



# I-GAMING MALTA

Different jurisdictions have, since time immemorial, treated gaming in diverse ways. Some shun it, some regulate it, some embrace it, others monopolise it. Still it is universally accepted that life is a gamble and humans are perpetual players.

The advent of internet gaming has brought about an outburst of opportunities for players and operators – hence resulting in a more complex and difficult environment to regulate.

Malta has reacted to this phenomenon in a prudent yet pragmatic manner - its approach towards gaming has certainly been bold and unique. Rather than focusing on a restrictive or condescending response to this budding industry, the legislator opted to direct its energies

towards regulation and transparency with the intention of generating a clean, safe and properly regulated market.

Malta's success as a gaming hub is attributable to a number of factors. Its membership in the European Union positions it to benefit from the application of common market principles, with free movement of goods and services being fundamental. Malta also offers low official fees and gaming taxes, which, coupled with its advantageous European onshore business environment, provide very favourable conditions for setting up. The development of the gaming industry in Malta has also accelerated the development of related ancillary services including ICT, telephony, co-location and back office services.



-  MALTA
-  ALDERNEY
-  ISLE OF MAN
-  CURAÇAO



## The Jurisdiction

Malta presents a stable history in financial, banking and commercial services. By joining the EU, Malta aligned its position and perspective to EU directives and regulations, including corporate rules and money laundering safeguards. This, coupled with a strong gaming legal regime benefitting from the EU common market principles, render the Maltese licence the best solution to any serious operator.

## The Regulator

The Lotteries and Gaming Authority (LGA) is the single regulatory body that is responsible for the governance of all forms of gaming in Malta.

The LGA's regulatory regime aims to be both technology neutral and game neutral, hence encompassing any type of gaming using any means of distance communication, including internet, digital TV, mobile phone technology, telephone and fax.

## Types of Licences

Prospective online operators may apply for either or all of the following licences depending on the types of games offered:

**Class 1:** operators managing their own risk on repetitive games (casino-type games, skill games and online lotteries);

**Class 2:** operators managing their own risk on events based on a matchbook (fixed odds betting, pool betting and spread betting);

**Class 3:** operators promoting and abetting gaming from Malta & taking a commission from promoting and/or abetting games (P2P, poker networks, betting exchange, non-risk lotteries);

**Class 4:** hosting and managing online gaming operators, excluding the licensee himself;

**Class 1 on 4:** operators managing their own risk on repetitive games (casino-type games, skill games and online lotteries) operating on a third party platform duly licensed by the LGA;

**Class 2 on 4:** operators managing their own risk on events based on a matchbook (fixed odds betting, pool betting and spread betting) operating on a third party platform duly licensed by the LGA;

**Class 3 on 4:** operators promoting and abetting gaming from Malta and taking a commission from promoting and/or abetting games (P2P, poker networks, betting exchange and game portals) operating on a third party platform duly licensed by the LGA.

### Validity of License

Five years

### Yearly License Fee

€ 8,500

Malta is committed to continuing evolution of and addition to the series of incentives and initiatives that enable digital gaming companies to find in Malta a stable medium and long-term option to relocating existing operations or set-up new ones. As a result, Malta is witnessing a boost of investment in the digital games sector, complementing its position as an i-gaming hub. The country provides an attractive base for both game developers on the one hand, and those service providers that focus on the provision of non-licensable gaming services on the other.

### Fiscal incentives for Game Development

Responding to the needs of the digital gaming industry, Malta provides assistance to companies at different stages of the game development process. Malta digital gaming companies have access to a wide range of incentives at different stages of the product development, including the initial conceptual stage, the research and development stage as well as the international marketing phase of the digital gaming product. Schemes available include:

- tax credits for expenditure incurred in acquiring or developing tangible and intangible assets;

## Taxation

### Gaming Tax

#### Class 1 (Casino-type Games):

€4,600 per month during the first six months following issuance of the license;  
€6,900 per month subsequently for the entire duration of the license period.

#### Class 1 and 4 (Casino-type Games hosted on a third party platform)

Fixed amount of € 1,150 per month.

#### Class 2 (Betting Operations) and Class 2 on 4 (Betting Operations hosted on a third party platform)

0.5% on the gross amount of bets accepted.

#### Class 3 (Betting Exchanges & Poker Operations) and Class 3 on 4 (Betting Exchanges & Poker Operations hosted on a third party platform)

5% on net income (net income is defined as revenue from rakes less bonus, commissions and payment processing fees, i.e. e-commerce fees).

#### Class 4 (Platform provider)

NO TAX for the first 6 months of operation;  
€ 2,300 per month for the subsequent 6 months;  
€ 4,600 per month subsequently for the entire duration of the licence.

The maximum gaming tax payable annually by one licensee in respect of any one licence is € 466,000.

### Corporate Tax

The corporate vehicle for a Maltese online gaming operation is subject to a corporate tax of 35% on profits like any other Maltese company. Shareholders benefit from a substantial refund of the tax paid by the company, whereby on distribution of dividends they have the right to claim certain refunds of the tax paid by the company. The effective rate of tax payable by the company is therefore of around 5%.

### Income Tax

Subject to a number of conditions being fulfilled, a 15% income tax rate applies to individuals employed with Malta licensed i-gaming companies.

- financing for new digital gaming start-ups and enterprises engaged in new markets, new technologies, novel products or services that demonstrate a potential for job creation and growth;
- tax credit for research and development of digital gaming projects;
- co-financing of wages of employees, leasing of equipment and amenities; and
- co-financing of costs incurred for market development.

### Pay to Play, Skill and Social Networking Games

In accordance with the current legislation and policies in force in Malta, pay to play games, skill games and social networking games which do not provide for a prize, do not require a license. As a result, companies offering such games may operate via Malta without undergoing a licensing process but nevertheless benefitting from the favourable onshore tax regime that Malta offers. In such cases, operations can be commenced with immediate effect upon company formation.

## Alderney

Deemed as having a free market approach towards eGambling, Alderney gives operators the possibility of carrying out casino, poker, sports-book and lottery activities through a single full eGambling licence. Alderney is considered as a dynamic jurisdiction providing a strict yet flexible regime that balances the needs of operators on the one hand, without hindering the seriousness and reliability of the legal regime on the other.

### Types of Licences

Prospective operators may opt for a Category 1 or 2 licence (or both) depending on the nature of the proposed operation. Category 1 gives the operator the right to organise and prepare gaming operations such as player registration, player verification and management of player funds.

A Category 2 licence gives authorisation for the execution of gaming transactions such as operational management of a gaming platform located within an approved hosting centre. Operators that run their own platform and also service the player directly require both a C1 and C2 licence.

As an alternative to a full licence, Alderney presents also the possibility for operators to apply for either one of the following licences: Core Temporary eGambling License, Service Provider Associate Certificate, Foreign Gambling Associate Certificate and Hosting certificate. This allows i-gaming operators to apply only for those parts of the gaming operation that they actually undertake.

### Validity of Licence

12 months

### Yearly Licence Fee

Category 1:

£35,000 for the first year and the years thereafter where net gaming yield is less than £1 million

£70,000 for net gaming yield equals or exceeds £1 million but is less than £5 million

£100,000 for net gaming yield equals or exceeds £5 million but is less than £7.5 million

£140,000 for net gaming yield equals or exceeds £7.5 million

Category 2 eGambling Licence: £35,000

Temporary eGambling Licence: £10,000

Service Provider Associate Certificate: 10,000

Foreign Gambling Associate Certificate: £35,000

Hosting Certificate: nil

### Taxation

No tax or other duties payable on gambling operations

0% corporation tax for companies established for the purposes of holding an Alderney e-gambling License

No VAT or other Sales tax

## Isle of Man

Considered as one of the top online gaming jurisdictions, the Isle of Man has, since the inception of the Online Gambling Regulation Act in 2001, grown exponentially. Following further changes, the licensing and regulatory controls are now more responsive to the needs of the gaming industry.

As a reputable offshore jurisdiction that has been encouraging the development of online gaming, Isle of Man is the jurisdiction of choice for prospective operators seeking to take advantage of the brisk 10 to 12 week license application process, low licensing fee, low duty rate and sound technical infrastructure.

A gaming licence from Isle of Man is required for games that involve the use of telecommunications, entail players betting money or money's worth and incorporate an element of randomness or chance. Pure free play games and skill games are not licensable.

### Types of Licences

Gaming companies, which must be a Manx company with a minimum of 2 local directors, may opt for either one of the four licensing possibilities: full licence, sub-licence, network services licence and a licence for the provision of disaster recovery services to off-Island gambling operations using Isle of Man telecommunications infrastructure. Key to the success of availing of the different options is an informed match between the scope of the licence and the intentions of the (prospective) operator.

### Validity of Licence

Five years

### Yearly Licence Fee

Full licence: £35,000

Sub license: £5,000

Network services licence: £50,000 + £5,000 per foreign operator

Disaster recovery services licence: £5,000

### Taxation

1.5% tax on gross gaming yield up to £20,000,000

0.5% tax for gross gaming yield of £20 million p/a, but not exceeding £40 million p/a

0.1% tax for gross gaming yield exceeding £40 million per annum

0% corporation tax, provided the site does not accept bets from Isle of Man residents

## Curaçao

Being one of the first jurisdictions to regulate remote gaming and having an e-gaming regime dating back to 1993, Curaçao offers a stable multiple gaming type certification system regulating games of skill, chance and wagering. The key feature of Curaçao is that it offers one license covering all types of e-gaming services. Since most operators diversify into various types of games, the one-license approach of Curaçao is highly popular.

### Types of Licences

Curaçao offers operators the possibility of opting for a full licence or a sub-licence, both of which cover software providers, network operators, service providers, common platform operators, affiliates, marketers and white-label operators. The distinction lies in the fact that a full licensee can sub-licence to third parties, while a sub-licensee cannot further sub-licence. Notwithstanding, a sub-licence offers the same rights as a full licence to run an e-gaming business legitimately.

Both modalities require that a company is registered in Curaçao and has a local administrator. Indeed, it is necessary to set up a Curaçao company (offshore or onshore), which is typically registered as an e-Zone company. A key reason for opting for the setting up of an e-Zone company is to benefit from 2% corporate income tax through to 2026, provided the company remains in annual compliance.

### Validity of Licence

The master licence is valid for 5 years and is automatically renewed subject to compliance. The sub-licence is valid for an indefinite period subject to validity of master licence.

### Licence Fee

Master license: NAf.10,000. (c.€ 4,300) per month during the first two years of the license; thereafter, the amount of the license fee is negotiated

Sub license: depending on negotiations with master licensees

### Taxation

0% tax on gross bets

2% corporation tax for e-Zone companies that retain annual compliance

No VAT, Sales Tax or import duties

No restriction on dividend withdrawals



## HOW CAN WE HELP?

Whilst appreciating the complexity of this market, our team of gaming lawyers and consultants are also sensitive to the need for fast, yet high quality legal advice across this industry. Our typical clients include software companies setting up gaming platforms, traditional bookmakers expanding online, casino machine producers expanding into online casino services, online poker room managers, and mathematicians / finance specialists applying their expertise to the creation of new, complex and hybrid games.

Our igaming project team is typically composed of lawyers and consultants with expertise in corporate law, banking, international tax and intellectual property. These work hand in hand with leading banks and consultants providing services including secure payment systems, hosting and co-location. This positions Chetcuti Cauchi as the leading gaming advisory firm for operators seeking a one-stop-solution provider.

### Our typical services would include:

- iGaming licensing and compliance
- International tax planning
- Company formation & administration
- Accounting and financial reporting
- Branding and trademarks
- Local directorship services
- Business plan drifting
- Merchant and other brand accounts
- Payment solutions
- Bandwidth, web hosting and co-location
- Data protection audits
- Website terms and technology agreements
- Local office location
- Recruitment and relocation services



### Testimonial

“Chetcuti Cauchi has demonstrated superior performance during the licensing process, negotiations with clients and a careful strategic planning of our operations. The execution of the services provided to our group of companies all around the world in several different languages is an excellent demonstration of the high quality personnel engaged in and at the home firm.

We feel proud to be part of the Chetcuti Cauchi family. Where others failed or gave up, Chetcuti Cauchi succeeded with great confidence!”

GameScale Europe Ltd



### Firm Overview

#### Our Advisory Team



Dr Jean-Philippe Chetcuti  
Managing Partner



Dr Maria Chetcuti-Cauch  
Senior Partner



Kenneth Camilleri  
Partner



Dr Priscilla Mifsud-Parker  
Partner



Michelle de Maria  
Manager, Tax



Dr Silvana Zammit  
Manager, Legal



Dr Charles Cassar  
Manager, Legal

#### Our areas of practice include:

##### LEGAL

Art & Cultural Property  
Aviation Law  
Banking & Finance  
Capital Markets  
Commercial Law  
Company Law  
Dispute Resolution  
Employment & Labour  
Gaming Law  
Immigration & Relocation  
Insurance Law  
Intellectual Property Law  
Investments Funds  
Investments Services  
Maritime Law  
Media & Entertainment Law  
Property & Development Law  
Public Service Law  
Technology & Telecoms Law  
Trusts & Estates Law

##### TAX

Tax Advisory  
Tax Compliance

##### CORPORATE

Corporate Services  
Accounting  
Fiduciary  
HR Management  
Technology Management  
Tendering Funding

The information set out herein is for informational purposes only and does not constitute legal or professional advice. No responsibility will be accepted for loss occasioned directly or indirectly as a result of acting or refraining from acting, wholly or partially in reliance upon information contained herein.