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# Gaming Law

Macau

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# 2020

## Law and Practice

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## 1. Introduction

### 1.1 Current Outlook

All current casino gaming concessions (and sub-concessions) are set to expire in 2022. The Macau government has already announced it will put forward an amendment to the Macau Gaming Law (Law 16/2001), the main piece of legislation governing gaming in Macau. Following the enactment of this amendment, a public tender for the award of new concessions will be launched.

This will be a defining moment in the development of Macau's gaming sector and could bring significant changes both to the existing legal framework and to who will be allowed to operate casino gaming in the future. However, it is still possible for an exceptional extension of an existing contract to be granted in light of the coronavirus pandemic and the current global economic outlook. If such an extension were granted, the current licensee may continue to operate for up to five more years after the term of their existing contract.

### 1.2 Recent Changes

The year 2020 will be forever remembered for the novel coronavirus pandemic (COVID-19). A quick and firm reaction from the Macau government was very successful in containing the spread of the virus and in ensuring a safe and healthy environment in Macau. However, the measures put in place came at a very high economic cost, with visitor numbers and gross gaming revenue (GGR) declining dramatically. Stringent travel restrictions were put in place and the gaming regulator issued the following preventative measures:

- all individuals who intend to enter an integrated resort are subject to body temperature checks and are required to present a valid Macau health declaration statement;
- all individuals who intend to enter the casino floor will also be required to exhibit a valid nucleic acid test certificate with a negative result;
- the use of face masks is mandatory for employees and patrons alike and a minimum distance must be maintained at all times;
- standing bets at gaming tables are not permitted;
- baccarat tables may now allow only three or four people to bet simultaneously and gamblers must be seated at least one seat away from each other; and
- gaming machines in operation must be separated by one or two non-operative machines, to guarantee the distance between patrons.

In light of the above, the Macau Health Bureau has allowed casino operators to set up COVID-19 testing facilities at their

properties in an attempt to ease the access of patrons to the casino gaming floors.

Against this background, a new head of the Macau gaming regulatory body (*Direcção de Inspeção e Coordenação de Jogos*, or DICJ) took office on 10 June 2020. Mr Adriano Ho became the new director of the DICJ, after being key adviser to Macau's Secretary for Security and having headed the gaming crimes investigation department of the Macau Judiciary Police.

## 2. Jurisdictional Overview

### 2.1 Online

The commercial operation of online gaming (referred to as "interactive gaming" under the Macau Gaming Law) can only be pursued by privately owned entities that have been granted a concession to that effect, through entering into a concession contract with the Macau government.

However, the Macau government has not issued regulations governing the concession and operation of online gaming (and has not launched a tender to grant these concessions). Additionally, concessionaires of casino games of chance cannot operate interactive games.

The limitations listed above are applicable to all the forms of gaming activity identified in **3.2 Definition of Gambling**.

The exclusive operators of horse racing (Macau Horse Racing Company Limited, or MJC) and sports betting (*Sociedade de Lotarias e Apostas Mútuas de Macau*, or SLOT) can offer online wagering limited to the land-based competitions they already offer.

### 2.2 Land-Based

The commercial operation of casino gaming in Macau is statutorily reserved to the Macau government and may only be pursued by privately owned entities that have been granted a concession to that effect, by entering into a contract with the Macau government.

#### Betting

Macau allows betting on horse races. This activity may only be operated by entities that have been previously granted a concession to that effect. Their licensing and operations are governed by several executive orders issued by the Chief Executive of Macau (Macau CE) and by the relevant concession contract. This activity has been historically pursued on an exclusive basis by a single operator, the MJC.

Macau also allows placing of bets in sports competitions, namely in football (soccer) and basketball. Sports betting is also pursued on an exclusive basis by a single operator, SLOT.

## Poker

Poker qualifies as a game of chance (see the Casino section below). The following are the authorised forms of poker:

- 3-card poker;
- 5-card poker;
- football poker;
- Q poker;
- stud poker;
- Texas hold'em poker;
- fortune 3-card poker; and
- Omaha poker.

## Casino

Games of chance and gaming-machine games may only be offered in casinos (except for the situations listed under **5.1 Premises Licensing**). Games of chance are defined as those in which the outcome is contingent, as it depends exclusively or predominantly, on the player's luck. A casino concessionaire can only offer games of chance that are listed in the Macau Gaming Law or that have been approved by the Macau government. The following is the complete list of pre-approved table games that may be offered in Macau casinos:

- 3-card baccarat;
- baccarat;
- blackjack;
- boule;
- craps;
- cussec;
- casino war;
- dozen numbers;
- fantan;
- sap i chi or 12-card game;
- 13-card game;
- mahjong;
- mahjong baccarat;
- mahjong paikao;
- mini paikao;
- pachinko;
- paikao;
- fish-prawn-crab;
- 3-card poker;
- 5-card poker;
- football poker;
- Q poker;
- lucky wheel;
- roulette;

- stud poker;
- super pan 9;
- taiwan paikao;
- makccarat;
- Texas hold 'em poker;
- fortune 3-card poker;
- fortune 8;
- dragon/phoenix; and
- Omaha poker.

The Macau Secretary of Economy and Finance must approve the rules of each game of chance, following a recommendation by the DICJ, at the request of at least one casino concessionaire.

## Gaming Machines

An electronic gaming machine (EGM) is statutorily defined as a device (including the gaming programs and associated software, the memory compartment, the random generator and any means of gaming software storage) that is both:

- fully or partially operated by electric, electronic or mechanical means; and
- conceived, adapted or programmed to operate a game of chance and to pay prizes (in cash, gaming chips, redeemable tickets or other values) resulting from the placement of wagers on the games that it offers.

All gaming machines and electronic table games (ETG) must be authorised by the DICJ. They must also comply with the Macau published standards (including the EGM and ETG Technical Standards) and compliance must be certified by a recognised gaming testing laboratory. Only manufacturers or distributors previously licensed by the DICJ can supply or distribute gaming machines in Macau.

## Lotteries

The operation of lotteries in Macau is allowed both in the form of an instant lottery and in the form of a Chinese lottery (popularly known as *pacapio*). Instant lotteries are operated on an exclusive basis by SLOT under the same concession contract that grants SLOT the exclusive right to operate sports betting. The Chinese lottery is also operated on an exclusive basis by a single operator, *Sociedade de Lotarias Wing Hing, Limitada* (Wing Hing).

## Bingo

Bingo is not currently approved as a game of chance and cannot be offered in Macau casinos or other gaming venues.

## 3. Legislative Framework

### 3.1 Key Legislation

#### Gambling Legislation

The main legislation regulating land-based gaming in Macau is the Macau Gaming Law. The Macau Gaming Law sets out the legal framework for the commercial operation of different gaming products, with a particular focus on the commercial operation of casino games of chance.

Other relevant legislation applicable to land-based gaming includes:

- the Instant Lottery Law (Law 12/87/M), which governs the concession and operation of instant lotteries;
- the Illegal Gaming Law (Law 8/96/M), which covers the unlicensed supply of games;
- the International Gaming Tender Regulation (Regulation 26/2001), subsequently amended by Regulations 34/2001 and 4/2002, which sets out the rules applicable to the international public tender procedure that the Macau government followed to award the existing concessions for the operation of casino games of chance;
- the Gaming Promoters' Regulation (Regulation 6/2002), subsequently amended by Regulation 27/2009, which governs the licensing and activities of gaming promoters (ie, junkets);
- the DICJ By-laws (Regulation 34/2003);
- the Gaming Credit Law (Law 5/2004), which regulates the granting of gaming credit by casino operators and gaming promoters;
- the Gaming Promoters Commissions Regulation (Regulation 27/2009), which imposes certain limitations on the commissions paid to gaming promoters;
- the Gaming Participation Law (Law 10/2012), subsequently amended by Law 17/2018, which regulates the conditions of entry, working and gaming at casinos; and
- the EGM Regulation (Regulation 26/2012), which regulates electronic gaming machines and systems and other gaming equipment and sets out the licensing procedures for EGM manufacturers and suppliers.

#### DICJ Instructions

Additionally, the DICJ issues instructions that are binding on the entities that it supervises, including:

- casino concessionaires;
- gaming promoters;
- the sports betting concessionaire;
- the horse racing concessionaire;
- lottery concessionaires;
- gaming promoters;

- casino management companies and service providers; and
- EGM manufacturers and suppliers.

Relevant instructions of the DICJ include those addressing:

- technical standards for EGMs and ETGs (Instruction 2/2014);
- anti-money laundering and counter-terrorism financing (Instruction 1/2016), amended by Instruction 1/2019;
- Macau jackpot technical standards (Instruction 2/2016);
- dealer-operated ETG technical standards version 1.0 (Instruction 1/2017);
- gaming promoters' activity, in particular regarding prohibitions on performing settlement transactions unrelated to Macau or the use of Macau as a settlement platform for foreign transactions and other limitations; and
- data protection matters related to restrictions on the transfer of players' personal data to third parties, or any entity in or outside Macau, which are imposed on gaming concessionaires and gaming promoters.

### 3.2 Definition of Gambling

There is no general statutory definition of gaming in Macau. However, the Macau Gaming Law defines games of chance as those in which the outcome is contingent, as it depends exclusively or predominantly on a player's luck.

The Macau Gaming Law also defines pari-mutuel betting as a form of betting on animal races or sports competitions in which the winners divide the pool among themselves (minus commissions, fees and taxes) in proportion to the amount individually bet.

The Macau Gaming Law generally refers to other gaming products as "operations offered to the public", which are defined as those in which the expectation of winning lies exclusively on chance (for example, lotteries, raffles and lucky draws).

### 3.3 Definition of Land-Based Gambling

There is no statutory definition of land-based gaming. Generally, land-based gaming refers to the commercial operation of casino games of chance (either in the form of table games or gaming machines) or to other legal forms of gaming, where players physically place their bets or wagers in locations previously authorised for this purpose by the government of Macau.

### 3.4 Definition of Online Gambling

Online gaming is referred to as "interactive gaming" and defined as the playing of games of chance that meet the following criteria:

- they are offered in Macau casinos in the form of table games or gaming machines;
- they offer a prize, in cash or in kind, that can be won in accordance with their respective rules;
- players participate by means of telecommunications (including telephone, fax, internet, data networks and video or digital data transmission); and
- players make, or agree to make, payments in cash or in kind to play the game.

### 3.5 Key Offences

The Illegal Gaming Law (Law 8/96/M) criminalises the unlicensed supply of games of chance. It prohibits all forms of operation, promotion or assistance of gaming by unlicensed entities or individuals, or outside the areas that have been approved as casino or gaming areas, as well as fraudulent gaming in approved areas and the extension of credit to players by unlicensed entities or individuals.

### 3.6 Penalties for Unlawful Gambling

Depending on the specific crime, penalties vary from fines to imprisonment for up to eight years. Accessory penalties include prohibition from entering casinos, apprehension, and reversion to Macau of all gaming materials and monies or other items of value used for illegal gaming. The Illegal Gaming Law qualifies certain actions and behaviours as misdemeanours, the penalties for which can go from MOP300 (approximately USD37) up to MOP10,000 (approximately USD1,238).

Law 9/96/M criminalises offences related to animal races. Depending on the specific crime, penalties vary from fines to imprisonment for up to three years.

### 3.7 Pending Legislation

For expected sector developments, including further revision of the legislation, please see **1.1 Current Outlook**.

## 4. Licensing and Regulatory Framework

### 4.1 Regulatory Authority

The Macau CE is the authority that is ultimately responsible for:

- determining gaming policy; and
- licensing and regulating the operation of casino games of chance and other gaming activities in Macau.

In exercising these powers, the Macau CE is assisted by the DICJ. In its role as a policy advisory body, the DICJ is responsible for assisting the Macau CE in defining, co-ordinating and executing economic policies for the gaming industry.

### 4.2 Regulatory Approach

Macau adopts a prescriptive approach to regulation. However, the guidelines issued by the DICJ suggest a more risk-based approach.

### 4.3 Types of Licences

The commercial operation of gaming in Macau is statutorily reserved to the Macau government and can only be pursued by privately owned entities that have been granted a concession to that effect, by entering into a contract with the Macau government.

The Macau government has entered concession contracts with operators to provide the following gaming services:

#### Casino Gaming

There are currently three concessionaires (*Sociedade de Jogos de Macau*, SA (SJM), Wynn Resorts (Macau), SA and Galaxy Casino, SA) and three sub-concessionaires (Venetian Macau, SA, MGM Grand Paradise, SA and Melco Crow, SA) allowed to offer games of chance in casinos. Please note that a casino concessionaire can offer all games of chance that are listed as such in the Macau Gaming Law or that have been approved by the Macau government. These approved games can be offered both in the form of table games and of gaming machines.

#### Sports Betting

Betting on football (soccer) and basketball is offered, on an exclusive basis, by a single operator, SLOT.

#### Horse Race Betting

Betting on horse races is offered on an exclusive basis by the MJC.

#### Lottery

The operation of lotteries in Macau is allowed both in the form of an instant lottery and in the form of a Chinese lottery (popularly known as *pacapio*). Instant lotteries are operated on an exclusive basis by SLOT. The Chinese lottery is also operated on an exclusive basis by Wing Hing.

### 4.4 Availability of Licences

Licences are not readily available in Macau. In order to operate any of the legally allowed gaming services in Macau, an entity must be awarded a concession contract.

A concession for the operation of games of chance in a casino may only be awarded following a public tender launched by the Macau CE. As of this date, the commercial operation of casino games of chance (either in the form of table games or gaming machines) can only be pursued by one of the three operators that were granted a gaming concession following an interna-

tional public tender launched in 2001 and governed by the International Gaming Tender Regulation (Regulation 26/2001). Subsequently, the Macau government authorised these concessionaires to enter into one sub-concession agreement each, therefore raising the total number of casino operators to six. All current concession and sub-concession contracts are due to expire in June 2022. Until then, the casino market is closed to new concessionaires.

Each of the pari-mutuel betting, sports betting and lottery operations was granted, in exclusivity, by means of concession contract to, respectively, the MJC, SLOT and Wing Hing.

## 4.5 Duration of Licences

A casino concession or sub-concession contract has a maximum initial duration of 20 years. If it was granted for a lesser period, it can be extended, one or more times, up to a maximum of 20 years. The maximum duration of a concession or sub-concession can be extended beyond the 20-year term, one or more times, for a maximum of five years. This extension can only be granted on an exceptional basis under a justified decision of the Macau CE.

The concession contract of SLOT was renewed in 2016 for a period of five years, ending on 5 June 2021. The MJC concession contract was renewed in 2018 and will end on 31 August 2042. The concession contract for the operation of the Chinese lottery has been renewed on an annual basis since 2010, with the current term ending on 31 December 2020.

## 4.6 Application Requirements

### Concessionaire Requirements

Only joint stock companies (*sociedades anónimas*) incorporated under the laws of Macau, which have the operation of games of chance as their exclusive scope of business, can bid for a casino concession. At least 10% of the registered share capital of a casino concessionaire and of a casino sub-concessionaire must be held by its managing director (*administrador-delegado*), who must be a permanent resident of Macau.

The granting of gaming concessions is made through a public tender launched by the government. The rules of the first (and only) public tender launched since the approval of the Macau Gaming Law were set out in Regulation 26/2001 and in the CE Decision 217/2001, which officially opened the tender. In this tender, the bidders, their qualified shareholders (that is, shareholders holding, directly or indirectly, 5% or more of the company's share capital), and their directors and key employees were subject to a suitability investigation conducted by the DICJ, which verified their experience, reputation and probity. The bidders and their qualified shareholders also had to demonstrate an

adequate financial capacity and were subject to investigations into their financial background.

A special committee, appointed by the Macau CE, conducted the public tender. The tender programme defined the minimum requirements of qualification, the information the bidders were expected to disclose and the mandatory elements of the proposals to be submitted.

### Concession Criteria

The 2001 tender (for which a total of 18 bidders qualified) led to the award of the three casino concessions that are currently in force. The awarding criteria were the following:

- total concession premium amount offered;
- amount offered as a contribution to a public foundation for the promotion of the cultural, scientific, social, economic and educational development of Macau;
- amount offered as a contribution to the urban development, tourism promotion and social security of Macau;
- operational experience;
- investment project;
- development of casino premises and contribution to tourism diversification; and
- contribution to the creation of jobs in the gaming industry and to the training of its professionals.

## 4.7 Application Timing

There is no legally specified length for the public tender procedure. The only public tender procedure to date took three to four months from the Macau government's launch of the public tender until the announcement of the gaming concessions on 8 February 2002.

## 4.8 Application Fees

Pursuant to the first public tender launched in Macau, the bidders were required to provide a security deposit for admission to tender in the minimum amount of MOP1 million (approximately USD125,000). The amount covered all costs incurred for the suitability and financial investigations required during the bidding process, which costs were deducted from the deposit.

## 4.9 Ongoing Annual Fees

### Games of Chance

Casino concessionaires shall pay an annual concession premium comprising the following amounts.

- A fixed amount of MOP30 million (approximately USD3.8 million).
- A variable amount levied on the number of table games and gaming machines at the following approximate rates:

- (a) for each VIP table game – MOP300,000 (approximately USD37,500);
- (b) for each mass-market table game – MOP150,000 (approximately USD18,800); and
- (c) for each gaming machine – MOP1,000 (approximately USD125).

## Instant Lotteries

The annual rent for instant lotteries is calculated based on a percentage of the total annual revenue of instant lotteries, with a minimum amount of MOP1 million (approximately USD125,000) per year calculated in accordance with the guidelines below:

- if the annual gross revenues amount is up to MOP10 million (approximately USD1.2 million), it shall pay the minimum amount of MOP1 million (approximately USD125,000);
- if the annual gross revenues amount is between MOP10 million (approximately USD1.2 million) and MOP30 million (approximately USD3.7 million), it shall pay 12% of the excess;
- if the annual gross revenues amount is between MOP30 million (approximately USD3.7 million) and MOP45 million (approximately USD5.6 million), it shall pay 13% of the excess;
- if the annual gross revenues amount is between MOP45 million (approximately USD5.6 million) and MOP60 million (approximately USD7.4 million), it shall pay 14% of the excess;
- if the annual gross revenues amount is between MOP60 million (approximately USD5.6 million) and MOP80 million (approximately USD9.9 million), it shall pay 16% of the excess;
- if the annual gross revenues amount is between MOP80 million (approximately USD5.6 million) and MOP100 million (approximately USD12.4 million), it shall pay 18% of the excess; and
- if the annual gross revenues amount is more than MOP100 million (approximately equivalent of USD12.4 million), it shall pay 20% of the excess.

## Sports Betting

SLOT shall pay an annual fee in a minimum amount of MOP6 million (approximately USD743,000) calculated in accordance with the guidelines below:

- if the annual gross revenue amount is up to MOP30 million (approximately USD3.7 million), it shall pay the minimum amount of MOP6 million (approximately USD743,000);
- if the annual gross revenue amount is between MOP30 million (approximately USD3.7 million) and MOP40 million

(approximately USD4.9 million), it shall pay 22% of the excess;

- if the annual gross revenue amount is between MOP40 million (approximately USD4.9 million) and MOP50 million (approximately USD6.2 million), it shall pay 24% of the excess;
- if the annual gross revenue amount is between MOP50 million (approximately USD6.2 million) and MOP60 million (approximately USD7.4 million), it shall pay 26% of the excess;
- if the annual gross revenue amount is between MOP60 million (approximately USD7.4 million) and MOP70 million (approximately USD8.7 million), it shall pay 28% of the excess;
- if the annual gross revenue amount is between MOP70 million (approximately USD8.7 million) and MOP100 million (approximately USD12.4 million), it shall pay 30% of the excess; and
- if the annual gross revenue amount exceeds MOP100 million (approximately USD12.4 million), it shall pay 25% of the excess.

## Chinese Lottery (Pacapio)

Wing Hing shall pay:

- an annual concession premium of MOP500,000 (approximately USD61,900);
- an annual rent which is calculated as 23% of the total GGR; and
- additional contributions comprised of 5% for the Macau Foundation and 1% for the *Macau Montepio Oficial*.

## Horse Racing

The MJC shall pay an annual fixed amount of MOP15 million (approximately USD1.9 million) and a variable amount of tax levied on the total annual amount of the bets registered in the “totaliser” calculated in accordance with the guidelines below:

- between MOP2.5 million (approximately USD310,000) and MOP3 million (approximately USD371,000), a tax of 0.5% shall be applicable;
- between MOP3 million (approximately USD371,000) and MOP3.5 million (approximately USD433,000), a tax of 1% shall be applicable;
- between MOP3.5 million (approximately USD433,000) and MOP4 million (approximately USD495,000), a tax of 1.5% shall be applicable;
- between MOP4 million (approximately USD495,000) and MOP4.5 million (approximately USD557,000), a tax of 2% shall be applicable; and
- above MOP4.5 million (approximately US\$557,000), a tax of 2.5% shall be applicable.

## 5. Land-Based Gambling

### 5.1 Premises Licensing

The operation of casino games of chance may only take place within premises authorised as casinos by the Macau government. This rule has some exceptions, notably the slot machine parlours known as “Mocha Clubs”.

The Gaming Law defines a “casino” as a place authorised by the Macau government for gambling purposes. These specific places may be located within a resort, hotel or other multi-purpose location. However, there are some specific conditions under which gaming may be permitted outside casinos; for example, in vessels, aircraft and at the Macau International Airport.

The Gaming Law does not provide any criteria or guidelines as to what is required to classify and authorise any given space as a casino. This means that the Macau government has substantial discretionary powers to proceed with such classification according to its own convenience and what it perceives as the public interest.

### 5.2 Recent or Forthcoming Changes

There are no recent changes to the land-based gambling regime in Macau.

For the expected forthcoming changes, please see **1.1 Current Outlook**.

## 6. Online Gambling

### 6.1 B2C Licences

Issues around B2C licences do not arise in Macau as no concessions for online gaming have been granted, see **2.1 Online**.

### 6.2 B2B Licences (Suppliers, Software, Etc)

Issues around B2B licences do not arise in Macau as no concessions for online gaming have been granted, see **2.1 Online**.

### 6.3 Affiliates

Issues around the regulation of affiliates do not arise in Macau as no concessions for online gaming have been granted, see **2.1 Online**.

### 6.4 White Labels

Issues around the licensing and regulatory requirements applying to white-label providers do not arise in Macau as no concessions for online gaming have been granted, see **2.1 Online**.

### 6.5 Recent or Forthcoming Changes

There are no expected changes to the online gaming regime in Macau.

### 6.6 Technical Measures

Issues around technical measures to protect consumers from unlicensed operators do not arise in Macau as no concessions for online gaming have been granted, see **2.1 Online**.

## 7. Responsible Gambling

### 7.1 RG Requirements

Several laws and measures related to responsible gaming (RG) were introduced in 2012 with the enactment of the Gaming Participation Law. This Law established the legal framework of the conditions for entering, working in and gaming at casinos, by:

- raising the minimum age to enter casinos to 21;
- providing for a self-exclusion and a third-party exclusion programme; and
- addressing the treatment of the winnings of people not allowed in casinos.

Casino concessionaires must set up adequate control procedures to ensure compliance with the statutory restrictions on participation.

Pursuant to the Gaming Participation Law, from 27 December 2019 onwards, when off-duty, the employees of a casino concessionaire are banned from entering casinos, including staff not directly involved with gaming operations, such as food and beverage outlet workers, cleaners and those connected to surveillance operations.

### 7.2 Gambling Management Tools

The DICJ has implemented self-exclusion and third-party exclusion procedures. Casino concessionaires must set up adequate control procedures to ensure compliance with the statutory restrictions on participation in gaming activities.

## 8. Anti-money Laundering

### 8.1 AML Legislation

The current anti-money laundering regime was introduced by Law 2/2006 (amended by Law 3/2017) and further complemented by Regulation 7/2006 (amended by Regulation 17/2017). This legislation is further complemented by DICJ Instruction 1/2016 (subsequently amended by DICJ Instruction 1/2019).

## 8.2 AML Requirements

### Obligations

The casino concessionaires, gaming promoters and other gaming concessionaires must comply with a comprehensive set of obligations aimed at curbing money laundering activities in the gaming industry. These obligations include:

- customer due diligence obligations;
- enhanced monitoring of play by politically exposed persons;
- identification and reporting of suspicious transactions;
- refusing to carry out transactions when mandatory information is not provided; and
- proper record-keeping.

### Regulatory Authorities

The Macau Financial Intelligence Office is the entity responsible for receiving and processing reports on cash transactions and suspicious transactions. The DICJ is responsible for supervising and enforcing the gaming industry's compliance with its anti-money laundering obligations.

## 9. Advertising

### 9.1 Regulatory/Supervisory Agency

The supervisory department for advertising is the Macau Economic Services Bureau (MES). However, the DICJ has the powers to supervise and monitor the activity of gaming entities, particularly regarding compliance with their legal, regulatory and contractual obligations.

### 9.2 Definition of Advertising

The legal definition of advertising refers to any disclosure aimed at the public, in respect of a particular commercial good or service, for the purpose of promoting its acquisition.

### 9.3 Key Legal, Regulatory and Licensing Provisions

The key legislation regulating advertisement in Macau was introduced by the Macau Advertisement Law (Law 7/86/M). It was further complemented by the instructions issued by the MES with the aim of providing clarification applicable to the gaming industry.

Under the concession and sub-concession contracts, the gaming concessionaires and sub-concessionaires undertake to carry out, in and outside Macau, advertising and marketing campaigns for their integrated resorts (including their casinos) but cannot, without the authorisation of the Macau government, use images of or references to its casinos to promote interactive (online) gaming.

### 9.4 Restrictions on Advertising

The Advertising Law prohibits any type of marketing activity that depicts games of chance or their play as the essential element of the advertisement.

The prohibition of gaming advertising is complemented by a set of instructions issued by the MES. These instructions were issued with the aim of facilitating the interpretation of the prohibition. The instructions detail the types of advertising activities that are considered illegal by the MES and give practical examples of illegal activities. The prohibition applies to all types of marketing conducted in Macau and encompasses games of chance played both offline and online. However, the prohibition does not appear to cover the types of gaming that do not qualify as games of chance under the Macau Gaming Law, such as sports betting and lotteries.

### 9.5 Sanctions/Penalties

Illegal advertising is punished by penalties ranging between:

- MOP2,000 (approximately USD248) and MOP12,000 (approximately USD1,485) for individuals; and
- MOP5,000 (approximately USD619) and MOP28,000 (approximately USD3,466) for corporations.

## 10. Acquisitions and Changes of Control

### 10.1 Disclosure Requirements

According to the Macau Gaming Law, the transfer or encumbering, for any reason, of the property or other right in rem of the gaming concessionaire's shares – or the carrying out of any act that may involve the granting of the right to vote, or other social rights – to a person other than the holder requires the authorisation of the government, otherwise it shall be considered null and void. These transfers and grants are also subject to an obligation to be communicated to the DICJ within 30 days.

Any transfer, in any manner, directly or indirectly, of at least 5% of the share capital of the gaming concessionaire shareholders (and so on, successively, until the ultimate shareholders) must obtain the Macau government's prior approval, except in the case of corporations whose shares are listed on the stock exchange.

Limitations to cross-shareholding between gaming concessionaires are also enforced. Gaming concessionaires, as well as shareholders that hold 5% or more of their respective capital, cannot own, directly or indirectly, an equal or higher percentage in the share capital of another gaming concessionaire.

## 10.2 Change of Corporate Control Triggers

Please see **10.1 Disclosure Requirements**.

## 10.3 Passive Investor Requirements

Please see **10.1 Disclosure Requirements**.

## 11. Enforcement

### 11.1 Powers

The main powers of the DICJ (the key regulatory authority in Macau) are to:

- co-operate in defining, co-ordinating and executing economic policies relating to the commercial operation of casino games of chance, wagering and other gaming products offered to the public;
- supervise and monitor the activity of gaming concessionaires, particularly regarding compliance with their legal, regulatory and contractual obligations;
- supervise and monitor the suitability and the financial soundness of gaming concessionaires and of other entities or individuals as determined by law;
- assist the government in classifying premises as casino venues;
- authorise and certify all gaming equipment allocated by gaming concessionaires for the operation of their respective concessions;
- license gaming promoters and supervise and monitor their activity, particularly regarding compliance with their legal, regulatory and contractual obligations;
- supervise and monitor the suitability of gaming promoters and their collaborators and key employees;
- determine breaches of the applicable laws and apply the relevant penalties;
- ensure that the relationships between the government and the gaming concessionaires, and between the concessionaires and the general public, develop in an appropriate manner and in accordance with the best interests of Macau; and
- perform, as determined by the CE or under the applicable laws, any other duties not included in the preceding paragraphs that by their nature fall within the general scope of its responsibilities.

### 11.2 Sanctions

The sanctions are enforced by the DICJ as the entity responsible for the enforcement of the legal framework applicable to the gaming-related activities.

### 11.3 Financial Penalties

Financial penalties are applied by the DICJ.

## 12. Recent Trends

### 12.1 Social Gaming

There are no recent updates relevant to social gaming.

### 12.2 Esports

Esports have been gaining a growing presence in Macau. Some gaming concessionaires and sub-concessionaires have recently partnered with third parties for the organisation of esports events.

### 12.3 Fantasy Sports

There are no recent updates relevant to fantasy sports.

### 12.4 Skill Gaming

There are no recent updates relevant to skill gaming.

### 12.5 Blockchain

Blockchain technology is not specifically regulated in Macau. Consequently, there are no relevant recent trends.

### 12.6 Reform

There are no recent trends relevant to the reform of gaming in Macau.

## 13. Tax

### 13.1 Tax Rate by Sector

The special gaming tax is the largest source of gaming tax revenues. This tax applies to casino concessionaires and sub-concessionaires and is levied on their GGR at a rate of 35%.

Casino concessionaires and sub-concessionaires must also pay:

- a contribution to the Macau Foundation, a public foundation responsible for promoting the cultural, scientific, social, economic and educational development of Macau (1.6% of GGR); and
- a special contribution for urban development, tourism promotion and social security (2.4% of GGR for all casino concessionaires except for the SJM, which, for historical reasons, is subject to a 1.4% rate).

Although casino concessionaires and sub-concessionaires are legally subject to profit tax (locally named complementary tax), they have historically been exempt from paying it under an order of the CE issued under the provisions of the Macau Gaming Law.

As for the other forms of land-based gaming activity, identified in **3.2 Definition of Gambling**, the type (rate) of taxes and other levies applicable depends on respective concession contracts (which are detailed in **4.9 Ongoing Annual Fees**).

**MdME Lawyers** is a Macau full-service law firm, based in Macau, with offices in Hong Kong and Lisbon and a strong reputation in the Asia-Pacific region for providing high-quality and innovative legal insight to its clients. The team of over 25 fee-earners represents casino companies, owners and operators, gaming manufacturers and suppliers, sports betting companies, gaming promoters, private equity firms and investment banks, governments and regulators, in both the land-based and

online sectors. The firm advises gaming clients across the broad spectrum of their legal needs, including licensing, compliance, employment, real estate, intellectual property, corporate M&A, anti-money laundering, financing, and tax and litigation. The need to deliver local knowledge with a global reach has led the firm to launch the Lex Mundi Gaming Solution: a network of law firms that combines the expertise of gaming lawyers across 25-plus jurisdictions around the world.

## Authors



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