



## Lex Mundi Global Gaming Law Guide

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# Macau

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What is "gaming" or "gambling" defined as?  
What elements of a game constitute gambling?

There is no general definition of "gaming" or "gambling" in Macau. Law 16/2001 (Macau Gaming Law) defines four categories of gambling services: (a) pari-mutuel bets; (b) games of chance; (c) interactive games; (d) operations offered to the public.

The elements of a game that constitute "gambling" depend on which category the game falls under:

- Games of Chance – a game of chance is defined as that in which the outcome is contingent, as it depends exclusively or predominantly on a player's luck.
- Pari-Mutuel Betting - pari-mutuel bet is defined as a bet on animal races or sports competitions in which the winners divide the pool of bets among themselves (minus commissions, fees and taxes) in proportion to the amount individually bet.
- Online Gaming - online gaming is referred to as "interactive gaming" and defined in as the play of games of chance that meet the following criteria: (i) are offered in Macau casinos in the form of table games or gaming machines; (ii) offer a prize in cash or in kind that can be won in accordance to their respective rules, (iii) where players participate by means of telecommunications (including telephone, fax, internet, data networks and video or digital data transmission); and (iv) where players make, or agree to make, payments in cash or in kind to play the game.
- Raffles, Lotteries and Lucky Draws - the Macau Gaming Law generally refers to other gambling services as "operations offered to the public", which are defined as those in which the expectation of winning by players lies exclusively on chance (for example, lotteries, raffles and lucky draws).

Is gambling legally allowed in any form? If so, what types are allowed and briefly describe how each is defined and the

The commercial operation of gambling services in Macau is statutorily reserved to the Macau Government. It may only be pursued by privately owned entities that have

requirements for each?

List examples of existing licensed gaming operators.

been awarded a concession to that effect, by entering a concession contract with the government.

The Macau Government has entered concession contracts with operators to provide the following gambling services in Macau:

- Casino Gambling – there are currently three concessionaires (Sociedade de Jogos de Macau, S.A., Wynn Resorts (Macau), S.A. and Galaxy Casino, S.A.) and three sub-concessionaires (Venetian Macau, S.A., MGM Grand Paradise, S.A. and Melco Crow, S.A.) allowed to offer games of chance in casinos (both in the form of table games and of electronic gaming machines);
- Sports Betting - sports betting (in soccer and basketball) is pursued on an exclusive basis by one single operator, Sociedade de Lotarias e Apostas Mútuas de Macau (SLOT);
- Horse Race Betting – betting on horse races is offered on an exclusive basis by the Macau Horse Racing Company Limited;
- Greyhound Race Betting - betting on greyhound races is offered on an exclusive basis by the Macau (Yat Yuen) Canidrome Co Ltd;
- Lottery - The operation of lotteries in Macau is allowed both in the form of instant lottery and in the form of 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 Sociedade de Lotarias Wing Hing, Limitada.

The operation of gaming machines can also be authorized in the international departures area of the Macau International Airport and in Macau registered vessel and aircraft when operating tourist routes outside Macau.

What legislation impacts upon gambling activity? Does it allow or forbid gambling?

Gambling in Macau is allowed when pursued through a duly authorized operator. The main legislation regulating gambling in Macau are as follows:

- Macau Gaming Law (Law 16/2001) - sets out the legal framework for the commercial operation of different gambling services, in particular the operation games of chance in casino.
- Civil Code – Book II, Chapter XIII (game and wager contract).
- Instant Lottery Law (Law 12/87/M), which governs the concession and operation of instant lotteries.

- Illegal Gaming Law (Law 8/96/M), which covers the unlicensed supply of games.
- 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.
- Gaming Promoters' Regulation (Regulation 6/2002) (subsequently amended by Regulation 27/2009), which governs the licensing and activities of gaming promoters, also known as "junkets".
- By-laws of the Gaming Inspection and Co-ordination Bureau (Direcção de Inspeção e Coordenação de Jogos) (DICJ) (Regulation 34/2003), which is Macau's gaming regulator.
- Gaming Credit Law (Law 5/2004), which regulates the granting of gaming credit by casino operators and gaming promoters.
- Junket Commissions Regulation (Regulation 27/2009), which imposes certain limitations on the commissions paid to gaming promoters.
- Gaming Participation Law (Law 10/2012), which regulates gaming participation and the right to enter casinos.
- Electronic Gaming Machines (EGMs) Regulation (Regulation 16/2012), which regulates electronic gaming machines and systems and other gaming equipment, and sets out the licensing procedures for EGM manufacturers and suppliers.

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

Relevant instructions of the DICJ include those addressing: (a) smoking control in casinos; (b) technical standards for EGMs and electronic table games; and (c) anti-money laundering and counter-terrorism financing.

The relationship between the Macau Government and the various gambling concessionaires is also governed by the terms of their respective contracts, which represent a key element of Macau's gaming legal framework.

Are gambling licenses available?  
If so, what types, and what is the process to obtain a license?

To operate any of the legally allowed gambling services in Macau, an entity must be awarded a concession contract by government. Under the Macau Gaming Law, a concession for the operation of games of chance in casino may only be awarded following a public tender launched by the Macau Chief Executive.

The number of casino concessionaires in Macau is restricted by law to three. Each of the current, three concessionaires has been allowed by the government to grant one sub-concession contract, effectively raising the total number of casino operators to six.

Until the term of any of the existing contracts, no new concessions may be obtained for the offer of games of chance in casino or other gambling services.

If licenses are available, what time limits exist and how can licenses be revoked?

A casino concession or sub-concession contract has a maximum initial duration of 20 years. In case it was granted for a lesser period, it may be extended, one or more times, up to a maximum of 20 years. The maximum duration of a concession or sub-concession contract 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 Chief Executive.

The current contracts end in 2020 (SJM and MGM) and 2022 (Galaxy, Venetian, Wynn and Melco-Crown). Under the Macau Gaming Law all current concessions and sub-concessions may only be extended up to 2027.

The government may unilaterally terminate a casino concession contract on two main grounds:

- Breach of a material statutory or contractual obligation.
- Reasons of public interest.

For example, a concessionaire is deemed to have breached a material obligation when it has:

- Suspended or abandoned its operations without due justification.
- Wholly or partially assigned its operations (either permanently or temporarily) in breach of the applicable laws and regulations, or in breach of its concession contract.
- Failed to pay taxes, annual concession premiums or any other consideration owed to the government under the terms of its concession contract.

In the event of termination, the ownership of the concessionaire's casinos will revert to the government, together with their equipment and all rights and assets as determined by the concession contract. No compensation will be due to the concessionaire in the case of termination for breach of contract. In the event of termination for reasons of public interest, fair compensation is calculated based on the outstanding concession period and on the concessionaire's investments up to the time of reversion.

The duration of the concessions for the offer of other gambling services are determined in the respective concession contracts.

The contracts of the Macau Horse Racing Company Limited and Macau (Yat Yuen) Canidrome Co Ltd end on 31 August 2017. The sports betting concession granted to SLOT ends on 5 June 2021. The lottery concession granted to Sociedade de Lotarias Wing Hing, Limitada ends on 31 December 2017.

Are there any limitations on the types of gaming that can be offered?  
If so, please provide details.

A casino concessionaire may only offer the types of games listed in the Macau Gaming Law as authorized games of chance. A concessionaire may request the Secretary of Economy and Finance to approve the offer of other types of games of chance.

The sports betting operator (SLOT) is allowed to offer bets on football and basketball.

Are there any restrictions for gaming operators on any technology or machinery?  
If so, please provide details.

Casino operators are only allowed to use gaming machines supplied by manufacturers or suppliers approved by DICJ. These manufacturers or suppliers will have to apply for DICJ's approval for the various types of gaming machines they wish to provide and comply with any technical standards and guidelines prescribed to them by the DICJ.

Are there reporting requirements for player account deposits or remittance of player winnings?

Gaming operators and gaming promoters shall report the deposit of monies in players' accounts and the remittance of winnings from operators to players in the following circumstances:

- i. When the deposit or remittance is in the amount of MOP500,000 (approximately USD60,000) or above; and
- ii. When the deposit or remittance is considered suspicious as it may indicate an activity of money laundering or terrorist financing given its nature, unusual character or complexity,

A gaming operator must file a cash transaction report (known by its Portuguese acronym "ROVE") with DICJ. A cash whenever a player deposits, and a Suspicious Transaction Report (known by its Portuguese acronym "RTS") with the Financial Intelligence Unit.

1. Item 1 of paragraph 1 of article 10
2. Paragraph 10, 12 and 15 of article 2
3. Article 3

What gaming tax levies are imposed? Are winnings or "takings" taxed?

For players, winnings from gambling activities are not taxable.

Casino concessionaires and sub-concessionaires are subject to a special gaming tax levied on their gross gaming revenue at a rate of 35%. Furthermore, they must pay the following contributions:

- To the Macau Foundation, a public foundation responsible for promoting the cultural, scientific, social, economic and educational development of Macau (1.6% of gross gaming revenue).
- To the Government for urban development, tourism promotion and social security (2.4% of gross gaming revenue for all casino concessionaires except SJM that, for historical reasons is subject to a 1.4% rate).

Although casino concessionaires are legally subject to profit tax (locally named complementary tax), they have been historically exempt from payment pursuant to an order of the Chief

Executive issued under the provisions of the Macau Gaming Law.

What anti-money laundering and counter-terrorism financing measures exist and what is their impact on operators?

The current anti-money laundering and counter-terrorism regime was introduced by Law 2/2006 (AML Law) and further complemented by Regulation 7/2006. The application of this legislation to the gaming industry is set out in the DICJ Instructions No 1/2016, which came into force in May 2016.

Under the applicable anti-money laundering regulations, 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.
- The obligation to refuse to carry out transactions when mandatory information is not provided.
- Record-keeping obligations.

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 and counter-terrorism obligations.

Is internet gaming offered to local residents prohibited when the website is hosted offshore by an offshore-licensed operator?

No, Macau does not prohibit or restrict access to gaming or wagering websites hosted and operated outside its jurisdiction. Furthermore, Macau does not impose any blocking obligations on local internet service providers.

Are the accessibility of an operator's website to local residents and advertisements targeted to local residents legal?

The mere availability and accessibility of a gambling operator's website to residents of Macau does not render that operator liable to prosecution under the criminal laws of Macau. However,

	<p>the placement of advertisements to gambling services (including the services offered outside Macau) is restricted under applicable law.</p>
<p>Is it illegal for local residents to engage in internet gaming when (i) they are physically present in the jurisdiction; and (ii) they are physically outside of the jurisdiction?</p> <p>If either answer is yes, will the operator incur any criminal liability?</p>	<p>No. Macau residents do not incur in any criminal liability for the placement of bets over the Internet (including from within Macau) with websites hosted and operated outside its jurisdiction.</p>
<p>Is it legal for local residents to make payment for internet gaming hosted by foreign websites by credit card, electronic fund transfers or any other means?</p>	<p>Yes, payments made by residents in order to purchase internet gaming services from foreign hosted websites are legal.</p>
<p>Are gambling debts legally enforceable?</p>	<p>Under the Macau Civil Code, all gaming and wagering contracts are unenforceable, unless otherwise determined by special law. Pursuant to the Gaming Credit Law, only casino concessionaires, sub-concessionaires and gaming promoters are legally allowed to extend credit for gaming. Gaming debts arising from contracts entered with such operators are enforceable through the Macau judicial system.</p>
<p>Are there changes planned to existing gambling legislation?</p> <p>If so, please provide details.</p>	<p>Following two consecutive years of decline in gross gaming revenues, which has been mainly attributed to China's anti-corruption campaign and its effects on the perception of VIP play in Macau, some gaming promoters (junkets) have been struggling to keep their businesses afloat. In this context of financial difficulties, a series of alleged fraudulent practices has surfaced. This has prompted the Gaming Inspection and Co-ordination Bureau (Direcção de Inspeção e Coordenação de Jogos) (DICJ) to announce the revision of the</p>

gaming promoters' licensing rules (currently governed by Regulation 6/2002), to improve the suitability and financial soundness of operators. It is widely expected that these changes will be enacted in the short term.

The DICJ has also announced its intention to promote the revision of the rules on participation in gaming (currently governed by the Gaming Participation Law (Law 10/2012)) to address concerns over the high rates of problem gambling among casino employees, especially dealers. Additionally, new regulations on electronic table games are expected to be enacted in 2017.

Furthermore, there are two draft bills currently under discussion in the Legislative Assembly that may have an impact on the industry: (a) an amendment to the AML Law and (b) an amendment to the smoking prevention and control law.

Please be advised that the information set forth above is intended only as a general overview of the law. This entry is not intended to constitute legal advice or a tax opinion, and no conclusions may be inferred from or are implied by the statements or discussions contained herein. Readers requiring legal advice should not rely on this entry as an alternative to the engagement of local counsel and should consult with the Lex Mundi member firm in the relevant jurisdiction. Please note that this entry refers to laws and regulations in force on the date of submission by the contributing Lex Mundi member firm and is subject to change by future legislation.