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Mexico's Supreme Court Rules In Favour Of 'Double Taxation'

Ruling affects state of Mexico, a region which encompasses Mexico City

Authorities can levy VAT in addition to taxing gaming operators' revenues

Industry is worried this will open the floodgates to more taxes

“My first reaction when I saw the news was ‘this sets bad precedent’,” Alfredo Lazcano, gaming lawyer and founder of Lazcano Sámano, said of the Mexican Supreme Court's decision to allow for double taxation of gambling winnings last week.

The ruling, which applies to 17m plus people that call the state of Mexico (not to be confused with the country) home, declared tax stipulations in Articles 122 and 123 of the Financial Code to be legal.

Those articles allow for the taxation of the revenues of gambling organisers and gaming machine owners, in addition to the Value Added Tax operators are also required to pay.

The court case was a result of a dispute between the state government and the Tax Administration System (SAT), with the state government claiming that the system amounted to double taxation.

Lazcano told VIXIO GamblingCompliance that it is not the first time that states have tried to levy double taxation in Mexico, but that it is the first time that such a high level court of appeals has made a ruling on the issue, and in favour of the tax authority.

“Now there is a judgment that creates a precedent from this, from the federal Supreme Court, and that’s very bad.”

Luis María Aguilar, a lawyer and minister of the Supreme Court, disagreed, arguing during the case that it was not double taxation.

"The local tax is levied on the income that the taxpayer receives from the exploitation of games and public shows and, on the other hand, the federal value added tax is levied on the consumption that is transferred."

He also argued that two different sources of wealth were being taxed, as local tax concerns the revenue streams from owning a machine or organising gaming and VAT concerns consumer winnings.

But Lazcano said that although the argument that it is a tax imposed on the people that are consuming "at some point, technically, from the legal perspective, could be true", it leaves the door open for innumerable other taxation schemes, citing other jurisdictions that tax gambling deposits as an example of what the future could hold.

The problem, according to those in the industry, is that the government views the gambling business as a bottomless fountain of revenue.

"They don't see that there are expenses and that it's sometimes very difficult to pay a lot of taxes, not because it's federal taxes, it's the income tax, the corporate taxes, state taxes, they're licensed," said Lazcano.

Lazcano noted that, at the end of the day, these new taxes actually hurt land-based casinos and businesses the most, which are still struggling to recover from the pandemic. Older players who would have never converted to online previously were forced to by COVID-19, and some have not returned.

"At the end of the day, I am fairly sure that the industry is going to figure out how to manage these types of taxes that are increasing. It is not that it's going to create a huge problem for the Mexican gaming industry but it's not good because it opens up the possibility of the state imposing this type of tax. It's an abuse of authority."

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