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Legal aspects of gambling business in Georgia

Process of legalization of gambling business in the countries famous for gambling has started not a very long time ago. For example, at the end of the 70s of the past century, gambling was allowed for law in only two cities of the United States of America – Las Vegas and Atlantic City. Legalization of gambling in other States has been launched only since the 80s and only following that period building of immense gambling industry has begun in the United States of America, which as of today legally operates in 48 States.

In our neighboring Russia the first legal casino was opened in 1989 in Moscow; in 1990 another casino was opened and with this gambling business became legally recognized in the USSR. Nonetheless, factual development of this field has begun following the collapse of the Soviet Union.

Due to the fact that gambling was punished under the Criminal Code of the Soviet Union and only lotteries were permitted, which was directed by the State itself, the above field appeared to be entirely new for the post-soviet countries and for Georgia among them.

The first attempt of legal regulation of gambling business in Georgia was the Decree adopted by the Government of 1992 “On Improvement of Conduct of Lotteries and other Prize-Winning Games in the Republic of Georgia”. The introductory part of the Decree gives a clear illustration how at the beginning of the 90s, in parallel with the development of a market economy, the motivation of various private legal entities and labor unions regarding the conduct of lotteries and other winning games has increased. This particular situation made the country start the process of legal improvement of this field. The above Decree stipulated that lotteries and other prize-winning games could be conducted by all legal entities, whose statutory fund and the value of circulating assets exceeded the amount of the total sum of the lottery. Hereby, it was determined that the conduct of the above games and their licensing fell within the prerogative of the Ministry of Finance. It is also interesting to note that no less than 35% of the income from the lotteries and other games was to be transferred to the state budget.

The said Decree, as a first attempt to put gambling business within the legal framework, was certainly rather weak and vague as a legal act; however, it was an extremely important move for the country in terms of regulating an entirely new field. Many questions still remained to be unanswered, first of all how the country was supposed to exercise the control over the gambling business.

The Law of 21 December 1993 “On Enterprise Income Taxes” determined 70% rate as a taxed income from casinos, gambling houses and other gambling business. This was an effort of the country to get maximum amount of money in favor of the state budget from the field in fact being out of state’s control. However, this did not create big problems to gambling, as being the most profitable business and at that time having closest links with criminal field.

It is important to note that various types of games have been developing along with the development of business. Gradually, under the above-mentioned terms (lottery, winning games) broad specter of games was meant. For example, if pursuant to the Order of 1996 of the Minister of Finance “On Issuance of a License for the Conduct of Lottery and other Prize-Winning Games” lottery and other prize-winning games included lottery drawing, lottery-sprint, and lotto-lottery, according to the Order of the Minister of Finance dated 1998, the following types of lotteries have been determined under this term: lottery drawing, lottery nondrawing, purpose-oriented lottery, incentive lottery, lotto, totalizator, system (electronic) games, and even billiards. And with the Decree of the President, bingo and momentary lottery were added to the above list. Tax Code adopted in 1997 became an important step forward in this field, since this Code determined a tax stamp, compulsory to be attached to the game tables, gambling machines, at totalizator, bingo and lotto pay desks, which proves the payment of taxes and the right to conduct the above games. Tax stamp can be obtained in relevant tax agency, no later than on 15th day of every month by means of submitting declaration form approved by the Ministry of Finance and through payment of taxes. Hereby, differentiation of tax rates for gambling business has been defined:

- a. Each gambling machine – from GEL 50 to 200 per month;
- b. Each gambling house table – from GEL 7000 to 10 000 per month;
- c. Each pay desk of totalizator, bingo and lotto – from GEL 300 to 600 per month;
- d. Conduct of the lottery – no more than 20% of profit obtained by selling lottery tickets;
- e. Each incentive lottery – 10% of the prize fund;
- f. System-electronic games – from GEL 2000 to 10 000 per month;

Even pursuant to the new Tax Code, which was adopted on 22 December 2004, the above rates were left unchanged with one exception, minimum limit for tax on gambling table decreased to GEL 5000.

On 31 December 1999, the President issued a Decree “On Rules of Conduct and Licensing of Lotteries, Casinos, Gambling and other Winning Games”, where a separate chapter was dedicated to lotteries and winning games and another chapter to casinos and gambling. This Decree gave a clear definition of such terms as: Gambling (game, result of which entirely or partially depend of the fortune and denotes the possibility to win), casino (the building, where card and draught games, roulette games, gambling machine games take place), game table, game room, and other terms, which before were slightly referred in various legal acts. The scheme of casino arrangement, compulsory zones of the building, as well as pay desk, game room, wardrobe, zone of store-rooms, etc. was determined in details. It is interesting to note that every person having immediate contact with the game process: croupiers, inspectors, gambling machine operators, managers became subjects to compulsory licensing. Their licensing is performed by the Ministry of Finance.

Contrary to the Order of the Minister of Finance of 1998, despite being unified in one chapter, Decree of the President differentiated lotteries and winning games. Lotteries included: lottery drawing, momentary lottery, purpose-oriented lottery, and incentive lottery. Winning games were: lotto, totalizator, system (electronic) games, bingo and other games, according to which rules, as a result of payment of game fees or gambling the possibility of winning money or other types of awards is given to the player.

Notwithstanding the progress in legal regulation of gambling business, the necessity of adoption law in this field has been raised.

In Article 39 (“Measures to be carried out regarding the enforcement of the law”) of the law of Georgia “On Licensing and Authorizing Entrepreneurial Activities”, it was directly stated that Relevant State Agencies of Georgia shall within their competence insure, by means of the rule of legislative initiative of the President of Georgia, submission to the Parliament of Georgia of those draft laws in the form of unified package, which is related to the types of licensing and authorizing activities established by the present law.

Conduct of lotteries, gambling and other winning games was included in the list. Hence, the regulation of terms of licensing required adoption of the law. For the implementation of the above an exact date was indicated, in particular, 1 February 2003.

The law “On Lotteries, Gambling and other Winning Games” was adopted, but only on 25 March 2005. At the same time the law “on Licensing and Authorizing Taxes” has been amended and the following authorizing tax rates have been determined for the conduct of the lottery, gambling and other winning games:

- a. Conduct of incentive lottery, lotto and bingo (each type) – GEL 15000;
- b. Arrangement of game saloon – GEL 2000;
- c. Arrangement of totalizator – GEL 3000;
- d. Arrangement of casino – throughout the entire territory of Georgia – (except for Batumi and Tskaltubo Area) – GEL 5 000 000;

Within the territory of Batumi – GEL 1 000 000. Casino Arrangement within Tskaltubo Area was completely exempted from taxation.

Two more amendments have been made in this law. According to the amendments of 9 December of the same year, the amount of licensing taxes on incentive lottery, lotto, saloon of bingo gambling machines, and arrangement of totalizator has been twice increased. By the amendment of 9 June 2006, GEL 250 000 was fixed as a tax rate on casino arrangement in Batumi. The same amount of tax rate was determined for the arrangement of casino in Bazaleti Lake Area of Dusheti Region, as well as Qobuleti and Borjomu Regions.

The aim of these amendments was the development of gambling, as an extremely profitable business, in provincial towns. It is true that international practice illustrated that in the towns, where a huge number of gambling houses operate other types of businesses cope with considerable problems and there is a big bankruptcy percentage in these towns; nonetheless, in our case, opening of gambling houses in these types of provincial towns was followed by the improvement of infrastructure and social level owing to the tourists and players coming from other parts of the country. This, at the first glance right decision is yet to be implemented. If, with a great possibility, the gambling house is opened in Batumi, it is hard to imagine in a nearest future perspective that the “boom” of gambling business in Tskaltubo and now even in Brojomi region and Bazaleti Lake Area takes place. One of the reasons of the above-mentioned is that a considerably small amount of inhabitants actually gamble. Basic demand is made on totalizator and various types of lotteries and lotto, participation in which does not take big sums. The latter is proved by the fact that two casinos currently functioning, of course exceeding previous casinos in size, still are enough for the players. Another situation will come into play once the tourism is developed, the signs of which at the moment can be seen. Recently tours have increased from Israel, where gambling is prohibited and inhabitants of Israel satisfy their gambling requirements more and more often in Georgian casinos. It is crucial to point out that in our neighboring Muslim countries – Turkey and Azerbaijan, gambling is banned and the development of tourism in this respect will be enormously profitable in the future.

The last part of the Article shall refer to nowadays world-wide famous such profitable and popular gambling as internet-casino. There are more than 2000 internet-casinos world-wide. There total, average annual income is USD 4-5 billion. In the law of Georgia “On Lotteries, Gambling and another Winning Games” it is only once mentioned that games determined by this law can be conducted by internet, telephone, and through specially arranged electronic devices, only according to the requirements established by this law. In the future, when the importance is attached to the conduct of such games, it will be necessary to regulate this field in details.

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