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Stance of
Department 34 - State Supervision of Betting Games and
Department 32 - Tax Legislation

towards the legal nature of the individual transactions (fulfilments) provided in relation to and in connection with the operation of betting games

1 Introduction

This stance is the legal opinion of the Department 34 - State Supervision of Betting Games and Division 32 - Tax Legislation, which is not and cannot be a binding opinion of the Act No. 186/2016 Coll., on betting games, as amended (the "Gambling Act") and the Act No. 187/2016 Coll., on betting game taxes, as amended within the meaning of Act No. 298/2016 Coll.

Starting on 1/ 1/ 2017 the operation of betting games is governed by the Gambling Act, which in accordance with the rules of the internal market of the European Union extends the range of entities that are allowed to operate betting games in the territory of the Czech Republic and also allows operation of almost all kinds of betting/gambling games through the Internet. However, given the fact that gambling is a particular area of business associated with negative social cost, as it causes pathological gambling habits associated with undesirable activities performed by a certain part of the population, the new legislation has introduced much stricter conditions and requirements under which an entity may operate betting games in order to better protect consumers. **This does not only apply to the conditions relating directly to the operation of betting games, but also to activities dealing with promotional and other activities**. The Constitutional Court also commented on the social phenomena caused by the operation of betting games: *"It is a well known fact that lotteries and similar games occur mainly at the fringes of socially acceptable activities, and of course the extent of this varies depending on the type and parameters of a particular game. Their real impacts can negatively affect the fates of individuals, those close to them and as a result also the general public. It is not without reason that in general language these games are referred to as a hazard. The phenomenon of gambling addiction in today's social situations has been occurring increasingly frequently. Gaming rooms attracting players to seemingly easy immediate winnings, have become a typical feature not only of the outskirts of Czech cities and towns, but also of their centres, including the centres of smaller municipalities, and all of the corresponding socially harmful activities represent a threat to public order and peaceful coexistence within the municipality."* (finding of the Constitutional Court with File Ref. Pl. ÚS 56/10, b. 37 reasoning).

The opinion is intended to provide operators of betting games with basic instructions to properly navigate through the Ministry of Finance's legal opinion focusing on the operation and on the performance of individual betting transactions (fulfilments) and is not and cannot be a complete interpretation of the Gambling Act and of the Gambling Tax Act but only serves as an assessment of these transactions. The assessment of the application of the Gambling Act is in a particular cases entirely within the competence of the authority responsible for issuing permits or for supervision activities and for administrative penalties which depend on the individual nature of each case. The assessment of the application of tax rules in a specific case is entirely within the competence of the relevant tax administrator / authority. The relevant court is competent to deal with particular cases and to apply binding laws.

2 Definition of terms

2.1 Betting game and its operation

2.1.1 Betting game or game of chance

A game of chance refers to a game, bet or lottery ticket where the player places bets or deposits a wager whose return is not guaranteed, and where the actual winning or losing is wholly or partly a matter of chance or an unknown circumstance.

2.1.2 Operation of a game of chance

The operation of a game of chance (betting game) refers to activities consisting in providing the given game of chance with the intention to achieve profits, in particular the acceptance of bets and wagers and deposits for the game of chance as well as winning payouts and other organisational, financial and technical activities connected with the start of the game of chance and activities required for finishing and settlement of the given betting game or game of chance. (Typical progress = bet (+ other deposit) → chance → winning option (+ return of other deposit).)

2.2 Involved parties

2.2.1 Operator

For the purposes of this text the operator refers to the betting game operator, that is, a person or an entity without legal personality or classification who within the meaning of Section 5 of the Gambling Act directly operate the betting game (an operator in the narrower sense), but also a person or entity without legal personality who is related to them (an operator in a broader sense).

For the purpose of this text it is not important whether the operator is in possession of a basic licence, providing that such license is required for the operation of the given betting games, or whether the gaming operator has reported the betting game, providing that such reporting is required in order to operate the given betting game.

2.2.2 Player

For the purposes of this text a player shall be understood as a participant in the betting game in accordance with Section 4 of the Gambling Act, who is a regular person who has registered to play the game or paid for a wager (a player in the narrower sense), or any regular person or entity without legal status related to the player (player in the broader sense). A related person, for example, may be a person other than the participant in the betting game who will receive the winning payout or fulfilment should the player win a particular transaction or fulfilment.

2.3 Fulfilments and obligations of the player towards the operator

2.3.1 Bet

In line with Section 4 (1) (d) of the Gambling Act, "a bet is a non-refundable amount voluntarily assigned by the player that will be compared with the outcome of the game, including (i) the difference between the price of the offered goods or service and their usual price; a usual price shall be regarded as a price established in line with the asset valuation law, and (ii) the amount exceeding the cost for calling out or for sending a text or multimedia message resulting from a contract concluded between the game participant and the provider of electronic communications services. "

In line with Section 7 (4) of the Gambling Act non-monetary bets cannot be accepted.

2.3.2 Deposit (= IN)

In line with Section 4 (1) (c) of the Gambling Law "any fulfilment or transaction that is eligible for gambling and consisting in particular of (i) one or more bets; or (ii) other fulfilments specified by the operator which, in addition to the right to place a bet entitle the game participant to play the relevant betting game."

In line with Section 7 (4) of the Gambling Act non-monetary deposits cannot be accepted.

Therefore deposits may be divided into two groups, namely bets (as described in item 2.3.1 above) and other deposits which represent for example handling fees or a casino entrance fees.

2.4 Fulfilments and obligations of the operator towards the player

2.4.1 Deposit return (= IN return)

The Gambling Act or the Gambling Tax Act do not define conditions for the return of deposit. However, this does not apply to a bet because **bet is non-refundable**. (A bet may only be returned if due to objective reasons the particular betting game is cancelled, for example, if the betting event for which the bet has been accepted is cancelled.) Therefore, in line with the Act only other deposit may be returned but not a bet (i.e. IN minus BET).

This refers to a fulfilment when the operator returns a previous deposit paid for a betting game back to the player and either a portion of the deposit of the entire amount.

2.4.2 Winning

The Gambling Act or the Gambling Tax Act do not define a winning. In line with Section 3 (1) of the Gambling Act a betting game refers to a game, bet or lottery ticket where the player placed a deposit or wager whose return is not guaranteed, and where winning or losing is wholly or partly a matter of chance or based on an unknown circumstance. Therefore, in line with the Section 10 of the Gambling Act,
and based on the type of the betting game, a winning represents monetary or non-monetary fulfilment/transaction the operator is required to pay within the time limit set by the gaming plan, but no later than within 60 days following the date when the player claimed the win. The report also states that "a winning represents everything the operator of the betting game offers on the basis of a chance or unknown circumstances which the operator must define in the gaming plan in advance."

The fact whether the operator provides the player with the given fulfilment based on chance or based on previously unknown circumstances or based on any other reason is crucial for the division of the two above-mentioned basic fulfilments /transactions provided by the operator to the player whereas unlike a winning the return of a deposit depends on other legal reason than previously unknown chance or circumstance.

3 Benefits provided in connection with the operation of betting games

In line with the Section 7 (3) of the Gambling Act, "in the context of gambling, it is forbidden to provide

the player/participant with any benefits/advantages in the form of food, beverages, tobacco products or stimulants." However, the Gambling Act does not define these benefits any further, but this fact cannot be interpreted that these may be provided without any limitations.

3.1 General limitations

In accordance with the Gambling Act, in principle, players may be given benefits which are based on one of the fulfilments specified under item3.4 or other similar fulfilments which operators offer to make participation in the game more interesting than those offered by other operators, or generally which make services or betting games more interesting and which promote the increase in the participation in betting games. Due to this fact that the benefits provided in relation with the operation of betting games are often directed from the operator towards the player, it is necessary to distinguished benefits from a winning and a deposit return.

3.2 Distinguishing other fulfilments offered by the operator to the player

3.2.1 Distinguishing a winning

If a fulfilment offered by the operator to the player depends on a chance it shall always be regarded as a winning from a betting game. The exact requirements or conditions to get this fulfilment, because it is considered a winning, must always be specified in the gaming plan for the given betting game and must also comply with requirements defined for the given betting game in the Gambling Act. As far as the winning is concerned generally it is not prohibited that the rules of a particular game offer several methods or variations how to claim a winning generated based on a chance or based on a previously unknown circumstance. This allows for example that the basic, regular or special winning is modified and achieved when matching a unique combination or result of a betting game above the regular betting game requirements which may be defined and selected individually by each operator.

3.2.2 Distinguishing a deposit return (= IN return)

Further, if the operator allows return of a portion of the deposit, which is not a bet, and at the same time and as specified above this return will not depend on a chance or on a previously unknown circumstance it will not be regarded as a benefit provided in connection with the operation of the betting game in line with Section 7 (3) of the Gambling Act but **it will be a return of a portion of the deposit related to the given game.**

3.2.3 Summary

Therefore, both examples specified herein represent fulfilments/transactions provided by the operator in relation with the given betting game and not benefits provided in relation with the given betting game. Based on the above we may conclude that other fulfilments will be regarded as benefits provided in connection with the operation of the given betting game. The text below specifies basic limitations which prevent providing certain fulfilments as benefits related to the operation of betting games.

3.3 Prohibited benefits

3.3.1 Winnings and returned deposits

First, in connection with the above it is necessary to mention **that benefits provided in connection with the operation of betting games and which represent material winnings or are returned deposits cannot be provided as benefits.** Such fulfilments may only be provided as winnings or as returned deposits and therefore, it is necessary that they meet conditions specified in the Gambling Act and must be defined in the gaming plan.

Example No. 1: *The operator of a fixed odds betting game operated through a website advertises that all players who placed bets on sporting or other events taking place on 24/ 12 were not the winning bets and that these will be included in a raffle for 10 TV sets. Based on the statement of the operator this is not a winning because TV sets are paid from "marketing sources and not from funds submitted by players" and it is also a non-monetary transaction / fulfilment because winnings from fixed odds betting games may only be monetary in nature. In this case this is an illegal operation of a betting game and in conflict with the approved gaming plan as specified in Section 123 (1) (c) of the Gambling Act, because the 10 players who paid their bets for the betting game received winnings based on a random event. The fact that the winning does not comply with the requirements specified under Section 10 of the Gambling Act therefore does not mean that it is not a winning from a betting game but it means that such winnings cannot be offered for fixed odds betting games.*

Example No. 2: *A similar situation will occur when the operator of a fixed odds betting game offers to players 10% return of their deposit from all bets that were assessed as not winning bets – that is if the players failed to guess correct results of at least one sporting event included in the bet (in the sense of a one-time betting contract concluded between the player and the operator) From the above it is clear that the operator paid to the player based on this scheme a financial fulfilment equal to 10% of the player's original deposit and the operator did so based on a previously unknown circumstance (sporting or other event), and therefore it is considered winning. In line with Section 27 of the Gambling Act the payout of the winning must depend on a correct guess of the result of the given betting event. Therefore this approach of the operator is also considered illegal operation of a betting game and in conflict with the approved gaming plan in line with Section 123 (1) (c) of the Gambling Act, because the operator provided a winning in conflict with Section 27 of the Gambling Act and under no circumstance this may be regarded as a benefit provided in relation to the operation of betting games. At the same time it is not a return of a deposit in line with item 2.4.1, due to the fact that the criteria which are used to assess whether the deposit will be returned is not known in advance.*

For a deposit return example refer to item3.4.3.

3.3.2 Food items, beverage, tobacco products or stimulants

Other prohibited benefits include **food items, beverages, tobacco products or stimulants**, which are directly prohibited in line Section 7 (3) of the Gambling Act.

3.3.3 Other prohibited benefits

The last but large group of banned benefits are those which are in conflict with other provisions of the Gambling Act or with other legal regulations, such as the Act No. 634/1992 Coll., on consumer protection, as amended, or Act No. 40/1995 on the control of advertising, as amended and supplement to the Act No. 468/1991 Coll., on radio and television broadcasting, as amended.

In this sense, the most important group of benefits is based **on the principle of providing a non-monetary deposit for betting game** in violation of Section 7 (4) of the Gambling Act.

3.4 Individual types of benefits and their classification

The following types of benefits (so-called bonuses) represent model categories that were provided as bonuses during previous years. They are included in the list regardless of the fact whether they are bonuses in the sense defined above or bonuses that are now regarded as the operation of own a betting game and also regardless of the fact whether providing these bonuses is in conflict with the law or not – one may expect that some of the above-described bonuses may be banned under the Gambling Act.

3.4.1 Monetary funds provided without an intended purpose

This refers to a bonus paid to the player, either in cash or in cashless form, or by crediting the fund to the given user account. In such scenario the funds are provided **without any intended purpose.**

However, this category does not include a situation where the operator provides the player with "funds" by crediting these funds to the user account in such a way that the player cannot used them in any other way than by putting them back into the play, since in this case it is a bonus in the form of an option to further participate in the game (see item3.4.2 below), which is quantified by the amount of funds the player can put back into the play.

Example No. 1: *A technical game operator, in connection with the first transfer of funds to a newly created user account, provides a bonus in the same amount as the amount of the transferred funds, but not more than CZK 2,000.00. The provided bonus may be either put back into the game by the player or used for other purpose - it may be withdrawn from the user account for example.*

Example No. 2: *For each deposited CZK 10 for the given betting game the operator credits the account of the player with a "golden coin". After collecting the predetermined number of golden coins the operator credits the account number of the player with funds in the predetermined amount which the player can either put back into the game or transfer them to his / her payment account or to any other account and then use these funds at his/her own discretion.*

Assessment of the situation in terms of the Gambling Act

Funds that the player obtains from the operator becomes fully available to the player and are indistinguishable from other funds of the player. Therefore, it is a benefit provided by the Operator in monetary form whereas any other use of these funds is not subject to any other requirements and has no particular purpose (see samples of bonuses No. 1 and 2). Based on the above it is clear that the provided fulfilment is not a winning because provision of these funds does not depend on a chance, and it is not a return of a deposit and at the same time the fulfilment is not a benefit specified under Section 7 (3) of the Gambling Act nor it is a benefit that would be in conflict with the Gambling Act or with any other legal regulations. **Therefore, it may be concluded that this benefit may be provided under the operation of the given betting game.**

However, for the sake of completeness it should be added that another possible form of this bonus could also be a temporary provision of such funds by the operator to the player in the form of a loan. In such scenario, the advantage provided by the operator would allow the player to participate in betting game when own funds of the player does not allow the player to participate in the game. However, this type of bonus is in conflict with the requirement for the operation of betting games which prohibits the operator to provide a loan or funds to be used as a deposit for a betting game,

even if done through a third person who complies with Section 87 (2) of the Gambling Act and it is mentioned in the basic licence. As an example we may present a situation when a player after participating in a betting game for 40 minutes uses up all his or her available funds and the operator offers additional CZK 1,000.00 in the form of a loan. This would encourage further participation of the player in the betting game which could have a negative impact on the player, particularly due to the creation of a debt. At present when the new regulations have defined (in addition to other issues) player protection requirements, for example by applying self-restricting/limiting measures, such encouragement cannot be accepted or used to encourage persons who do not have sufficient funds. This also applies to a bonus provided in the form of a loan under special conditions.

Assessment in terms of taxes paid from betting games

As mentioned above, the actual provision of a bonus or rather payment of monetary funds to a player is not a winning nor a deposit return. Therefore, this does not influence the tax base in relation to betting games.

3.4.2 Participation in a betting game

The bonus therefore represents an event when the operator allows the player to participate in the betting game without the player having to pay directly for the bet or wager, or for any part of it. Because however, in order to participate in a betting game it is necessary to know the amount of the bet, the bonus is actually implemented in the form of a **discount from the bet or deposit, whereas the game continues as if the bet or deposit have been paid in full.** The discount could be either a full or partial discount.

Example No. 1: *An operator of a fixed odds betting game in connection with the first transfer of funds to a newly created user account, provides a bonus in the same amount as the amount of the transferred funds, but not more than CZK 2,000.00. However, the provided bonus may only be used for the betting game and not for any other purposes. The player has to use the bonus for the game at least three times with odds 2, before he / she may withdraw the bonus by transferring it from the user account, or by depositing the bonus into the given game.*

Example No. 2: *Upon entering the game room, the operator provides the player with a € 5 voucher - but no more than once within 24 hours, which allows the player to play a selected cylinder game using any deposit the player chooses. Another option is for example, that the operator of the betting game in a casino offers the player to play every fifth game on the same technical equipment or playing table for free using the lowest bet made during the previous 4 games that were crucial to get the free game.*

Assessment of the situation in terms of the Gambling Act

In case of a fulfilment obtained by the player from the operator which is conditioned and subject to a certain purpose ("credit" which depends on the use of the following service provided by the operator), then this fulfilment provided by the operator cannot be regarded as monetary fulfilment because it is a voucher which the player will use for services of certain value as specified above and therefore the operator provides the player with a benefit in terms of service discount expressed in monetary amount (for example CZK 2,000.00) or in the form of a certain number of bets in certain value. Therefore the operator did not provide the player with monetary funds but with services of certain value.

Such a voucher surely has a certain monetary value but it is not considered money because if such

funds or money may only be used for certain purpose then such voucher or funds lack the basic element of real money - a widely accepted exchange tool. In this case, this is a non-monetary fulfilment provided by the operator to the player. Once the player uses the voucher the service is consumed (used), but not "converted" into money that could be deposited in the given game. Therefore, the player's participation does not take place on the basis of monetary payment provided to the operator because in this case there is no money deposit element or a bet provided by the player but only a voucher with a certain value.

Given the fact that under Article 7 (4) of the Gambling Act it is forbidden to accept non-monetary deposits or bets the participation of the player using a voucher instead of money is in conflict with the Gambling Act. Therefore this will be regarded as banned betting game and by operating such game the operator would commit an offence pursuant to Section 123 (1) (h) of the Gambling Act.

Based on the above it can be concluded that this is a benefit provided in connection with the operation of a betting game (which means provision of the benefit does not depend on chance, so it is not a factual winning), but this advantage cannot be subsequently used as a deposit or bet for a game because it is a service voucher which is classified as non-monetary fulfilment. If, however, this voucher is used then the game where the voucher is deposited would be regarded as a betting game within the meaning of the Gambling Act, and the voucher would be a non-monetary deposit deposited into the given game. The operation of such a game would be subject to the Gambling Act, and would be therefore classified as a prohibited betting game.

Assessment in terms of taxes paid from betting games

As specified above the use of a voucher represents a non-monitory deposit used with the intention to participate in a betting game. This deposit therefore increases the tax base of the given betting game. Because it is a non-monitory deposit it is necessary to define its value in line with Section 3 (3) on gambling taxes while utilising the Act No. 151/1997 Coll., on property valuation, as amended (the Property Valuation Act), as amended

3.4.3 Deposit return (= IN return)

A bonus represents a return of a paid deposit, or any part of it, without being dependent on the result of the given betting game.

Example: *A casino operator charges CZK 100.00 for an entry ticket, which is considered a deposit in line with the Gambling Act. However if the player: a) deposits during his visit at least CZK 5,000.00 the operator refunds the entry fee back to the player, or b) the player visits the casino at least five times during the given month, the operator refunds the entry tickets to the player and will not charge the player for any additional entry tickets during the given month.*

Assessment of the situation in terms of the Gambling Act

In relation to the betting game this bonus represents a fulfilment provided by the operator to the player. The operator returns funds back to the given player in direct relation to the previous deposit forwarded by the player. The fulfilment however represents a fulfilment provided by the operator but it is not provided based on a chance or unknown circumstance. Therefore it is not considered a winning. But this fulfilment is provided in relation to the previously forwarded deposit and its amount is limited by the still unreturned portion of the deposit and therefore it is consider a deposit return.

Nevertheless it is important to note that **this is not a benefit within the meaning of Section 7 (3) of the Gambling Act,** but the actual operation of the betting game.

The option to have the deposit amount returned is limited by the amount of the deposit that was actually done in the form of other fulfilment and not by the amount of the bet. In accordance with Section 4 of the Gambling Act the bet is non-returnable and the only fulfilment that could be provided is in the form of possible winning.

Assessment in terms of taxes paid from betting games

Deposit return reduces the tax base paid from betting games on the day when the original deposit was made and which was then returned.

3.4.4 Impact on the game result

A bonus depends on the fact that the operator influences or allows the betting game to be influenced resulting in higher probability of a win.

Example: *The operator accepts bets for a roulette. The gaming plan specifies that if a participant in a betting game places bets in the total amount of CZK 1,000.00 during one day then for this particular day a special rule shall apply and that is that if the roulette hits zero, all bets placed by the participant related to "red and black numbers" will be evaluated using 1.0 odds which means that he will get tokens in the amount of the placed deposit. In theory there may be a rule that if the roulette hits zero all bets placed by the player will win, or rather are paid out under the given ratio and based on rules of the particular roulette. Therefore the operator provides a benefit to the player by increasing the winning odds.*

Assessment of the situation in terms of the Gambling Act

If the bonus depends on influencing the actual game result it will always be regarded as fulfilment depending on a chance or on a previously unknown circumstance because the result depends only on a chance or previously unknown circumstance. Therefore, in line with the Gambling Act the above fulfilment cannot be provided as a benefit related to the operation of the betting game but in fact it will be **a winning from a betting game.** For more information how to provide a benefit in the form of a winning see3.3. It may be concluded that such bonuses may be provided but only if based on approved gaming plan, that is, if approval of such gaming plan is not in conflict with conditions applicable to the operation of the given betting game.

As for the mentioned bonus example, the actual operation of a live game does not prevent the operator to pay out winnings in this way, providing that other requirements and conditions, such as equality of players, are observed.

Assessment in terms of taxes paid from betting games

The actual provision of a bonus (that is influencing the betting game), does not impact the tax base of a betting game. However, possible winning payout achieved from the influenced game reduces the tax base.

3.4.5 Influencing the winning amount

The bonus is set up in the following way. The operator modifies the coefficient or other factor which determines the amount of the winning.

Example: *The operator of a fixed odds betting game accepts a bet of a player in the amount of at least CZK 100.00 placed during a certain time with 50% more favourable odds then calculated based on the multiples of individual betting events or opportunities.*

Assessment of the situation in terms of the Gambling Act

If the bonus depends on influencing the actual game result it will always be regarded as fulfilment depending on a chance or on a previously unknown circumstance because the result depends only on a chance or previously unknown circumstance. Therefore, in line with the Gambling Act the above fulfilment cannot be provided as a benefit related to the operation of the betting game but in fact it will be **a winning from a betting game.** For more information how to provide a benefit in the form of a winning see3.3. It may be concluded that such bonuses may be provided but only based on approved gaming plan, that is, if approval of such gaming plan is not in conflict with conditions applicable to the operation of the given betting game.

As for the mentioned bonus example, conditions applicable to the operation of fixed odds betting does not prevent the operator to pay winnings in this way, providing that other requirements and conditions, such as the equality of players, are observed.

Assessment in terms of taxes paid from betting games

The actual provision of a bonus (that is influencing the betting game/amount of the winning), does not impact the tax base of a betting game. However, possible winning payout achieved from the influenced game reduces the tax base.

3.4.6 Additional payment on top of the winning

The bonus represents the fact that the operator pays the player together with the winning another monetary fulfilment in a previously specified amount.

Example: *The operator of the fixed odds betting game will announce so-called premium bonus related to the given betting event where all players who have correctly guessed the outcome of this betting event will split the bonus of CZK 100,000.00 between them. Another option is, for example, to set a risk bonus where each player who places a bet with total odds over 200 and wins this bet, will get a bonus of 200.00 CZK*

Assessment of the situation in terms of the Gambling Act

If the bonus depends on influencing the actual game result /winning amount it will always be regarded as fulfilment depending on a chance or on a previously unknown circumstance because the result depends only on a chance or previously unknown circumstance. Therefore, in line with the Gambling Act the above fulfilment cannot be provided as a benefit related to the operation of the betting game but in fact it will be **a winning from a betting game.** For more information how to provide a benefit in the form of a winning see 3.3. It may be concluded that such bonuses may be provided but only based on approved gaming plan, that is, if approval of such gaming plan is not in conflict with conditions applicable to the operation of the given betting game.

Note: When the previous legal amendment of the Gambling Act was in force operators often offered similar fulfilments as a bonus. As specified above such fulfilment cannot be provided as a benefit in relation with the operation of betting games because in fact it is a winning. At the same time such winning cannot be included in the gaming plan of the given fixed odds betting game because it fails

to comply with the proportionality requirement between the winning ratio (odds) and the bet, because the winning is not directly proportional to the amount of the bet.

Assessment in terms of taxes paid from betting games

Payout of this bonus in fact represents a winning payout and therefore it reduces the tax base from the given betting game on the day of the bonus payout.

3.4.7 Material benefits (other than monetary funds) or service

The bonus is based on the fact that the operator provides the player with material benefit (other than money) or with other than gaming services.

Example: *For each deposited CZK 10.00 for the given betting game the operator credits the account of the player with a "golden coin". After collecting the established amount of golden coins the player may use the given section on the operator's website to "exchange" these golden coins for gifts with logo of the operator, for example hat, cap, sweatshirt, or card deck.*

Assessment of the situation in terms of the Gambling Act

In this particular case benefits provided by the operator do not depend on a chance or unknown circumstance, and therefore cannot be regarded as winnings from betting games but are benefits provided in relation to the participation in the betting games. The amount of the bonus depends on the amount of funds deposited into the given betting game and therefore it depends on the amount of "service consumption" used by individual players. This case represents a typical example of benefits provided **in relation to the operation of betting games** which complies with the Gambling Act. Similarly, benefits may be provided in relation with the given consumption: "each fifth bet will receive 1 point" or "at least three bets placed in one day will get 1 point" etc.

However, this form of a bonus cannot be used to provide fulfilment as described under item 3.3 (for example food items or beverages), because it would violate the Gambling Act and other applicable laws. However, should the non-monetary (cashless) fulfilments (other than monetary fulfilments) or service depend on a chance or a previously unknown circumstance, it would also be a winning (see item 3.3.1.).

Assessment in terms of taxes paid from betting games

As specified above the actual provision of a bonus, that is providing a material fulfilment or service to a player as a benefit related to the operation of betting game, it is not a winning nor a deposit return. Therefore, this does not influence the tax base in relation to betting games.

4 Conclusion

In the past players were provided many bonuses in terms of the operation of betting games which were specific fulfilments or facts which decided whether such bonuses were provided or not. Based on the nature of the particular fulfilment, it may be regarded as a fulfilment provided under the actual operation of betting game or as a benefit provided in connection with the operation of the betting game, whereas only fulfilments which are not in conflict with applicable legal laws may be provided.

Fulfilments provided under the actual operation of the betting game

- **Winning** – fulfilment or payment provided based on a chance or based on previously unknown circumstance. Exact requirements to obtain winning must be specified in the gaming plan and must comply with applicable requirements of the Gambling Act.

  Allowed winning options include:

  - Impact on the game result
  - Influencing the winning amount
  - Extra payment on top of a winning (not allowed for fixed odds betting games)

- **Deposit return** – fulfilment which may be provided based on other facts then chance or unknown circumstance. Requirements on deposit returns are not explicitly specified in the Gambling Act, however, it must be related to other deposit and not to a bet because bet is virtually a non-refundable fulfilment. The option for deposit return must be specified in the gaming plan and must comply with applicable requirements of the Gambling Act.

Benefits provided in connection with the operation of betting game

This refers only to a fulfilment which is not provided based on a chance and it is not a return of a deposit previously placed by the participant of the betting game.

- **Food items, beverages, tobacco products and stimulants** are fulfilments which cannot be provided according to Section 7 (3) of the Gambling Act.

- **Funds provided without any intended purpose** - fulfilments that **may be provided** but only if provided without the intended purpose (i.e. the participant in the betting game may freely use them without having to put them into play).

- **Participation in a betting game** - fulfilment which cannot be provided because it is a non-cash fulfilment and such fulfilment cannot be used as a bet for the given game (according to Section 7 (4) of the Gambling Act, it is forbidden to accept non-monetary deposits or bets), but at the same time depositing the fulfilment into a betting game is the only way how to use it. If a non-monetary fulfilment (voucher) was used for the operation of a game where the given voucher was deposited, then the Gambling Act would fully apply but according to the Act the betting game would be prohibited.

- **Material and other non-monetary benefits or services** - **may be provided** if these are not fulfilment classified under Section 7 (3) and (4) of the Gambling Act.

Finally, it is necessary to add that the above list of fulfilments / transactions and benefits provided to the player in connection with the operation of a betting game is a not complete list and therefore it cannot be assumed without having additional information available whether a particular benefit may or may not be provided. If the operator is interested in providing other types of benefits than those specified above, the operator shall submit a detailed description to the Ministry of Finance for evaluation.