

FACT SHEET 10 – REMOTE GAMING

Why Malta for Remote Gaming?

- Malta's Remote Gaming Regulations strike a fine balance by taking a commercially realistic approach towards regulation without compromising player's rights.
- The new Regulations define 'Remote Gaming' as a technology-neutral term that encompasses any type of gaming using a means of distance communication. This includes all forms of interactive games offered through the Internet, mobile phones, telephone and fax.
- The regulatory framework provides you with the 'right fit' for any structure of operations, while affording you all the advantages accruing to being licensed in an EU member state.
- Detailed procedures relating to control systems and the financial protection of players mean that you can work in an environment which enhances the trust of your customers.
- The licensing process is efficient and relatively low cost.
- Gaming tax rates are enticing for start-ups and highly rewarding for established operators, given that the maximum amount of tax payable per annum is capped.
- Availability of excellent financial services (including payment gateways), support services and reasonably priced office space.
- Availability of a skilled workforce at competitive salaries. Dedicated professional services companies can be outsourced to carry out the back-office function.
- Bandwidth is relatively inexpensive and available through fibre linked with the European mainland. There is also a backup carrier grade microwave link in operation.

Regulatory Framework

Remote gaming in Malta is regulated by the Remote Gaming Regulations 2004 (L.N. 176/04) issued under the Lotteries and Other Games Act 2001 ("LOGA"). The

regulatory body in Malta supervising remote gaming operations is the Lotteries and Gaming Authority.

The Lotteries and Gaming Authority is a single regulatory body that is responsible for the governance of all gaming activities in Malta.

The remote gaming sector is the most dynamic and the fastest growing gaming sector in Malta.

The sector dynamics of remote gaming coupled with the technological convergence created the need for a remodelled regulatory framework. The first on-line betting in Malta in the 2000, was established under the Public Lotto Ordinance (L.N. 34 of 2000), to regulate offshore betting offices. Since then LGA has developed its methodologies to regulate the procedures of remote gaming operations, and in April 2004, revamped Remote Gaming Regulations were published. Malta became the first EU member state to regulate Remote Gaming.

The LGA regulatory regime aims to be both technology neutral and game neutral – encompassing any type of gaming using a means of distance communication (including internet, digital TV, mobile phone technology, telephone and fax). Any remote game which can be securely managed under LGA regulations will be considered for licensing.

Remote Gaming Council

In March 2005, the Malta Remote Gaming Council was launched. This Council brings together all our remote gaming licensees, giving them a great opportunity to meet new challenges backed by the inherent advantages of collective effort. LGA also launched an on-line forum aiming to create an on going discussion between all stakeholders, ISP providers, legal and financial representatives in the Malta remote gaming industry.

The Licencing Process

The Lotteries and Gaming Authority applies a rigorous process prior to granting a remote gaming licence.

The application process to obtain a licence is divided into three stages.

The first stage is to conduct a fit and proper exercise on the applicant. The Authority analyses all information

related to persons involved in financing and management and on the business viability of the operation. The Authority conducts probity investigations with other national and international regulatory bodies and law enforcement agencies. It also carries out a financial analysis of the business plan.

On successful conclusion of the first stage the applicant is examined on the instruments required to conduct the business. This process includes examining incorporation documents, the games, the business processes related to conducting the remote games, the rules, terms, conditions and procedures of the games, the application architecture and system architecture of the gaming and control systems.

Normally the first stage is completed within 3 weeks and the second stage within 4 weeks, depending on the correctness and completeness of the information submitted to the Authority.

At the end of the second stage the applicant is given a letter of intent to operate remote gaming with the intent of obtaining a certification of compliance within six months.

The applicant may then establish the business in Malta, conclude all agreements and carry out testing of the set-up.

A formal licence is issued when the Authority obtains approval from the compliance certification entity. A normal compliance certification procedure takes two weeks to be carried out.

Application & Licence Fees

A non-refundable application fee is to be submitted with the application. The annual licence fee is to be paid within fifteen days from the formal grant of the licence and is to be paid annually. Payments can be done by a cheque drawn in Maltese Currency or bank transfer in favour of the Lotteries and Gaming Authority.

The Remote Gaming licence fees are:

a. **Application fee:** The application fee for a new licence of any class is €2,300. This fee is payable together with the submission of an application for the licence. The fee for the licence renewal (i.e., for subsequent 5-year period) is €1,150.

b. **Annual fee:** The annual licence fee, for any class of licence, is €6,900.

Classification & Duration of Licences

Under the Remote Gaming Regulations, 2004 there are four classes by which an operator may be licensed.

Online gaming operators in Malta are licensed under the Remote Gaming Regulations (LN176/2004). Every operator undergoes a stringent probity before granted the licence.

Licensees are classified according to manner they assume game risk:

Class 1: Operators who partake in the gaming risk based on games based on repetitive events (Random Number Generators). This class covers casino-type games, skill games and online lotteries.

Class 2: Operators who partake in gaming risk on markets based on singular events (betting). Operators who manage their own risk on events based on a matchbook. Under this class falls fixed odds betting, pool betting and spread betting.

Class 3: Operators who promote games and in return get a commission. Normally this includes multiplayer games and betting exchanges. This class includes P2P, poker networks, betting exchange and game portals.

Class 4: Operators who run a software platform to host the service of any of the above classes. Such operators are not involved in player management functions and is intended for software vendors who want to provide management and hosting facilities on their platform.

A licence of any class is granted for the period of five years and may be renewed thereafter for periods of five years. A company may apply for more than one class of licence, but the applicant must be a Maltese registered company.

Taxation

The gaming tax is differentiated according to the type of gaming / betting operations as follows:

Class 1: €4,600 per month for the first six months, subsequently €6,900 per month.

Class 1 under Class 4: The gaming tax payable by casino operator is €1,150 per month. The gaming tax payable by the host platform is NO TAX for the first 6 months of operation, €2,300 per month for the subsequent 6 months and subsequently €4,600 per month for the entire duration of the licence.

Class 2: Fixed-odds betting: 0.5% on the gross amount of bets accepted. On betting exchanges: 0.5% on the sum of all net winnings calculated per player per betting market. (In cases where the exchange is involved in the risk)
Pool betting: 0.5% on the aggregate of stakes paid.

Class 3: Tax is a percentage of net takings. Percentage amount depends on nature of operation.

Tax Capping

a. The maximum gaming tax payable annually by one licensee in respect of any one licence is €460,000.

b. However, in case where casino operators (under Class 1) operate from the host platform (under Class 4 licence) the tax cap is applicable to the total tax payable by all licensees in this 'cluster' together. In this case, the tax cap is reached when the sum of tax payable by all casino operators licensed under Class 1 and their common host platform reaches €465,875

Malta's Infrastructure

For the past years Malta has been working hard to improve the critical key drivers of this business.

Capacity is supported with international links, whilst Internally, Malta has a full digital telecoms network. International call rates are at European levels, and operators may use hosting service providers offering competitive packages.

Malta is undertaking a €300 million investment in 'Smart City' – a state-of-the-art ICT and media village), to support and consolidate its position as the European hub of remote gaming.

Due to a thriving gaming industry on the island, one will find a sizeable skilled workforce trained in game risk management, odds compilation and call centre support as well as many professional services companies which now specialise in remote gaming.

Since Malta joined the European Union, operators can take advantage of the freedom of movement for goods and services within the community.

Malta has a flexible legislative instrument that sets down the fundamental principles, but leaves ample space and scope to deal with future requirements.

The term 'remote gaming' has become the hallmark of technology neutral/game neutral regulation.

Table 1 - Schedule of Fees

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| Gaming Licence Application Service Fees (one time only) | € 5,750 |
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In relation to setting up of Gaming Companies, our Firm charges a fixed basic service fee of **€ 5,750** in relation to incorporation and application of a remote gaming licence. This fee is also exclusive of VAT (if applicable), and of all expenses and disbursements which will have to be paid to us in addition to the fixed fee.

The basic services offered by us under this agreement would be as follows:-

- (a) Initial meeting with client to outline requirements, discuss strategy for Malta operation;
- (b) Collection and collation of due diligence documents;
- (c) Provision of a template for client to prepare his Business Plan and Financial Projections;
- (d) Assistance for filling in of Application Forms, Personal Declaration Forms, Business Entity Form, Internet Service Provider Form;
- (e) Basic review of Rules and Procedures & Terms;
- (f) Basic review of Agreement with the ISP for compliance with the Regulations;
- (g) Incorporation of the Gaming Company: includes drafting of a Single Shareholder Memorandum & Articles of Association, incorporation of the company as a Company with Foreign Income (CFI), application for exemption from Transfer Duty relative to the company, application for Advance Revenue Ruling confirming company status;
- (h) Handling all basic communications with the Lotteries & Gaming Authority on behalf of the client.

Note:

This fee is based on the premise that the client shall provide us with all the documents required in the format requested and in a timely manner. We reserve the right to levy extra fees if we are obliged to chase the client for documents, amend documents or create documents ourselves.

The basic service fee is payable as follows:-

- (a) € 2,000 – as confirmation of our retention and prior to commencement of work. This fee is not refundable including in the event that the client should change his mind in relation to any aspect of his licence application, including deciding not to pursue the licence application in question at any stage;
- (b) € 3,750 – upon the issue of the Lotteries & Gaming Authority's Stage 2 Letter in favour of the client. This fee is likewise non-refundable.

LGA's Licence Application Fees are:-

- (a) **Application fee:** The application fee for a new licence of any class is **€2,300**. This fee is payable together with the submission of an application for the licence. The fee for the licence renewal (i.e., for subsequent 5-year period) is €1,150.
- (b) **Annual fee:** The annual licence fee, for any class of licence, is **€6,900**.

Other services offered

In addition to the basic service fee agreement above, our Firm could offer a number of additional services already mentioned above, as well as legal (including international

tax) advice. Fees are to be agreed beforehand with the client and will be charged on a time spent basis at applicable hourly rates.

The information contained in this fact sheet has been prepared by Busuttil & Micallef – Certified Public Accountants, Malta. It is of a general nature and is not intended to address particular circumstances of an individual or entity. The fact sheet is intended to provide the reader with an overview of the tax planning and other opportunities in Malta. This information is also subject to any changes that may occur to the relevant legislation.

No one should act upon this information without obtaining appropriate professional advice.