INSTITUTE
FOR GAMBLING
REGULATION

Meeting of IFGR member

Prague, 15 April 2019

Program

- Summary of Institute‘s activities up to now
- Reporting Decree and protection of personal data
- What is next
  - Amendment to the Tax Act
  - Analysis of the regulation of gambling in the Czech Republic
  - 2nd round of National Risk Assessment – FAO representative‘s presentation

Summary of Institute‘s activities up to now

- Results of meeting with GFD and GDC
- Revision of licences
- Tax package
  - Amendment to the Act on Gambling Tax
  - Amendment to the Financial Administration Act
  - Amendment to the Customs Administration Act

Summary of Institute‘s activities up to now

- Amendment to the Act on Gambling Tax
  - The amendment deals especially with the following topics:
  - **change in the way, in which returned deposits are factored in the tax base**
    - the goal is to make necessity to file additional tax returns less often
  - **tax solution to guaranteed tournaments**
    - provision will be made that winnings can only be deducted up to 95% of deposits
- Amendment to the Act on Financial Administration of the Czech Republic
  - **change of competency of gambling tax administrator** - newly only the Specialized Tax Office will be locally competent
- Amendment to the Act on Customs Administration of the Czech Republic
  - the amendment **extends the possibility of using cover documents by customs officers** in cases, when identification leads to frustration of the performance of agenda in the field of gambling or record of sales, or to the threat to life, health or property of persons - change of identity (registration, check purchases etc.)

Summary of Institute‘s activities up to now

- Results of analysis of the number of people excluded from gambling participation
  - These are persons referred to in Section 16 par. 5 of the GA
  - Data for 2018
  - Person in material need - subsistence minimum – CZK 3,410 (individual)
  - Benefits that provide assistance in material need, in the sense of the GA:
    - living allowance - approx. 280,000 persons (plus jointly assessed persons)
    - extra payment for housing – approx. 200,000 osob (plus jointly assessed persons)
  - Person against whom the bankruptcy has been found – approx. 13,000
  - Person whose prohibition from participatiion in gambling was imposed by a court - 1 + 1 (number of persons)

Summary of Institute‘s activities up to now

- June conference
- Member website functioning
- Suggestions for IFGR‘s activities

Reporting Decree

- **Institute‘s activities up to now in this field**
  - Workshop participation
  - FAQ
  - Comments on the English version of the Decree
  - Preparation of template on the registration notification

Reporting Decree

- **Schedule**

	Published/Expected date
Part of technical materials and part of the Reference Client	published 22 February 2019 – then continuously
HELPDESK on the webiste of CA	4 March 2019
Testing environment	in progress
Template and communication parameters for registration according to Section 2 of the Reporting Decree	published on websites of CA and MoF
Template for daily game reporting	published 14 March 2019
Process of first registration	1 April – 2 May 2019
Methodology	waiting for publication
FAQ	waiting for publication

Reporting Decree

- **Process of registration = sending the notification**
  - **1 April – 2 May 2019**
  - **Competency** - regional customs office according to the registered office of the operator
  - **submission** via the CS electronic form for each type of gambling game and each permitted casino
    - **the same communication parameters can be provided in one form**
    - **not later than 30 days before the date of first provision of data**
    - identification of operator, certificates, url address, the type of output, the type of gambling game and casino indication
    - possibility of direct sending by data box/e-filing office
    - allows to save filled in data and then re-upload it
  - **Types of notification:**
    - **registration notification –** setup or complete change of parameters
    - **change notification –** change only of some parameters
    - **cancellation notification –** termination of provision of parts of the package

Reporting Decree

- Results of the relicencing process
  - The Ministry of Finance, of its own motion, adjusted the conditions of basic licences to comply with the Reporting Decree.
  - In the context of these proceedings, the conditions for the basic licences were not further tightened.
  - Administrative procedure & procedural shortcomings

Reporting Decree – protection of personal data

Summary of the current development

- The Ministry of Finance prepared the Decree draft and other accompanying documents.
- The Decree will come into effect on 1 June 2019.
- On 4 December 2018, the representatives of the MoF and IFGR met.
  - IFGR representatives pointed out that the issue of personal data is not sufficiently defined and addressed in the explanatory memorandum; there is no assessment of impacts of the Decree on the protection of presonal data within the meaning of Article 35 of the GDPR.
  - The representatives of the Ministry stated that the personal data are anonymised and that is why the carried out assessment was sufficient.
  - The IFGR representatives were called on to propose solutions to the situation.

Reporting Decree – protection of personal data

- IFGR representatives prepared a document with the proposed solution to the situation.
- On 4 February 2019, a meeting was held between the IFGR and MoF.
- MoF representatives acknowledged that the data are pseudoanonymised and that the assessment of impacts of the Decree on the protection of presonal data needs to be prepared
- The IFGR representatives undertook to prepare the document with assessment requirements.
- On 10 February 2019, the Office issued a document on the duty of an administrator to carry out the assessment of the impact on the protection of personal data, which implies that the assessment in question was to take place within the process of adopting the Decree.

Reporting Decree – protection of personal data

- On 18 February 2019, IFGR representatives sent to the MoF a drafted assessment of the impact on the protection of personal data.
- On 28 February 2019, the OPDP‘s Annual Report for 2018 was published in which, on page 60, the Office explicitly states that the Assessment of the impact on the protection of personal data within the meaning of Article 35 of the GDPR must be carried out in any case of the adoption of legislation.
- On 9 April 2019, the Office reminded it.
- On 11 April 2019, the MoF sent a notification stating that, was based on personal data processed according to the Rep. Decree, it is not possible to identify a natural person and therefore it is not a processing of personal data, therefore there is no need to assess anything. The MoF does not have the means to de-password the database.

Reporting Decree – solution suggestions

- Reminding, requesting the output and guarantees for the rights of personal data subjects
  - **Updated -** Depending on the email of Ing. Šabo, need to send an official request for confirmation that the data sent are not assignable to individual persons and that the MoF and other entities except the Czech Police, i.e. operators, have the right to refuse „denonymisation“ of people.
- Complaint about OPDP - the obligation to carry out the Assessment of impacts on protection of personal data pursuant to Art. 35 of the GDPR was definitely not met (confirmed by the document on the duty of an administrator to carry out the assessment of the impact on the protection of personal data, in the Annual Report of the OPDP, p.60).

What is next

- **Amendment to the Gambling Tax Act 2019**

- **Analysis of gambling regulation in the Czech Republic, the so-called ARHA**

- **2nd round of National Risk Assessment**

Amendment to the Gambling Tax Act 2019

Schedule:

- 4 April - The amendment was submitted to the external comment procedure and sent to the IFGR as a comment place
- 16 April (Tue) - Deadline for comments by IFGR members
- 18 April - End of the external comment procedure
- Estimation of the further course of the legislative process

Amendment to the Gambling Tax Act 2019

Content and proclaimed and actual reasons for adoption:

- Return to the 2015 government proposal (35% technical game, 30% live game and lottery, 25% fixed-odds betting, bingo and other games)

Proclaimed reasons for adoption

- Protection of gamblers, taking into consideration the social harm, higher tax collection

Actual reasons for adoption

- Economic slowdown, high state expenses, PR

Amendment to the Gambling Tax Act 2019

Suggested arguments of IFGR within comments:

Legislative restraint in the field of taxation

Changes in years (2012, 2016, 2017, 2020?) - Discrepancy with the Government's policy statement

Without impact assessment, analyses

Failure to carry out analyzes, references to 2015 analyzes, market has changed - discrepancy with government legislative rules

The declared goals will not be achieved

Increase in taxes does not protect players, more will not be collected (see Technical Game and latest 7% increase = loss of 3.3 billion)

Amendment to the Gambling Tax Act 2019

Suggested arguments of IFGR within comments:

Detrimental effect

Changes in 2017 had a detrimental effect on technical games (tax collection decreased by CZK 3.3 billion).

Proportionality

Expected revenue: 2020: + 600 mil, 2021: + 900 mil.

They may rather cause a further decline in collection.

Impossibility to apply 2015 impact analyzes

Estimated revenue 2017: +2.3 billion, reality 2018: -3 billion, difference from estimated: 5.3 billion!

Amendment to the Gambling Tax Act 2019

Nggested arguments of IFGR within comments:

other arguments, discussion

Analysis of gambling regulation in the Czech Republic - ARHA

Schedule:

- **25 January - Launch of the project at the Ministry of Finance**
- **8 March - IFGR addressed to comments on the analysis structure**
- **31 March - Comments and suggestions of IFGR sent to the MoF**
- **2020 – End of the project**

Analysis of gambling regulation in the Czech Republic - ARHA

Reasons for processing and goals

Government's Policy Statement

„We will carry out a comprehensive assessment of the application of the new gambling regulation adopted in 2016 and, based on received knowledge, we will, where appropriate, propose changes to ensure the effective regulation and adinistration of gambling tax, especially online gambling.“

Goals

In addition to the gambling effects on players, the importance of the sector within the Czech economy will also be included in the assessment. The analysis should result in possible recommendations that should correct the current regulation and thus optimise the current regulatory framework.

Program of section Manufacturers

Protection of trade secret and technical solution via the so-called black box and registration process

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Client check by AML during the business relationship – possible technical solution

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AISG - RVO check obligation during each player‘s entry in game premises and when logging into their user account

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Suggestions to ARHA

Assessment of „Manufacturer for a day“

Protection of trade secret and technical solution via the so-called black box and registration process

- **Reporting Decree & blackbox solution**
  - Summary of current situation
  - Assessment by the Ministry of Finance?

- **Registration according to Section 2 of the Reporting Decree**
  - First knowledge from carrying out the registration
  - How is the operator-manufacturer relationship set when registering?

Client check by the AML Act

- **Identification and check at the time of registration**
  - Origin of funds
- **Client check during business relationship**
  - Setting risk parameters
  - Identifying risky behaviour
    - A client with an average deposit of CZK 5,000 per calendar month will deposit to their user account CZK 100,000.
  - Carrying out check during the business relationship
    - Technical possibilities, realization

Client check by the AML

Client Check - Legal Provisions

(1) The client check is carried out by an obliged entity:

c) during the business relationship,

d) referred to in Section 2 par. 1, point c, during a business of EUR 2,000 or more; or

(2) The client check includes

a) obtaining information about the purpose and intended nature of the business or the business relationship,

b) continuous monitoring of the business relationship, including review of deals conducted during the relationship to determine whether the deals are consistent with the information known to the obliged entity about the client and their business and risk profile

c) reviewing sources of funds or other assets, to which the deal or the business relationship relates; and

(5) The obliged entity shall determine, on the basis of the risk assessment pursuant to Section 21a, the value of business for individual types of transactions provided to them, and when the value is reached, they always check the client. This value cannot be higher than the amount stated in paragraph 1 (EUR 2,000).

Client check by the AML

Client Check – FAO practice

- Accroding to FAO, the check of **funds origin** used in the business relationship cannot be carrie dout simply by signing a client‘s statement that the funds they intend to use during the participation in gambling, come from sources of employment, business or other legal resources and their amount match their assets. A client must **always determine their exact origin** - employment, business, retirement, gift, sale of property, sale of business share, etc...
- FAO believes that each client‘s check prior to establishing a business relationship should **also include inquiries about „**anticipated future volume of betting funds, expected frequency of entrances to game premises, reason for visiting game premises, etc.“ In this regard, **we believe that this Information is required completely beyond** the requirements of the AML Act.

Client check by the AML

Client Check – FAO practice

- A very important issue in the context of fulfilling the obligations set out by the AML Act is **the possibility of reviewing the adequacy of the amount of funds used** with the data provided by a client when establishing a business relationship, or against facts that are known to a gambling operator about a client over a long period (e.g., obvious excesses in the amount of deposited funds into the user account, the number and amount of bets, etc.). **This requirement seems essential from the FAO's point of view.**

Client check by the AML

Client Check – Questions

- Is it possible, from your point of view, to carry out the client check, both technically and in actual fact (attending game premises), according to the FAO‘s conditions?
- It is technically possible to record funds deposited by a particular player into the terminal device or into a user account, taking into account the Reporting Decree obligations?
- Suggested solutions
- The discussion on the technical solution will also continue during Manufacturers‘ section

AISG - RVO check obligation during each player‘s entry in game premises and when logging into their user account

- **Register of Excluded Persons (RVO) and its impact on the operation of technical game**
  - Operator‘s game systems must allow the check in RVO in three cases:
    a) When entering game premises (Section 71 par. 1 of the GA)
    b) During a player‘s registration (Section 45 par. 3, point c) of the GA)
    c) Every time a player logs into their account (Section 17 of the GA)
  - Provision of the checks referred to in points (a) and (c) by the central authorities of operators

Analysis of gambling regulation in the Czech Republic - ARHA

Summary of IFGR's comments:

- **Call to strengthen stability and the first certainty of the regulation**
  - Virtually no legal stability due to OZV and MoF's and CA's regulatory attitudes
  - Regulation must take into account the principle of proportionality (adequacy)

- **Taking into account the attractiveness of legal offer of gambling games and comparison with foreign regulation models**
  - Operationally unattractive regulation automatically leads to the creation or strengthening of illegal gambling

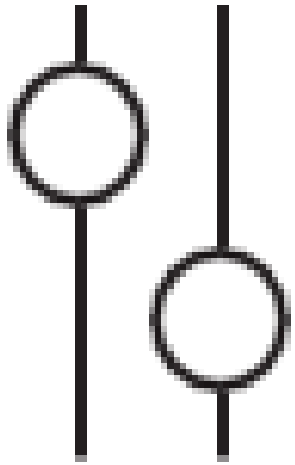
- **Penalty for illegal gambling**
  - Emphasis on making the penalty for illegal land-based and online gambling more effective

- **Reassessment of procedure of regulatory authorities**
  - Setting the objective mirror for regulatory athorities (MoF, CA) with reference to the actual impacts of their activities
  - Setting a dialogue between a regulator, supervisory authorities and the market

- **Taking into account players' opinions in the regulation of gambling**
  - Are players really demanding the level of regulation that the state is forcing on them?

„Manufacturer for a day“

- Assessment of the original appeal
- Possible further steps



INSTITUTE FOR GAMBLING REGULATION