

Reform of the on-line betting and gambling sector before 2012: let's keep an eye on it!

The law of 12th May 2010 has authorized the organization of on-line betting and gambling and has regulated their taxation. This law provides for a tax that represents 7.5% of the outlays in the on-line sports betting and horse racing sectors (to which must be added the taxes for the benefit of race course companies -*sociétés de courses*- and of the National Sport Center -*Centre National des Sports*- of 8% of the outlays) and a tax of 2% of the outlays for poker.

Today, on-line betting operators consider that these tax rates are so high that they prevent them from properly developing their activities in France.

There is no doubt that a tax is necessary, however, the tax will also have a strong impact on the attractiveness of the French market. One must not forget that the aim of this law is the opening up of the on-line betting and gambling sector to competition, and not to discourage new operators from coming on the French market. A disinvestment of these operators could be feared if the Government does not make any tax reform in the near future.

As a consequence, several on-line betting operators created the on-line gambling

French association (AFJEL) in order to make their concerns heard. The AFJEL requests for a modification of the tax basis: the AFJEL asks that the tax be based on the gross product of the gambling activities (PBJ), and not on the outlays. Indeed, the PBJ is the difference between the outlays and the return rate to players, which is limited to 85% by law. In practice, the PBJ is equal to at least 15% of the outlays. A huge difference!

It appears that the French government has not heard these requests as François Baroin, Minister for Budget, has declared that there will be no tax reform of the on-line betting and gambling sector before 2012.

Despite this announcement, Jean-François Vilotte, ARJEL's President (the French on-line gambling authority), implied, during a colloquium last March, that some modifications could be operated at the end of this year. It seems that such changes would accede to AFJEL's demands. However, as of today, no information has been provided regarding the tax basis or the applicable rate tax.

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Ichay & Mullenex Avocats is a French law firm focusing on all legal issues related to the new technologies, the green business and the sustainable development in France and abroad. They are considered experts in intellectual property and Internet law, e-commerce, online gaming, data protection. Ichay & Mullenex Avocats also assists its clients on all issues related to financing, mergers & acquisitions, restructuring, etc. and advises them on their litigation and arbitration procedures.

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