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NEW REGULATIONS ON E-GAMBLING FOR FOREIGNER BUSINESS



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There are some changes in the regulations on electronic gambling for foreigners business after the issuance of the Decree No. 121/2021/ND-CP dated December 27, 2021 by the Government regulating the business of prize-winning electronic games for foreigners in the territory of the Socialist Republic of Vietnam ("Decree No. 121") replacing Decree No. 86/2013/ND-CP dated 29th July, 2013, Decree 175/2016/ND-CP dated 15th February, 2017 and Decree 151/2018/ND-CP dated 7th November, 2018 (hereinafter collectively referred to as "Decree 86"). Decree 121 takes effect from 12th February, 2022 and is detailed by Circular 39/2022/TT-BTC ("Circular 39") dated 24th June, 2022 and Circular 09/2022/TT-NHNN ("Circular 09") dated 12th July, 2022. This article summarizes notable changes that have significant implications for this business.

1. Persons eligible for participating in e-gambling

Regulations on people eligible for participating in e-gambling under new regulations are stricter than those in the Decree 86, specifically, foreigners and overseas Vietnamese, who legally enter Vietnam with valid passports or international travel documents issued by foreign competent authorities and visa is in validity; have full civil act capacity as prescribed by Vietnamese law and willingly comply with Game Rules as well as other provisions under Decree 121.

Accordingly, Decree 121 does not allow foreigners and overseas Vietnamese illegally entering Vietnam or legally entering Vietnam but not leaving the country before visa expired according to regulations to participate in e-gambling.

2. Business conditions and licenses

Basically, an enterprise operating this business must have two sublicenses, a certificate of eligibility for prize-winning electronic games business issued by the Ministry of Finance and a license for collection and payment in foreign currency and other foreign exchange operations issued by the State Bank before commencing its operation.

Conditions that enterprises shall fully satisfy for being issued the certificate of eligibility for prize-winning electronic games

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business under the Decree 121 are harder. Remaining basic regulations as those in Decree 86, such as having tourist accommodation establishments of five-star class; having an area for arranging Business Location satisfying the conditions under regulations; having managers or operators for Business Location who satisfy the conditions and standards (graduated from university and having experience in managing and operating prize-winning electronic game business for more than 3 years), having a business plan, Decree 121 sets higher conditions in respect of the followings:

- Increasing the minimum charter capital from VND 200 billion to VND 500 billion and requiring that the profit of fiscal year preceding the year of application for the business eligibility certificate is gain;
- Increasing the storage time of electronic equipment and camera systems for constant monitoring and surveillance of all activities in the Business Location (24/24h) to at least 180 days from the date of recording and ensuring the clear image of all footage at the following locations: the entrance and exit area of the Business Location; the area where slot machines are located; cashier area, treasury for counting cash, conventional currency and storing equipment for cash and conventional currency. The previous regulations only required minimum storage period of 30 days for such areas and 15 days for others.
- The slot machines purchased or imported for operation shall be brand new, adhering to the

technical specifications announced by manufacturers, and certified by an independent inspection organization from a state member of G7.

- Strictly regulating the number of slot machines to be licensed. The maximum rate of machines is still 1 machine per 5 accommodation rooms as per the previous regulations, but only counted on the accommodation rooms that have been put into operation.

3. Management of conventional currency

The mechanism for issuing and "registering" conventional currency with the Department of Finance and the tax authority in respect of its model, quantity, and type before putting it into business and re-registering this information upon changes has been replaced by a mechanism of "notifying" to the Department of Finance and the tax authority as the basis for issuing invoices to calculate the revenue of the enterprise. In addition, Decree 121 also annuls the provision on basic information that the conventional currency of enterprise must contain, subsequently, the conventional currency only needs to have its mark and signs for identification.

Regarding this new regulation, Decree 121 has simplified the conditions for the form and quality of the conventional currency as well as the procedures to apply this currency in operation. Furthermore, the enterprises also

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ease the burden of obtaining licenses or approvals issued by competent authorities on using conventional currency.

The payment for conventional currency under the provisions of Circular 09 remain unchanged in comparison with previous regulations. Players can pay by cash, transference from overseas accounts or from their foreign currency payment accounts opened at permitted banks in Vietnam to the operator's specialized foreign currency accounts, or by credit card. These regulations seem very limited in consideration of the emerging of numerous non-cash payment methods currently.

4. Loosen deductible expenses

Regulations on accounting expenses for such business are loosen. Specifically, the cap of hiring management fees, which was previously limited to 4% of revenue, is no longer applied.

Decree 121 and its guiding regulations shall tighten state management on such conditional business on the one hand and create a more proper environment for businesses after satisfying all regulated conditions.

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Bản tin này cùng với các nội dung trong bản tin chỉ nhằm mục đích cung cấp thông tin chung. Chúng tôi không cam kết hoặc bảo đảm về tính chính xác, tính thời sự hoặc sự đầy đủ của các thông tin cung cấp trong bản tin này. Bản tin này thể hiện quan điểm, ý kiến chính thức hay tư vấn pháp luật của chúng tôi. Bạn không nên sử dụng những thông tin trong bản tin này để thay thế cho việc tham khảo ý kiến tư vấn pháp luật của chúng tôi hoặc của luật sư của bạn. Việc bạn sử dụng các thông tin trong bản tin này không hình thành mối quan hệ "luật sư – khách hàng" giữa bạn và chúng tôi, trừ khi và cho đến khi một thỏa thuận được ký kết giữa bạn và chúng tôi theo đó chúng tôi được yêu cầu tư vấn về vấn đề cụ thể của bạn.

Chúng tôi giữ quyền sửa đổi, tạm ngừng hoặc ngừng vĩnh viễn hoạt động của bản tin này hoặc bất kỳ phần nào của bản tin mà không thông báo trước. Chúng tôi không chịu bất kỳ trách nhiệm nào về các sửa đổi, tạm ngừng hoặc ngừng vĩnh viễn hoạt động của bản tin này.

Nếu bạn có vấn đề nào cần tư vấn, hãy liên hệ với chúng tôi hoặc yêu cầu luật sư của bạn tư vấn về vấn đề đó cho bạn.

Tất cả các quyền, bao gồm cả quyền sở hữu, quyền tác giả, quyền liên quan và các quyền sở hữu công nghiệp đối với nội dung thông tin, thiết kế, trình bày mỹ thuật của bản tin này thuộc chúng tôi và được bảo vệ theo Luật Sở hữu Trí tuệ Việt nam, các hiệp định, hiệp ước quốc tế mà Việt nam đã ký kết.

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