



REMOTE GAMING IN MALTA

INTRODUCTION

Malta is, and has been, the European hub for i-Gaming for the better part of 20 years. Malta licenses remote gaming operations of companies engaged in the business, offering traditional games such as casino, sports betting, P2P games, lotteries and software vendors through distance communication.

Years later it grew in the areas of secondary lotteries, controlled skill games and other niches. Remote gaming operators established in Malta benefit from a stable legal regime thanks to the robust Malta Gaming Authority (MGA) Regulatory Framework. Malta also has strong and attractive fiscal incentives including advantageous corporate, compliance contribution rates and licence fees.

WHY MALTA?

- An EU Member State where remote gaming is legally established and regulated through appropriate legislation;
- A very attractive fiscal regime offering advantageous corporate, compliance and gaming tax rates;
- Reasonable Licensing Fees;
- A well-regulated jurisdiction that safeguards the interests of both gaming operators and players;
- Two main licence options: B2B and B2C;
- High standards in anti-money laundering;
- A stable political and economic climate;
- The presence of various established and well-regulated financial services institutions and payment gateways;
- An extensive network of treaties and other legislation providing relief from double taxation;
- Availability of professionals and support services specialised in the gaming industry;
- A highly qualified and skilled workforce, fluent in various languages;
- A state-of-the-art telecommunications infrastructure;
- The issue of a Seal of Authorisation to all Licensees by the Regulatory Authority (MGA);
- The existence of the Malta Remote Gaming Council, consisting of licensees and service providers to facilitate liaison with the authorities on matters relating to the remote gaming industry.

LICENSING REQUIREMENTS

Any person engaged in carrying out remote/online gaming activities in or from Malta must be licensed by the MGA to provide remote/online gaming operations. In order to qualify for a licence, the applicant must:

- be a person established within the EEA; be fit and proper;
- demonstrate adequate business and technical ability to carry out such an operation;

- prove that the operation is covered by sufficient reserves or securities and that payment of player winnings and deposits is ensured.

LICENSING PROCESS

The licensing process for obtaining a Remote Gaming Licence involves:

- the submission of an application for a remote gaming licence, a fit and proper test of the ultimate beneficial owners and directors and a detailed business plan for the proposed operation;
- the identification of Key Persons which may be employed within the entity or outsourced. For these Key Persons a fit and proper test must also be conducted;
- the incorporation of an EEA entity and the submission of detailed operational and technical details including the application architecture, system architecture, network infrastructure, security and control procedures, back-up and disaster recovery procedures, together with required statutory documentation.

After the successful review of the submitted documentation to the MGA, a system audit will be carried out and on its satisfactory completion, the operator is granted a Remote Gaming Licence for a period of ten years, which can be renewed upon expiration. The Licensee would also need to comply with any specific terms and conditions imposed by the MGA on the issuance of the Licence.

One of the obligations of Licensees is to appoint Key Persons. These persons, who must be approved by the MGA, will be responsible to carry out the Key Functions in their particular area and will also be deemed as the main contact on behalf of the licensee in respect of their particular area. The following are the Key Functions:

- a. The Chief Executive role, or equivalent;
- b. Management of the day-to-day gaming operations of the licensee, including the management of financial obligations, processes of making payments to, and receiving payments from, players. The management of risk strategies and the prevention of fraud to the detriment of the licensee;

- c. Compliance with the licensee's obligations including those related to responsible gaming, player support, marketing and advertising and where applicable, obligations related to sports integrity;
- d. The legal affairs of the licensee, including but not limited to contractual arrangements and dispute resolution;
- e. The adherence to applicable legislation relating to data protection and privacy;
- f. The prevention of money laundering and the financing of terrorism;
- g. The technological affairs of the licensee, including but not limited to the management of the back-end and control system holding essential regulatory data, and the network and information security of the licensee; and
- h. Internal audit.

Any changes in the individual responsible for any of the Key Functions must be notified to the MGA, and the new individual appointed must likewise be approved by the MGA. A certificate of approval is valid for (3) years, unless previously surrendered or revoked.

After the first year of operation, the operator is obliged to undergo a compliance audit of the remote gaming operation.

LICENSING FEES

Upon submission of an application for a Remote Gaming Licence, a one-time non-refundable application processing fee of €5,000 is payable to the MGA. Prior to issuance of the licence, and once the operator is recommended for the issuance of the licence, the annual licence fee becomes payable. The annual licence fee varies between €10,000 and € 25,000 depending on the type of activity and the type of licence applied for.

THE COMPLIANCE CONTRIBUTION CALCULATION

Once a Licensee commences activity, a compliance contribution, calculated on the basis of varying percentages of the Gaming Revenue generated, becomes payable to the MGA on a monthly basis.

Such amounts are payable by the 20th day of the subsequent month. The gaming revenue has been defined as the aggregate stakes and wagers, inclusive of any bonuses or other player incentives granted, less the aggregate player winnings inclusive of any bonuses or player incentives granted. In respect of P2P games and skill games, the gaming revenue is deemed to be the charge, tournament fees or any such like elements of revenue.

The amount of compliance contribution payable is also within prescribed limits as defined in the Gaming Licence Fees Regulations and dependent on the type of activity offered by the operator.

Start – up undertakings may qualify for an exemption from payment of the compliance contribution for the first year from the issuance of the licence.

GAMING TAX

Gaming tax in Malta is payable on revenue generated from players physically present in Malta, at the time when the actual service was provided. It is calculated at the rate of 5% on gross gaming revenue generated for the relevant tax period. A relevant tax period is a month and the tax payable is due by the 20th day of the subsequent month.

LICENCE CATEGORIES

Maltese legislation provides for two main categories of licences, namely B2C (business-to-customer) and B2B (business-to-business).

The B2C is subdivided into different types depending on the game provisions, namely:

Type 1. Games of chance played against the house, the outcome of which is determined by a random generator, and shall include casino type games, including roulette, blackjack, baccarat, poker played against the house, lotteries, secondary lotteries and virtual sports games; and/or;

Type 2. Games of chance played against the house, the outcome of which is not generated randomly, but is determined by the result of an event or competition extraneous to a game of chance, and whereby the operator manages his or her own risk by managing the odds offered to the player; and/or;

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Type 3. Games of chance not played against the house and wherein the operator is not exposed to gaming risk, but generates revenue by taking a commission or other charge based on the stakes or the prize, and shall include player versus player games such as poker, bingo, betting exchange, and other commission based games; and/or;

Type 4. Controlled skill games as per regulation 8 of the Gaming Authorisations Regulations. Provided further that in the case of a game displaying elements which may fall under more than one of the types referred to above, the Authority shall have full discretion in categorising the game in the type it believes closest reflects the nature of the game.

This legislation allows licensed operators to plug in various gaming services, already licensed in Malta, and continue to operate seamlessly with no new application required. Once a licensed operator decides to add a new gaming vertical, the operator is required to inform the MGA.

If the software is not licensed in Malta, then the software provider would first need to obtain its own B2B licence

CRITICAL GAMING SUPPLIES

The MGA regulates suppliers of critical gaming supplies; that is, services that are considered intrinsically important from a regulatory perspective; these include the supply and management of material elements of a game;

the supply and management of software, to generate, capture, control or process essential regulatory records and/or supply and management of the control system itself on which the software resides. Such providers require a B2B licence.

OTHER AUTHORISATIONS AND PERMITS

Malta, also provides for the concept of Other Authorisations and Permits that will see various other material gaming suppliers; considered an integral part to a gaming operational setup, being able to request an authorisation from the Malta Gaming Authority, and as such be approved to provide such services

TAXATION FOR MALTESE ENTITIES

The shareholders of the licensed Malta company, whether natural or corporate, are eligible to apply for a tax refund upon receipt of a dividend from the company. Furthermore, by virtue of the imputation tax system provided for under Maltese legislation, the shareholders are not subject to further tax on dividends received from the Company. The tax refunds will generally be equal to 6/7 of the total corporate tax paid by the company on dividends distributed.

For further details kindly refer to our fact sheet titled "Malta Companies and Taxation".

The licensee may also avail itself of Malta's extensive double tax treaty network, as well as from other forms of double taxation relief. In addition, the licensed company is exempt from transfer duties, exchange control restrictions and capital gains on transfer of shares.

WHY CHOOSE EMD



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Experienced & knowledgeable professionals providing value added services



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Reliability



Utmost discretion

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