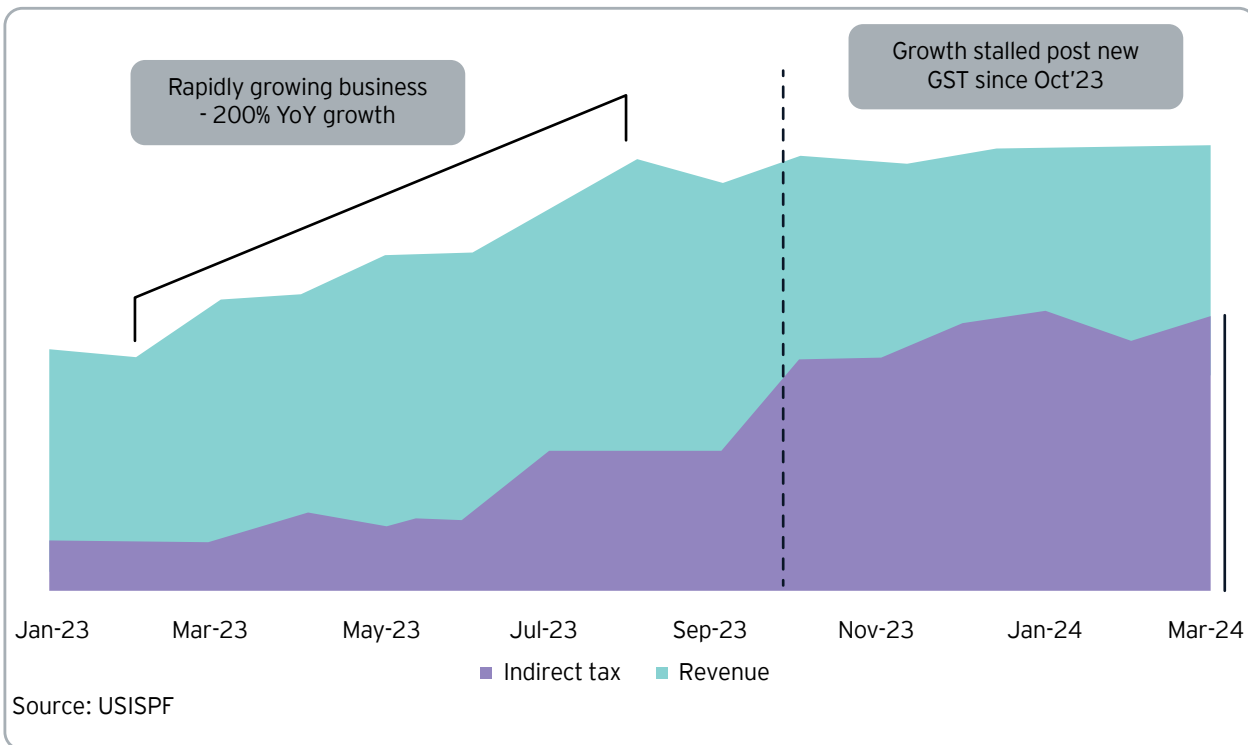
On the basis of the responses from the 12 companies, the following findings emerged:



Source: USISPF

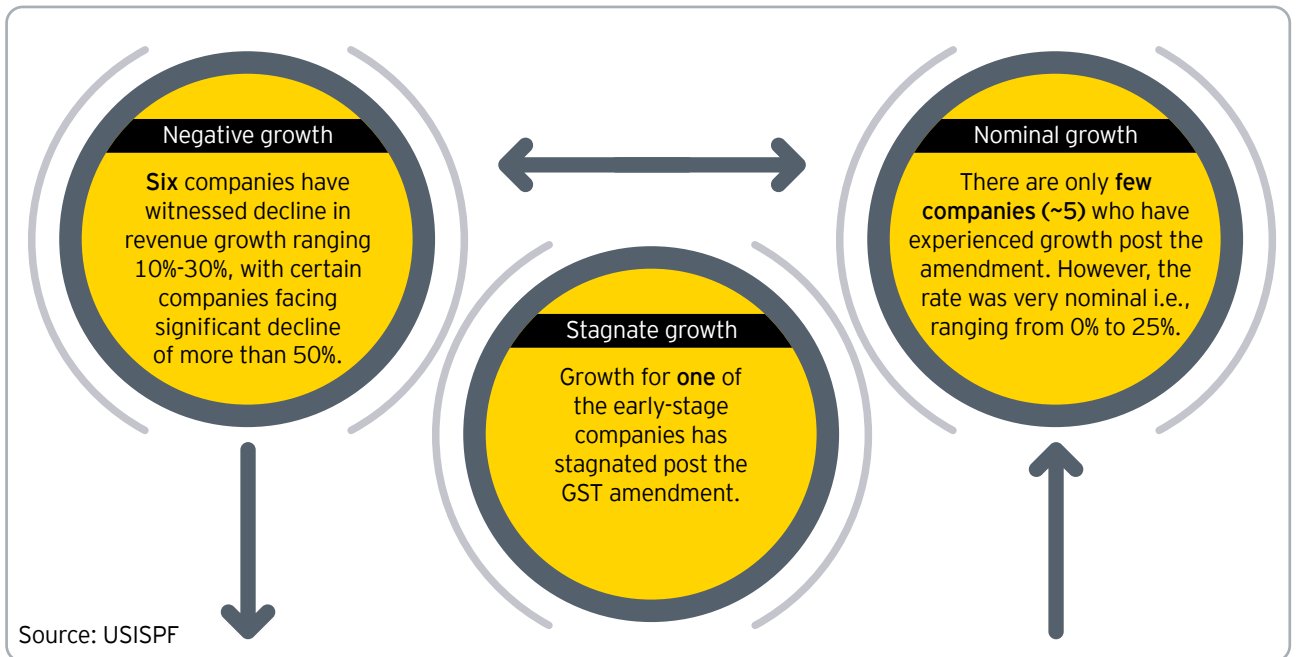
Finding 1: impact of new GST regime on revenue growth

A sunrise sector that was experiencing an exponential revenue growth where some of the companies had growth rates as high as ranging between 100-200% prior to October 2023. However, post the GST amendment in October 2023, there has been a reverse trend in the revenue growth of businesses which has declined over the last six months as evident from the below chart for one of the companies whose data has been made available.



Source: USISPF

Out of the 12 companies surveyed, only five companies were able to record revenue growth since the GST amendment whereas seven companies had either recorded degrowth or had to face stagnant revenues. In case of degrowth, the decline is as high as up to 50% for two companies. Such decline in revenue growth stands in contrast for an industry which was recording exponential growth rates.

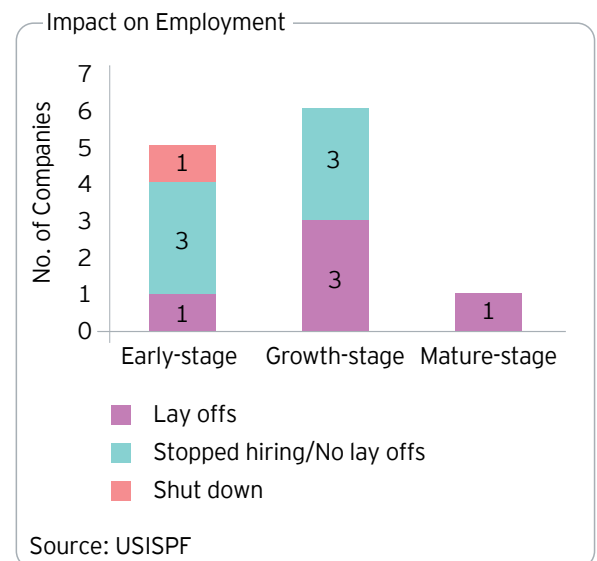


Finding 2: impact of new GST regime on employment

A huge impact on revenue is also reflected in job erosion. Out of the 12 companies, as many as 10 companies faced significant headwinds on employment creation. Four companies ceased hiring but did not lay off any employee. One-third of the companies laid off as many as up to 50% of their workforce. Also, one company had to lay off more than 50% of the people and one had to shut down their operations. For a sector which has created 100,000 jobs and was expected to create around three times more jobs in coming years,⁹⁵ such job erosion is an alarming concern that reflects the adverse business impact of the GST amendment.

Moreover, the tax hike has aggravated challenges in talent retention and acquisition, stemming from negative government sentiments towards the sector.⁹⁶

Thus, the increased tax rate is resulting in reduction in employment prospects generated by the industry, which is further expected to worsen in the coming days as companies recalibrate their business plans and try to absorb their cost





Case study 1:

Sweden

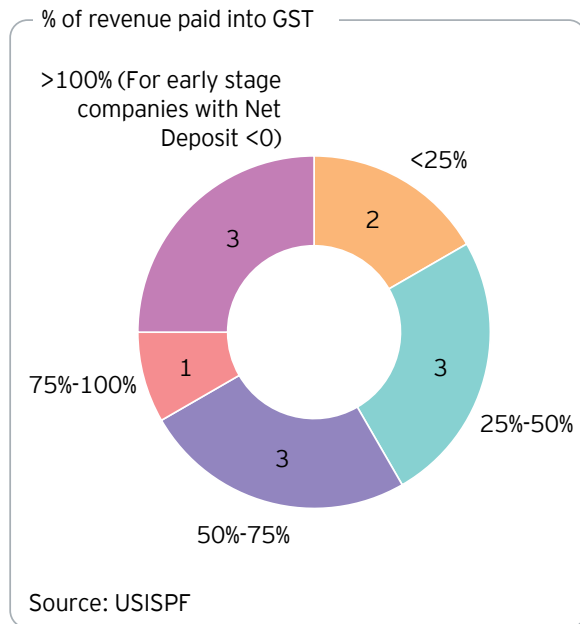
As per a report by Copenhagen Economics, an increased tax rate particularly above 15%, significantly reduces the operator’s margins. If the tax rate surpasses 25%, the operator may also experience negative margins necessitating reduction in the overall costs of the firms to offset higher taxation costs.⁹⁷ This effectively means that laying off is perhaps one of the ways to cut back on the total costs or announce closure in case of a heavy dip in the margins.

Finding 3: impact of new GST regime on margins

Prior to the amendment, GST accounted for around 15% of the online skill gaming companies’ revenue (net deposit).

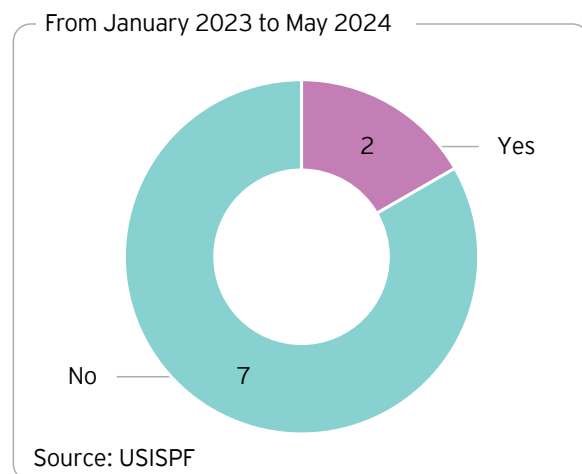
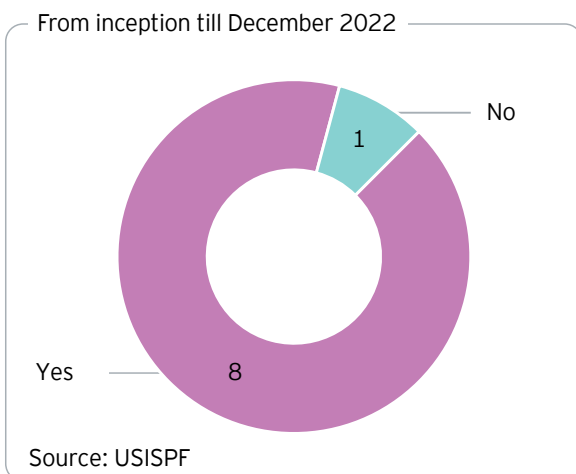
The increase in taxation has exerted a dual impact, dampening both growth prospects and profit margins within the industry:

- ▶ A substantial portion of the platform’s revenue is now consumed for absorbing the increased GST cost along with other expenses such as marketing, advertisement, technology, banking etc.
- ▶ The current GST burden is not being passed on by the companies to the users due to the fear of loss of customer base as high tax burden is likely to disincentivize the players from playing games on the platform due to highly price elastic nature of the market.
- ▶ Out of 12 companies, seven companies have decided not to pass on the cost to the users. For as many as four companies, the GST share has jumped to 50-100% of revenue (net deposit). Alarmingly, for three early-stage companies for whom net deposits are negative, the GST cost is over 100% of the revenue.
- ▶ The passing on of the tax cost is also expected to drive the players towards offshore betting platforms, resulting in a loss of business for domestic companies and consolidation of small businesses.



Finding 4: Funding winter induced by the GST amendment

Apart from layoffs, the high tax rate has significantly impacted investment in the industry. The industry has historically attracted substantial investor interest with investments worth INR 22,931 crore from both domestic and global sources between FY20 and December 2023.⁹⁸ However, the recent years experienced a slowdown due to macroeconomic headwinds and changes in taxation. Out of the 12 companies, eight companies had raised funding until December 2022. This funding ranged from US\$0.5 million dollars to as high as more than US\$400 million dollars. Since January 2023, only two companies have been able to raise funding. This coincides with the discussions about the need to re-look at the GST levied on online gaming and finally, the passing of the GST amendment.

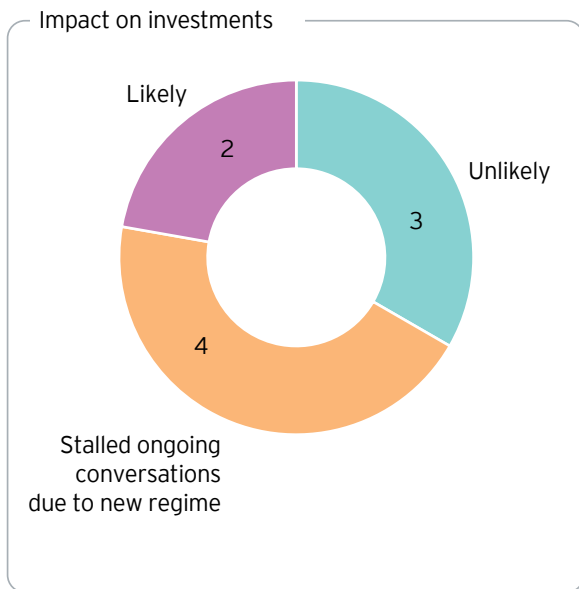


Such a manifold increase in GST has made Indian skill-based online money gaming business models unviable and drastically hurt investor sentiments. The industry experienced strong investor support and substantial funding from 2019 to 2022. However, there has been a significant drop in investor interest since January 2023.

From an FDI perspective, given India's distinctive demographics, spending patterns, and mobile-first consumption habits, skill-based online money gaming platforms are the primary revenue source and a significant growth driver for India's gaming sector, contributing to over 80% of the revenue⁹⁹ and garnering predominant share of FDI. Alternative monetization models such as in-app purchases and advertising revenue yield lower returns in India than global averages.

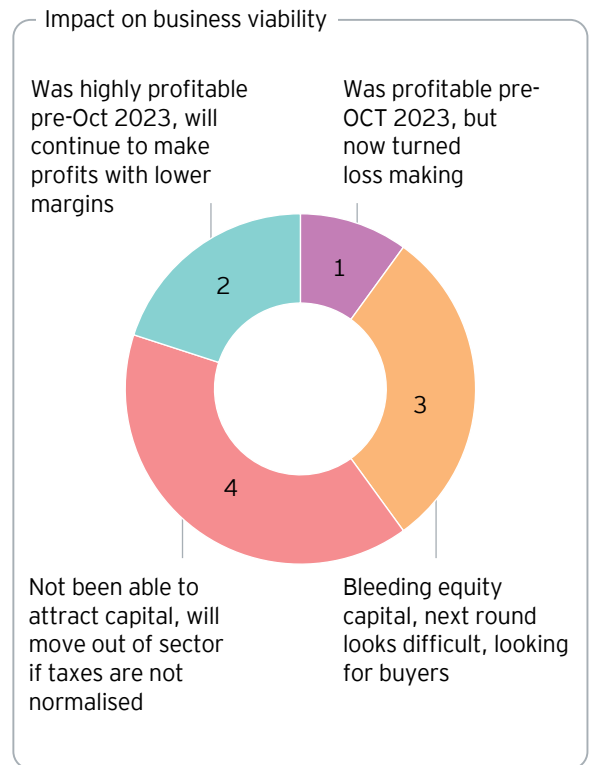
Finding 5: Bleak outlook for the industry

Since the skill-based online money gaming industry in India is a sunrise sector, capital investments based on investor sentiments and healthy margins are critical for the sector to stay stable and become a sustainable source of growth for the economy. Three out of 12 companies think that they may not be able to raise funding under the current GST regime. In fact, four companies reported that ongoing conversations with investors were stalled as the GST amendment was implemented and three companies preferred not to answer.



Source: USISPF

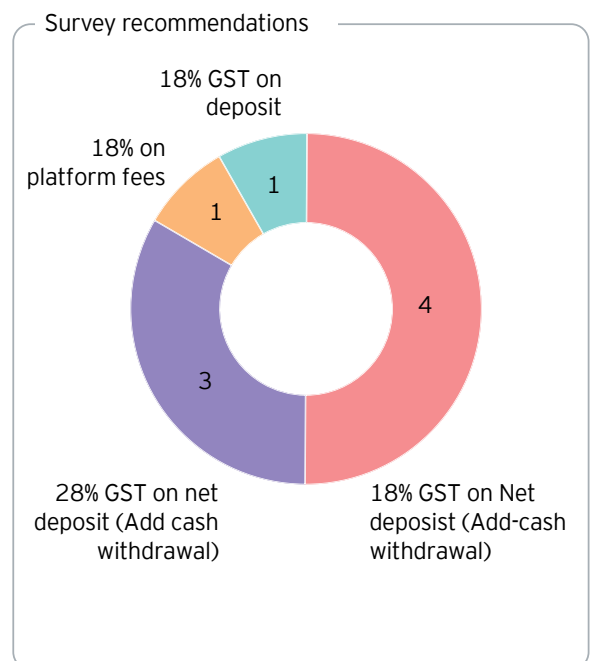
The survey finds that the majority of the respondent companies are either unable to attract capital or they are experiencing financial outflow and are seeking buyers. The industry hopes for the GST regime to get normalized. Given the stage of company, game formats, and capital availability, different companies have responded differently. Only two out of 12 companies are still profitable and four companies may have to exit the sector if the taxes are not normalized.



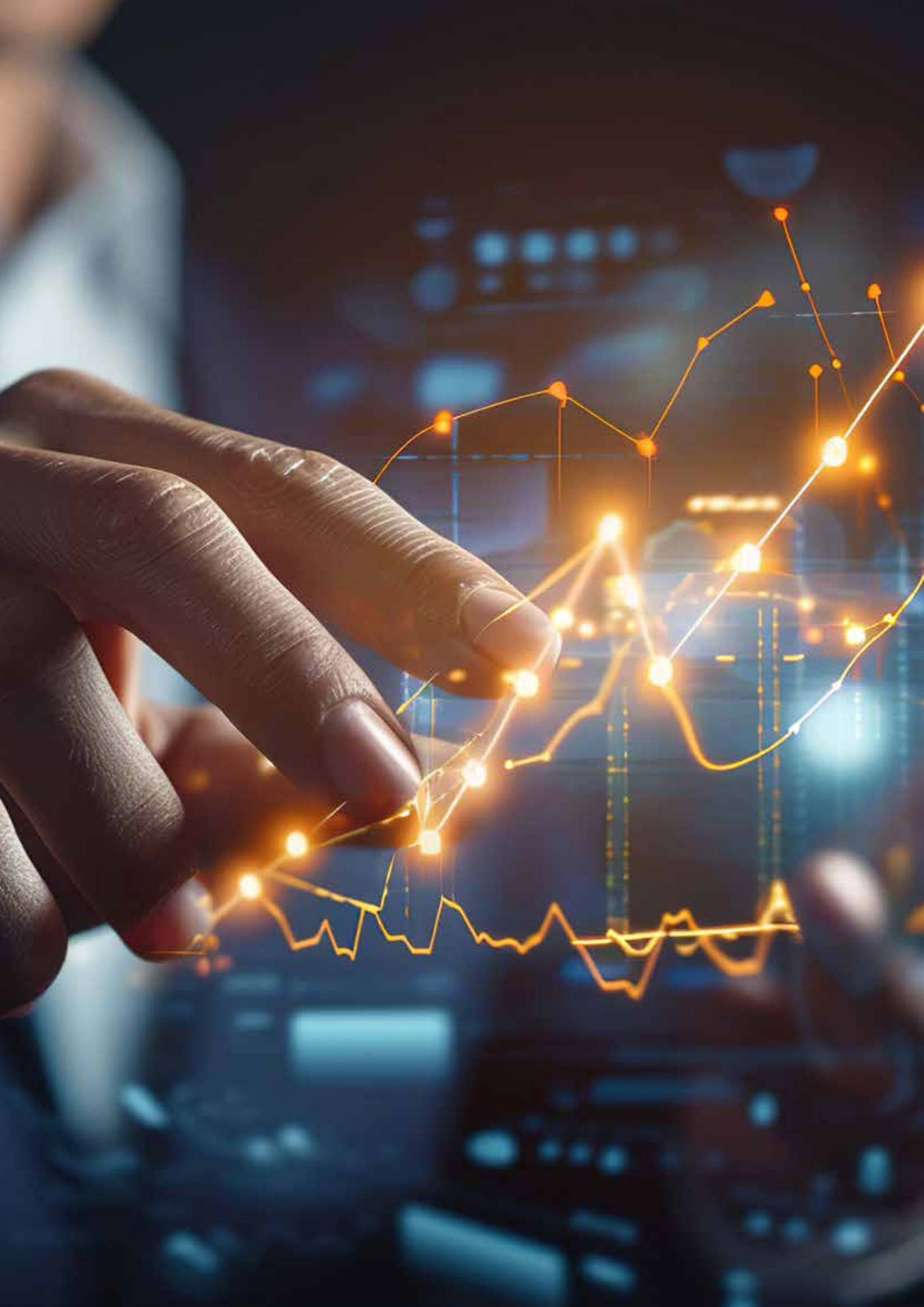
Source: USISPF

Finding 6: Way forward for the industry - Survey finding

According to the companies who participated in the survey, the best solution to the GST conundrum is to tax the sector on Net Deposits - which represents the actual revenue earned by the companies. **Net Deposit is the actual amount that stays with the platform for the service they provide.** Seven out of 12 companies advocate that the sector should be taxed on net deposits, out of which three recommend 28% GST on Net Deposit and four are in favor of 18% GST.



Source: USISPF



Policy recommendations





As a sunrise sector, India's skill-based online money gaming industry could play a crucial role¹⁰⁰ in making India a US\$5 trillion economy by 2025. It is noteworthy that the industry objectives are closely aligned with critical government initiatives like Digital India, Start-up India, and Atmanirbhar Bharat. This alignment not only showcases the industry's potential but also positions India as an upcoming gaming hub on the global stage.¹⁰¹

Despite its promising trajectory, the industry currently stands at a critical juncture faced with challenges exacerbated by the recent GST amendments and regulatory ambiguities. The impact of the amendment is evident from the declining active user base, widespread consolidation, closures, layoffs, and a growing trend of companies seeking operations abroad.¹⁰²

GST recommendation

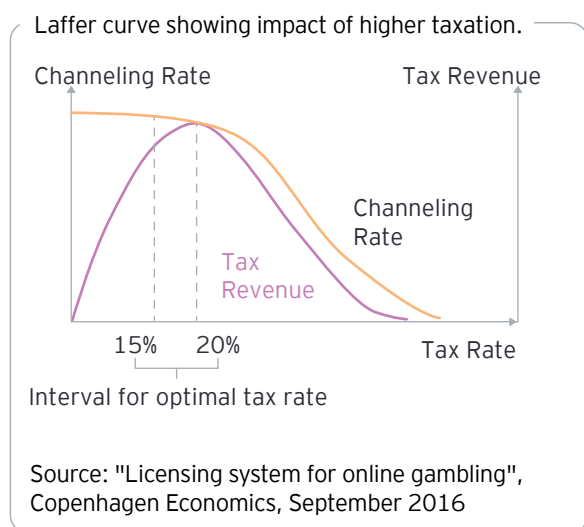
To facilitate a well-regulated skill-based online money gaming ecosystem in India, the present report puts forth a GST recommendation that can be considered by policymakers for enabling a more conducive environment. However, before the recommendation it is necessary to have the context of higher taxation in the forefront.

Laffer curve: According to the International Monetary Fund (IMF), a combination of high taxes and a weak regulatory enforcement creates the most fertile ground for proliferation of a shadow economy.¹⁰³ For instance, it has been observed in Denmark, raising the tax rate from 20% to 28% in 2021 backfired as the low-profit margins of operators led to reduced marketing expenditure, affecting profitability. Consequently, the market witnessed a 22% decline in tax revenue year on year (2020-2021), with consumers shifting to offshore sites, impacting consumer welfare negatively.¹⁰⁴ The figure captures this effect through a Laffer curve where the tax rate of 15% to 20% gives a high channeling rate and favorable tax revenues.¹⁰⁵

Value of Taxable Supply: The taxable value of services in the context of skill-based online money gaming should not be conflated with the player deposits. Instead, the taxable value is represented by the "Platform Fees" (the GGR), which are the charges deducted by the gaming platform for providing its services. The remaining funds constitute the prize pool, which is awarded to the game's winner. There is no direct correlation between the gaming company's provision of technology or infrastructure and the deposits received for contest entry fees. Consequently, assessing the value of services provided by gaming companies based on the amount of contest entry deposits is both inconsistent with and contrary to Section 15 of the CGST Act, which delineates the "value of taxable supply" for GST purposes.

Industry Impact: As discussed in Chapter four and five of this report, the recent amendments to the GST law have had a hugely significant impact on online skill gaming platforms. These changes have rendered the sector almost unviable for emerging companies, significantly stifling innovation. Moreover, the question of expansion for existing start-ups has become a serious concern. Established companies specializing in skill-based online money games are struggling with attracting foreign direct investment (FDI). Many have been forced to downsize and have experienced a sharp decline in revenue growth.

Basis the above, *it is recommended* that the policymakers *amend the valuation mechanism* for skill-based online money games to levy GST on *Gross Gaming Revenue (GGR), which is the amount retained by online gaming platforms for operating a game*, instead of "total deposits".



By implementing this suggestion, policymakers can pave the way for a thriving and resilient online gaming industry that not only contributes significantly to India's economic growth but also elevates its stature as a premier destination for gaming innovation and investment.

At present, the Indian online gaming industry is operating in a similar environment with a high GST rate of 28% on the full-face value of deposits instead of the GGR.

Annexure - X: Questionnaire - USISPF Survey

1) What is your company's lifecycle stage?

- ▶ Early Stage (Less than 4-year-old)
- ▶ Growth Stage (More than 4-year-old)
- ▶ Mature (10 years and more)

2) Have you raised any capital from inception till December 2022?

- ▶ Yes, (optional question - Capital Raised till December 2022)
- ▶ No

3) Have you raised any capital during the period January 2023 to May 2024?

- ▶ Yes, (optional question - Capital raised during January 2023 till May 2024)
- ▶ No

4) Previously, RMG sector was paying 18% GST on Gross Gaming Revenue (GGR)/ Net Deposit (i.e., 15.25% of a company's Revenue was going in paying GST). Under the new GST regime (post October 2023), what share of Net Deposit is going into paying GST?

- ▶ a) <25%
- ▶ b) 25-50%
- ▶ c) 50-75%
- ▶ d) 75-100%
- ▶ e) >100% (for early-stage companies with Net Deposit <0)

5) Have you passed on the increase in GST cost to the users?

a) No, we are absorbing the full GST impact

- ▶ Can continue to absorb
 - ▶ Absorbing until Review decision is out
- b) Yes, we are passing the GST cost to users

- ▶ If yes, then how much <10%
- ▶ 10-25%
- ▶ 25-50%
- ▶ >50% but less than 100
- ▶ 100%

6) Impact of new GST regime on revenue growth (YoY)

a) Revenue continues to grow
If yes, then by how much

- ▶ <25%
- ▶ 25-50%
- ▶ >50%

b) Revenue growth has stagnated

c) Revenue has declined
If yes, then by how much

- ▶ <25%
- ▶ 25-50%
- ▶ >50%

7) Impact of new GST regime on employment

- ▶ No impact, hiring as per business needs
- ▶ Stopped hiring but not laid off
- ▶ Laid off employees
- ▶ If yes, then how much
 - ▶ <25%
 - ▶ 25-50%
 - ▶ >50%
- ▶ Shut down the operations

8) Do you expect to be able to raise capital under the new GST regime in next 12 months?

- ▶ Highly likely
- ▶ Likely
- ▶ Unlikely
- ▶ Ongoing conversations were stalled due to new regime

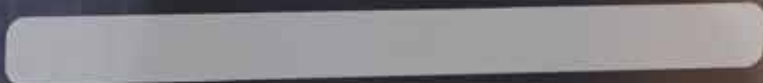
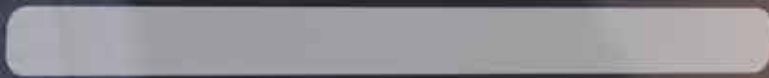
9) Which of the following best describes the situation of your venture in the current GST regime?

- ▶ Not Able to Attract Capital, will move out of Sector if taxes are not normalized
- ▶ Bleeding equity capital, next round looks difficult, looking for buyers
- ▶ Was profitable pre-Oct 2023, but now turned loss making
- ▶ Was highly profitable pre-Oct 2023, will continue to make profits with lower margins

10) What do you think is the best possible solution for the GST regime for the industry?

- ▶ 28% GST on Deposit
- ▶ 18% GST on Deposit
- ▶ 28% GST on Net Deposit (Add Cash-Withdrawal)
- ▶ 18% GST on Net Deposit (Add Cash-Withdrawal)
- ▶ Comments, if any

11) Any other comments that you would like to highlight to the Government on old and new GST regime?



References

- ¹ Dey, Kushal, "An Analysis of Gaming Industry in India", International Journal of Science and Research (IJSR) <https://www.ijsr.net/archive/v10i5/SR21520124120.pdf>
- ² The Online Gaming Industry in India: Navigating the tax landscape, BDO report (https://www.bdo.in/getmedia/6cb4cf90-052e-4ce4-ad52-76d71cec7347/The-Online-Gaming-Industry-in-India_BDO-India-2022.pdf.aspx?ext=.pdf)
- ³ #Reinvent: India's media & entertainment sector is innovating in future, EY report (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ⁴ #Reinvent: India's media & entertainment sector is innovating in future, EY report (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ⁵ #Reinvent: India's media & entertainment sector is innovating in future, EY report (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ⁶ "Recommendations of 51st GST Council Meeting" ([https://www.pib.gov.in/PressReleasePage.aspx?PRID=1945208#:~:text=The%20Council%20also%20recommended%20that,bets\)%20and%20not%20on%20the](https://www.pib.gov.in/PressReleasePage.aspx?PRID=1945208#:~:text=The%20Council%20also%20recommended%20that,bets)%20and%20not%20on%20the))
- ⁷ #Reinvent: India's media & entertainment sector is innovating in future, EY report (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ⁸ #Reinvent: India's media & entertainment sector is innovating in future, EY report (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ⁹ #Reinvent: India's media & entertainment sector is innovating in future, EY report (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ¹⁰ Kumar Divya, "Monetization Models in The Gaming Industry: A Comparative Analysis of In-Game Purchases, Subscriptions, And Free-To-Play Strategies", International Journal for Multidisciplinary Research (IJFMR) (<https://www.ijfmr.com/papers/2024/1/13817.pdf>)
- ¹¹ Kumar Divya, "Monetization Models in The Gaming Industry: A Comparative Analysis of In-Game Purchases, Subscriptions, And Free-To-Play Strategies", International Journal for Multidisciplinary Research (IJFMR) (<https://www.ijfmr.com/papers/2024/1/13817.pdf>)
- ¹² New frontiers - Navigating the evolving landscape for online gaming in India, EY report (https://www.ey.com/en_in/media-entertainment/new-frontiers-navigating-the-evolving-landscape-for-online-gaming-in-india)
- ¹³ Source App Annie; As per the data available on Appodeal eCPM Report "accessed on 17 June 2024" (<https://appodeal.com/blog/mobile-ecpm-report-app-ad-monetization-worldwide-performance/>)
- ¹⁴ Leveling up: State of India Gaming FY'23, Lumikai report (<https://www.lumikai.com/post/indian-gaming-industry-poised-for-strong-growth-projected-to-reach-7-5-bn-by-fy28>)
- ¹⁵ New frontiers - Navigating the evolving landscape for online gaming in India, EY report (https://www.ey.com/en_in/media-entertainment/new-frontiers-navigating-the-evolving-landscape-for-online-gaming-in-india)
- ¹⁶ New frontiers - Navigating the evolving landscape for online gaming in India, EY report (https://www.ey.com/en_in/media-entertainment/new-frontiers-navigating-the-evolving-landscape-for-online-gaming-in-india)
- ¹⁷ #Reinvent: India's media & entertainment sector is innovating in future, EY report (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ¹⁸ "AIGF", <https://aigf.in/game/online-gaming-company-winzo-expands-base-to-brazil/>
- ¹⁹ "AIGF", <https://aigf.in/game/nazara-invests-in-israeli-based-game-developer-snax-games/>
- ²⁰ New frontiers - Navigating the evolving landscape for online gaming in India, EY report (https://www.ey.com/en_in/media-entertainment/new-frontiers-navigating-the-evolving-landscape-for-online-gaming-in-india)
- ²¹ "Vision Viksit Bharat@2047" <https://pib.gov.in/PressReleaselframePage.aspx?PRID=2006761#:~:text=Out%20of%201.4%20billion%20Indians,aspirations%2C%20policies%2C%20and%20destiny.>
- ²² #Reinvent: India's media & entertainment sector is innovating in future, EY report (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ²³ "The Transformative Role of Online Gaming in Digital India", E-Gaming Federation (<https://www.egf.org.in/the-transformative-role-of-online-gaming-in-digital-india>)



- ²⁴ "Press Release No. 05/2024", Telecom Regulatory Authority of India (https://www.trai.gov.in/sites/default/files/PR_No.05of2024.pdf)
- ²⁵ Internet in India, IAMAI (https://www.iamai.in/sites/default/files/research/Internet%20in%20India%202022_Print%20version.pdf)
- ²⁶ #Reinvent: India's media & entertainment sector is innovating in future, EY report (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ²⁷ "AIGF", <https://aigf.in/game/how-5g-technology-can-level-up-the-future-of-the-indian-gaming-industry/>
- ²⁸ "AIGF", <https://aigf.in/game/how-5g-technology-can-level-up-the-future-of-the-indian-gaming-industry/>
- ²⁹ Muncaster Phil, "5G Gaming: What can we expect from a 5G network for gaming?", Verizon, (<https://www.verizon.com/business/resources/articles/s/what-can-we-expect-from-a-5g-network-for-gaming/#:~:text=5G%20means%20super-fast%20speeds,game%20and%20cloud%20gaming%20applications>)
- ³⁰ Extended Reality in Practice, Bernard Marr (<https://bernardmarr.com/wp-content/uploads/2022/05/Extended-Reality-in-Practice.pdf>)
- ³¹ Impact of Covid on online gaming industry of India https://www.researchgate.net/publication/376185213_Impact_of_Covid_on_online_gaming_Industry_of_India
- ³² #Reinvent: India's media & entertainment sector is innovating in future, EY report (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ³³ Impact of Covid on online gaming industry of India https://www.researchgate.net/publication/376185213_Impact_of_Covid_on_online_gaming_Industry_of_India
- ³⁴ India@100, EY report (https://www.ey.com/en_in/india-at-100)
- ³⁵ #Reinvent: India's media & entertainment sector is innovating in future (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ³⁶ "AIGF", <https://aigf.in/game/educational-benefits-of-online-games/>
- ³⁷ "Positive effects of online games on the growth of college students: A qualitative study from China", National Library of Medicine, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9998671/#:~:text=Improve%20learning%20ability,%2C%20quick%20thinking%20ability%2C%20etc.>
- ³⁸ "Growth and Expansion of India's Edtech Industry", India Brand Equity Foundation (IBEF) (<https://www.ibef.org/research/case-study/growth-and-expansion-of-india-s-edtech-industry>)
- ³⁹ Tomoshige Hideki, "The Strategic Convergence of the U.S.-India Innovation Partnership", Center for Strategic & International Studies (CSIS), (<https://www.csis.org/blogs/perspectives-innovation/strategic-convergence-us-india-innovation-partnership-0#:~:text=India%20and%20the%20United%20States%20have%20also%20introduced%20an%20institutional,our%20shared%20values%20and%20democratic>)
- ⁴⁰ <https://www.startupindia.gov.in/content/sih/en/international/go-to-market-guide/indian-startup-ecosystem.html>
- ⁴¹ #Reinvent: India's media & entertainment sector is innovating in future, EY report (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ⁴² New frontiers - Navigating the evolving landscape for online gaming in India, EY report (https://www.ey.com/en_in/media-entertainment/new-frontiers-navigating-the-evolving-landscape-for-online-gaming-in-india)
- ⁴³ <https://www.investindia.gov.in/team-india-blogs/gaming-culture-india-rising-phenomenon#:~:text=Innovation%20in%20Gaming%20Sector&text=Here%20are%20some%20ways%20game,physical%20movements%20and%20user%20interactions.>
- ⁴⁴ "MeiTY", <https://www.meity.gov.in/emerging-technologies-division>
- ⁴⁵ India Digital Payment Report, Worldline (<https://worldline.com/content/dam/worldline/local/en-in/documents/Worldline-India-Digital-Payments-Report-H2-2023-3april2024.pdf>)
- ⁴⁶ #Reinvent: India's media & entertainment sector is innovating in future (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ⁴⁷ The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, MeiTY, ([meity.gov.in](https://www.meity.gov.in))
- ⁴⁸ Online gaming in India - the GST conundrum, EY report (https://www.ey.com/en_in/media-entertainment/online-gaming-in-india-the-gst-conundrum)
- ⁴⁹ Online gaming in India - the GST conundrum, EY report (https://www.ey.com/en_in/media-entertainment/online-gaming-in-india-the-gst-conundrum)
- ⁵⁰ https://www.statista.com/statistics/1399915/india-fantasy-sports-market-revenue/?kw=&crmtag=adwords&gclid=EAlaQobChMI8N_B6fnFgwMVozSDAx1fygB6EAMYASAAEgJ55PD_BwE ; INR converted to US\$
- ⁵¹ <https://www.statista.com/statistics/1322714/india-fantasy-sports-user-base/>
- ⁵² Online gaming in India - the GST conundrum, EY report (https://www.ey.com/en_in/media-entertainment/online-gaming-in-india-the-gst-conundrum)
- ⁵³ "World Bridge Federation", <http://www.worldbridge.org/what-is-bridge/>
- ⁵⁴ <https://www.statista.com/outlook/dmo/app/games/card-games/india>

- ⁵⁵ Online gaming in India - the GST conundrum, EY report (https://www.ey.com/en_in/media-entertainment/online-gaming-in-india-the-gst-conundrum)
- ⁵⁶ <https://www.statista.com/outlook/dmo/app/games/casual-games/india>
- ⁵⁷ Dr. K.R. Lakshmanan v. State of Tamil Nadu, (1996) 2 SCC 226, <https://main.sci.gov.in/judgment/judis/16203.pdf>
- ⁵⁸ Manakadu Elainger Nala Sports, Narpani Mandram v State of Tamil Nadu, W.A.M.P No. 7972 of 2004, Para 8, Manakadu Elainger Nala Sports vs State Of Tamil Nadu on 6 January, 2005 (indiankanoon.org)
- ⁵⁹ K. Satyanarayan & Ors, 1968 AIR 825, Para 15 State Of Andhra Pradesh vs K. Satyanarayana & Ors on 22 November, 1967
- ⁶⁰ Varun Gumber vs UT OF Chandigarh & Others, 2017 (4) TMI 1515, Para 23
- ⁶¹ Order dated 15 September 2017 in Varun Gumber vs Union Territory, Diary No. 27511/2017 27511_2017_Order_15-Sep-2017.pdf (sci.gov.in)
- ⁶² EY analysis of GSTC meetings and relevant notifications
- ⁶³ GST on online gaming companies SC transfers to itself all pleas pending in HCs - LawStreet Journal
- ⁶⁴ https://cabsec.gov.in/writereaddata/allocationbusinessrule/amendment/english/1_Upload_3515.pdf
- ⁶⁵ "MeiTY", <https://www.meity.gov.in/writereaddata/files/Information%20Technology%20%28Intermediary%20Guidelines%20and%20Digital%20Media%20Ethics%20Code%29%20Rules%2C%202021%20%28updated%2006.04.2023%29-.pdf>
- ⁶⁶ Analysis of the GoM Report on Online gaming & Latest Legislative Developments Impacting GST on Online Gaming , LKS report, <https://www.lakshmisri.com/MediaTypes/Documents/LKS-Analysis-of-the-GoM-Report-on-Online-Gaming.pdf>
- ⁶⁷ Analysis of the GoM Report on Online gaming & Latest Legislative Developments Impacting GST on Online Gaming , LKS report, <https://www.lakshmisri.com/MediaTypes/Documents/LKS-Analysis-of-the-GoM-Report-on-Online-Gaming.pdf>
- ⁶⁸ https://www.indiabudget.gov.in/doc/Finance_Bill.pdf
- ⁶⁹ GST on online skill-based gaming, ASSOCHAM and EY report, <https://www.assochem.org/uploads/files/Online%20gaming%20Impact%20on%20the%20industry.pdf>
- ⁷⁰ The Explanatory Note of Chapter Heading 998439 states: "This service code includes games that are intended to be played on the Internet such as role-playing games (RPGs), strategy games, action games, card games, children's games; software that is intended to be executed on-line, except game software; mature theme, sexually explicit content published or broadcast over the Internet including graphics, live feeds, interactive performances and virtual activities; content provided on web search portals, i.e. extensive databases of Internet addresses and content in an easily searchable format; statistics or other information, including streamed news; other online content not included above such as greeting cards, jokes, cartoons, graphics, maps Note: Payment may be by subscription, membership fee, pay-per-play or pay-per view. This service code does not include: - software downloads, cf. 998434 - on-line gambling services, cf. 999692 - adult content in on-line newspapers, periodicals, books, directories, cf. 998431."
- ⁷¹ Analysis of the GoM Report on Online gaming & Latest Legislative Developments Impacting GST on Online Gaming , LKS report, <https://www.lakshmisri.com/MediaTypes/Documents/LKS-Analysis-of-the-GoM-Report-on-Online-Gaming.pdf>
- ⁷² https://gstcouncil.gov.in/sites/default/files/Agenda/47_MINUTES.pdf
- ⁷³ Section 2(80B) of the CGST Act, 2017
- ⁷⁴ Para 6 of Schedule III to the CGST Act, 2017
- ⁷⁵ Rule 31B of the CGST Rules, 2017
- ⁷⁶ EY analysis
- ⁷⁷ USISPF
- ⁷⁸ Implications Of 28% GST On Online Gaming: Industry's Plea For Reconsideration - Sales Taxes: VAT, GST - India (mondaq.com)
- ⁷⁹ "European Gaming & Betting Association (EGBA)", Poland: EGBA supports changes to the tax base for online sports betting - EGBA
- ⁸⁰ Vaitheeswaran Sneha, "TAXING ONLINE GAMING: KILLING THE 'ACE' OF THE INDUSTRY?", NALSAR UNIVERSITY OF LAW, TAXING ONLINE GAMING: KILLING THE 'ACE' OF THE INDUSTRY? - Centre for Tax Laws (nalsar.ac.in)
- ⁸¹ Licensing system for online gambling, The Association of Online Gambling Operators (<https://copenhageneconomics.com/wp-content/uploads/2021/12/copenhagen-economics-2016-licensing-system-for-online-gambling.pdf>)
- ⁸² AIGF estimates USD 2.5 bn GST loss from offshore illegal, betting firms - The Economic Times (indiatimes.com)
- ⁸³ The Internet Organised Crime Threat Assessment (iOCTA) 2014, Europol (<https://www.europol.europa.eu/iocta/2014/>)
- ⁸⁴ The Internet Organised Crime Threat Assessment (iOCTA) 2014, Europol (<https://www.europol.europa.eu/iocta/2014/>)
- ⁸⁵ Rule 3(I)(b)(ii) of Revised-IT-Rules-2021-proposed-amended.pdf (meity.gov.in)
- ⁸⁶ https://www.trai.gov.in/sites/default/files/All_India_Gaming_Federation_01052024.pdf
Press Information Bureau (pib.gov.in)
Betting ads during cricket streaming: I&B ministry steps in | Cricket News - The Indian Express
- ⁸⁷ Licensing system for online gambling, The Association of Online Gambling Operators (<https://copenhageneconomics.com/wp-content/uploads/2021/12/copenhagen-economics-2016-licensing-system-for-online-gambling.pdf>)
- ⁸⁸ Licensing system for online gambling, The Association of Online Gambling Operators (<https://copenhageneconomics.com/wp-content/uploads/2021/12/copenhagen-economics-2016-licensing-system-for-online-gambling.pdf>)
- ⁸⁹ Microsoft Word - ONLINE GAMING GST STATUS QUO APPEAL PR-11-07-2022 (iamai.in)



- ⁹⁰ Denmark Online Gambling Market - Impact Analysis, Danish Online Gambling Association (<https://www.egba.eu/uploads/2020/06/Tax-analysis-Denmark.pdf>)
- ⁹¹ Licensing system for online gambling, The Association of Online Gambling Operators (<https://copenhageneconomics.com/wp-content/uploads/2021/12/copenhagen-economics-2016-licensing-system-for-online-gambling.pdf>)
- ⁹² GST on online skill-based gaming, ASSOCHAM and EY report, <https://www.assochem.org/uploads/files/Online%20gaming%20Impact%20on%20the%20industry.pdf>
- ⁹³ Analysis of the Recommendation of the Report of the GoM on Imposition of GST on Online Gaming, Deepstrat report (Analysis-of-the-GoM-Report-on-GST-for-Online-Gaming.pdf (deepstrat.in))
- ⁹⁴ New frontiers - Navigating the evolving landscape for online gaming in India, EY report (https://www.ey.com/en_in/media-entertainment/new-frontiers-navigating-the-evolving-landscape-for-online-gaming-in-india)
- ⁹⁵ #Reinvent: India's media & entertainment sector is innovating in future (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ⁹⁶ USISPF
- ⁹⁷ Licensing system for online gambling, The Association of Online Gambling Operators (<https://copenhageneconomics.com/wp-content/uploads/2021/12/copenhagen-economics-2016-licensing-system-for-online-gambling.pdf>)
- ⁹⁸ New frontiers - Navigating the evolving landscape for online gaming in India, EY report (https://www.ey.com/en_in/media-entertainment/new-frontiers-navigating-the-evolving-landscape-for-online-gaming-in-india)
- ⁹⁹ #Reinvent: India's media & entertainment sector is innovating in future (https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report)
- ¹⁰⁰ <https://pib.gov.in/FeaturesDeatils.aspx?NotelD=151133&ModuleId%20=%202>
- ¹⁰¹ <https://pib.gov.in/FeaturesDeatils.aspx?NotelD=151133&ModuleId%20=%202>
- ¹⁰² <https://economictimes.indiatimes.com/tech/technology/game-theory-how-fortunes-of-indias-gaming-industry-turned-from-being-a-sunrise-sector/articleshow/105683818.cms?from=mdr>
- ¹⁰³ <https://www.imf.org/external/pubs/ft/issues/issues30/>
- ¹⁰⁴ Denmark Online Gambling Market - Impact Analysis, Danish Online Gambling Association (<https://www.egba.eu/uploads/2020/06/Tax-analysis-Denmark.pdf>)
- ¹⁰⁵ Licensing system for online gambling, The Association of Online Gambling Operators (<https://copenhageneconomics.com/wp-content/uploads/2021/12/copenhagen-economics-2016-licensing-system-for-online-gambling.pdf>)

Acknowledgements

US India Strategic Partnership Forum (USISPF)

Shweta Kathuria
Executive Director, U.S.-India Tax Forum

EY

Bipin Sapra
Partner, EY India

Swati Saraf
Indirect Tax

Esha Sandhu
Indirect Tax

Mukul Goel
Indirect Tax

Sachin Agarwal
Partner, EY India

Nancy Sharma
Indirect Tax

Ashita Kumar
Indirect Tax

Lakshay Jain
Indirect Tax

Editorial

Shweta Sharma

Designing

Jithin Nath S

Contact Us

Kabir Khattar
kabiir.khattar@in.ey.com

Additional disclaimers

- ▶ This report is prepared on a best effort basis, using primary and secondary industry sources of information. Where possible, data provided has been cross verified.
- ▶ The survey conducted by USISPF was run by them, responses received by them and forwarded to us. The survey was conducted anonymously, and EY was not privy to the survey participants, who we are assured were relevant stakeholders from the online skill-gaming industry.
- ▶ The report is not meant for use in or for any litigation purposes, but aims to provide an overall perspective on the impact of the revised GST law on the online skill-based gaming industry, and not any section within the same.
- ▶ Calculations of the impact of GST are on a small set of sample transactions, and the conclusions thereof are not indicative of the overall impact on all types of games.
- ▶ This publication contains information intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. Neither EYGM Limited nor any other member of the global Ernst & Young organization can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate advisor.
- ▶ Despite our best efforts, errors do creep into this report, which we correct when brought to our notice. Please do use the latest updated version from our website. While this report has been created at the request of the USISPF, EY retained complete editorial control over the same
- ▶ This report is a co-branded report between EY and USISPF. However, EY retains all editorial control over the same.
- ▶ This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgement.
- ▶ This report has been developed by conducting secondary research, discussions with several companies and industry stakeholders, and cross referencing of available data points. To the extent possible, the data has been verified and validated. However, there can be no guarantee that such information is correct as of the date it is received or that it will continue to be correct in the future. EY does not take any responsibility for the veracity of the underlying data. Use of this report is at the discretion of the reader, and neither USISPF nor EY take any responsibility for the same in any manner. Please obtain professional guidance prior to using the information provided in this report for any decision making. There is no tax, operating, regulatory or other business advice provided in this report. By reading this report, the reader shall be deemed to have accepted the terms and conditions of use mentioned in this paragraph. Despite our best efforts, errors do creep into this report, which we correct when brought to our notice. Please do use the latest updated version from our website.
- ▶ Neither EYGM Limited nor any other member of the global Ernst & Young organization can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication.
- ▶ Sizing of online gaming has been arrived at using various sources of data and proprietary EY research. We have tried to then validate the sizing through industry discussions. Our research is limited to online gaming and does not contain any comment on other modes of gaming (physical format).
- ▶ Forward estimates assume that there will be no further pandemic-related lock-downs or major restrictions.
- ▶ Forward estimates have been provided on best effort basis and are subject to change to reflect the ground realities and unforeseen events.
- ▶ On any specific matter, reference should be made to the appropriate advisor.
- ▶ EY does not provide any point of view on categorization of any game as a game of skill or chance.
- ▶ EY does not provide any taxation advice or recommend any differential tax treatment for online games basis the element of skill or chance.
- ▶ We have summarized research conducted across various sources and presented the same in this document.
- ▶ Any points of view provided are those of the authors.
- ▶ This report is not intended for use in any legislation or litigation.
- ▶ Any use made of this report is at the discretion and risk of the user, and EY shall not be responsible for the same in any manner.
- ▶ Readers of this report are deemed to have accepted these disclaimers.

Acknowledgements

US India Strategic Partnership Forum (USISPF)

About Us

The US-India Strategic Partnership Forum (USISPF), formed in 2017, is an independent non-profit, non-governmental, and non-partisan organization headquartered in Washington, D.C., with offices across both countries. Through its network of 400+ global companies, USISPF bridges the gap between business and government and fosters closer public-private sector partnerships across all facets of the economy and society in the United States and India. The USISPF mission is to build, enable, advocate, and facilitate partnerships between the United States and India by providing a platform for all stakeholders to come together in new ways that will create meaningful opportunities with the power to change the lives of citizens in both countries.

The US-India Tax Forum is USISPF's dedicated Tax Policy Forum which enables focused discussion on important advocacy areas across tax regimes in India. The Tax Forum is an initiative to provide member companies with a platform to engage with relevant Government officials on tax issues as they conduct business in the US-India corridor. The Tax Forum was officially launched on February 25, 2020 and since then it has been a trusted platform bringing together policymakers and tax experts to discuss the future of taxation and how businesses and Governments can work together in a global world.



Our offices

Ahmedabad

22nd Floor, B Wing, Privilon
Ambli BRT Road, Behind Iskcon Temple
Off SG Highway
Ahmedabad - 380 059
Tel: + 91 79 6608 3800

Bengaluru

12th & 13th Floor
"UB City", Canberra Block
No.24 Vittal Mallya Road
Bengaluru - 560 001
Tel: + 91 80 6727 5000

Ground & 1st Floor
11, 'A' wing
Divyasree Chambers
Langford Town
Bengaluru - 560 025
Tel: + 91 80 6727 5000

Bhubaneswar

8th Floor, O-Hub, Tower A
Chandaka SEZ, Bhubaneswar
Odisha - 751024
Tel: + 91 674 274 4490

Chandigarh

Elante offices, Unit No. B-613 & 614
6th Floor, Plot No- 178-178A
Industrial & Business Park, Phase-I
Chandigarh - 160 002
Tel: + 91 172 6717800

Chennai

6th & 7th Floor, A Block,
Tidel Park, No.4, Rajiv Gandhi Salai
Taramani, Chennai - 600 113
Tel: + 91 44 6654 8100

Delhi NCR

Ground Floor
67, Institutional Area
Sector 44, Gurugram - 122 003
Haryana
Tel: +91 124 443 4000

3rd & 6th Floor, Worldmark-1
IGI Airport Hospitality District
Aerocity, New Delhi - 110 037
Tel: + 91 11 4731 8000

4th & 5th Floor, Plot No 2B
Tower 2, Sector 126
Gautam Budh Nagar, U.P.
Noida - 201 304
Tel: + 91 120 671 7000

Hyderabad

THE SKYVIEW 10
18th Floor, "SOUTH LOBBY"
Survey No 83/1, Raidurgam
Hyderabad - 500 032
Tel: + 91 40 6736 2000

Jaipur

9th floor, Jewel of India
Horizon Tower, JLN Marg
Opp Jaipur Stock Exchange
Jaipur, Rajasthan - 302018

Kochi

9th Floor, ABAD Nucleus
NH-49, Maradu PO
Kochi - 682 304
Tel: + 91 484 433 4000

Kolkata

22 Camac Street
3rd Floor, Block 'C'
Kolkata - 700 016
Tel: + 91 33 6615 3400

Mumbai

14th Floor, The Ruby
29 Senapati Bapat Marg
Dadar (W), Mumbai - 400 028
Tel: + 91 22 6192 0000

5th Floor, Block B-2
Nirlon Knowledge Park
Off. Western Express Highway
Goregaon (E)
Mumbai - 400 063
Tel: + 91 22 6192 0000

3rd Floor, Unit No 301
Building No. 1
Mindspace Airoli West (Gigaplex)
Located at Plot No. IT-5
MIDC Knowledge Corridor
Airoli (West)
Navi Mumbai - 400708
Tel: + 91 22 6192 0003

Pune

C-401, 4th Floor
Panchshil Tech Park, Yerwada
(Near Don Bosco School)
Pune - 411 006
Tel: + 91 20 4912 6000

10th Floor, Smartworks
M-Agile, Pan Card Club Road
Baner, Taluka Haveli
Pune - 411 045
Tel: + 91 20 4912 6800

Ernst & Young LLP

EY | Building a better working world

EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EYG member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

Ernst & Young LLP is one of the Indian client serving member firms of EYGM Limited. For more information about our organization, please visit www.ey.com/en_in.

Ernst & Young LLP is a Limited Liability Partnership, registered under the Limited Liability Partnership Act, 2008 in India, having its registered office at Ground Floor, Plot No. 67, Institutional Area, Sector - 44, Gurugram, Haryana - 122 003, India.

©2024 Ernst & Young LLP. Published in India.
All Rights Reserved.

EYIN2406-020
ED None

This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. Neither EYGM Limited nor any other member of the global Ernst & Young organization can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate advisor.

JN

ey.com/en_in

