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ACTS SUPPLEMENT

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The following Act was passed by Parliament on 15th September 2009 and assented to by the President on 25th September 2009:—

REPUBLIC OF SINGAPORE

No. 22 of 2009.

I assent.

(LS)

S R NATHAN,
President.
25th September 2009.

An Act to amend the Casino Control Act (Chapter 33A of the 2007 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Casino Control (Amendment) Act 2009 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2(1) of the Casino Control Act (referred to in this Act as the principal Act) is amended —

- (a) by deleting the word “or” at the end of paragraph (a) of the definition of “excluded person”;
- (b) by inserting, at the end of paragraph (b) of the definition of “excluded person”, the word “or”, and by inserting immediately thereafter the following paragraph:

“(c) section 165A;” and

- (c) by inserting, immediately after the definition of “gaming machine”, the following definition:

““Inland Revenue Authority of Singapore” means the Inland Revenue Authority of Singapore established under section 3 of the Inland Revenue Authority of Singapore Act (Cap. 138A);”.

Amendment of section 146

3. Section 146 of the principal Act is amended —

- (a) by inserting, immediately after the words “casino operator” in subsection (4)(b), the words “, and the time and manner of such submissions”;
- (b) by deleting the word “and” at the end of paragraph (c) of subsection (4) and by inserting immediately thereafter the following paragraphs:

“(ca) prescribing the treatment of losses, including the carrying forward or set-off of losses, in respect of gross gaming revenue;

(cb) prescribing the requirements for an audit of a casino operator relating to the casino tax payable by the

casino operator, whether by an internal auditor or an external auditor or both; and”;

- (c) by deleting subsection (5) and substituting the following subsection:

“(5) Regulations made under this section may provide —

- (a) that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$10,000 or with imprisonment for a term not exceeding 12 months or with both; and
- (b) that if any return required under this Part (including regulations made under this Part) is not made by a casino operator within the prescribed accounting period, the casino operator shall be liable to a penalty not exceeding \$1,000 for each day that it continues not to submit the return, up to a total penalty not exceeding \$10,000.”;

- (d) by inserting, immediately before the definition of “Comptroller” in subsection (6), the following definition:

““Board of Review” means the Board of Review appointed under section 78 of the Income Tax Act (Cap. 134);”;

- (e) by deleting the definition of “gross gaming revenue” in subsection (6) and substituting the following definition:

““gross gaming revenue”, in relation to a casino operator, means the amount determined by the formula

$$A - B,$$

where A is the aggregate of the amount of net wins received on all games conducted by the casino operator or conducted within the casino premises of the casino operator; and

B is the amount of goods and services tax chargeable by the casino operator under the Goods and Services Tax Act (Cap. 117A) in respect of all gaming supplies made by the casino operator;”;

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- (f) by deleting the full-stop at the end of the definition of “Minister” in subsection (6) and substituting a semi-colon, and by inserting immediately thereafter the following definitions:

“ “net win”, in relation to a casino operator, means —

- (a) in respect of any game where the casino operator is a party to a wager, the amount determined by the formula

$$C - D,$$

where C is the amount of bets received by the casino operator on that game by reference to such method as may be prescribed in the regulations for that game; and

D is the amount paid out by the casino operator as winnings on that game by reference to such method as may be prescribed in the regulations for that game; and

- (b) in respect of any game conducted within the casino premises where the casino operator is not a party to a wager, the amount determined by the aggregate value of all consideration in money or money’s worth received by the casino operator for conducting, or allowing the conduct of, the game;

“winnings” includes any non-monetary prize.”.

New sections 146A to 146E

4. The principal Act is amended by inserting, immediately after section 146, the following sections:

“Responsibility of Comptroller

146A. The Comptroller shall be responsible generally for the carrying out of the provisions of this Part and for the collection of casino tax and shall pay into the Consolidated Fund all amounts collected in respect thereof, including any penalty under section 147 or 149A or any regulations made under this Part.

Power of Comptroller to assess tax due**146B.—(1) Where —**

- (a) a casino operator has failed to make any returns required under this Part or any regulations made under this Part for a prescribed accounting period, or to keep any documents and afford the facilities to verify such returns; or
- (b) it appears to the Comptroller that such returns are incomplete or incorrect,

the Comptroller may to the best of his judgment assess the amount of casino tax due from that casino operator for that period and notify the casino operator of the amount assessed.

(2) In any case where —

- (a) an amount has been repaid to any casino operator as being a repayment of casino tax, which ought not to have been repaid; or
- (b) an amount has been paid or credited to any casino operator as being due to it, which ought not to have been paid or credited to it,

the Comptroller may assess that amount as being casino tax due from the casino operator for the prescribed accounting period in which the amount was repaid, paid or credited, as the case may be, and accordingly notify the casino operator of the assessment.

(3) An assessment under subsection (1) or (2) of an amount of casino tax due for any prescribed accounting period shall not be made more than 5 years from the end of that period.

(4) Notwithstanding subsection (3), where, in the opinion of the Comptroller, any form of fraud or wilful default has been committed by or on behalf of any person in connection with or in relation to casino tax, the Comptroller may, for the purpose of making good any loss of casino tax or payment or refund of casino tax attributable to fraud or wilful default, make an assessment at any time.

(5) In any case where —

- (a) as a result of a casino operator's failure to make a return for a prescribed accounting period, the Comptroller has made an assessment under subsection (1) for that period;

- (b) the casino tax assessed has been paid but no proper return has been made for the period to which the assessment related; and
- (c) as a result of a failure to make a return for a later prescribed accounting period, being a failure by the casino operator referred to in paragraph (a), the Comptroller finds it necessary to make another assessment under subsection (1) for the later period,

then, if the Comptroller thinks fit, having regard to the failure referred to in paragraph (a), he may specify in the assessment referred to in paragraph (c) an amount of casino tax greater than that which he would otherwise have considered to be appropriate.

(6) Where it appears to the Comptroller that the amount which ought to have been assessed in an assessment under this section exceeds the amount which was so assessed, the Comptroller may —

- (a) under the same provision as that under which the assessment was made; and
- (b) within the period during which that assessment could have been made,

make a supplementary assessment of the amount of the excess and shall notify the casino operator accordingly.

(7) Where an amount has been assessed and notified to any casino operator under subsection (1), (2) or (6), it shall, subject to the provisions of this Act as to review and appeals, be deemed to be an amount of casino tax due from the casino operator and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

(8) The Comptroller may at any time make all such alterations in or additions to an assessment made under this section as he thinks necessary to ensure the correctness thereof and notify the casino operator accordingly.

(9) Where the Comptroller raises an assessment under subsection (1) upon the failure of a casino operator to make any returns, and, subsequent to such assessment, the casino operator makes a return, the Comptroller may, in his discretion, take into account the return and revise his assessment as he deems fit.

(10) A certificate purporting to be under the hand of the Comptroller —

- (a) that any return required by or under this Part has not been made or had not been made at any date;
- (b) that any return made under this Part has been made by the person named therein;
- (c) that any casino tax shown as due in any return or assessment made under this Part has not been paid; or
- (d) that any penalty is due from the person named therein,

shall be sufficient evidence of that fact until the contrary is proved.

Revisions and objections

146C.—(1) If any casino operator has, for any prescribed accounting period —

- (a) made an error in a return of its gross gaming revenue made to the Comptroller for that period; or
- (b) paid casino tax in excess of the amount payable for that period,

the casino operator may, by notice in writing, request a revision by the Comptroller of its return and the refund of any casino tax overpaid, within a period of 5 years from the date the return was made.

(2) If any casino operator disputes an assessment of casino tax made upon it under section 146B, the casino operator may apply to the Comptroller, by notice of objection in writing, to review and revise the assessment made.

(3) A notice of objection under subsection (2) shall state precisely the grounds of the casino operator's objections to the assessment and shall be made —

- (a) within 30 days from the date of the service of the notice of assessment; or
- (b) if the Comptroller is satisfied that there is reasonable cause for the delay, within such longer period as the Comptroller may allow in the circumstances.

(4) On receipt of a notice for revision of a return under subsection (1) or a notice of objection under subsection (2) by a casino operator, the Comptroller may —

- (a) require the casino operator to furnish such particulars as the Comptroller may consider necessary with respect to the gross gaming revenue of the casino operator and to produce all books or other documents in the casino operator's custody or under its control relating to such revenue; and
- (b) summon any person whom he thinks is able to give evidence respecting the assessment to attend before him and may examine that person on oath or otherwise.

(5) If any casino operator who has given a notice for revision of a return under subsection (1) or a notice of objection to an assessment under subsection (2) —

- (a) agrees with the Comptroller as to the amount at which the casino operator is liable to be assessed, the return or assessment shall be revised accordingly, and notice of the revised return or assessment shall be served upon that casino operator; or
- (b) fails to agree with the Comptroller as to the amount at which the casino operator is liable to be assessed, the Comptroller —
 - (i) shall, if any casino tax is payable, give a notice of refusal to revise the return or assessment as desired by the casino operator; and
 - (ii) may revise the return or assessment to such amount as the Comptroller may determine according to the best of his judgment,

and the Comptroller shall serve upon that casino operator the notice of the revised return or assessment of the casino tax payable, together with the notice of refusal.

Right of appeal

146D.—(1) Any casino operator aggrieved by a refusal of the Comptroller to revise a return or assessment under section 146C(5)(b)(i) or by an assessment of casino tax made upon it under

section 146C(5)(b)(ii) may appeal against such decision or assessment to the Board of Review and the appeal shall be lodged with and heard by the Board of Review in the same manner as an appeal against an assessment of tax under the Income Tax Act (Cap. 134).

(2) No appeal shall lie against a decision of the Board of Review except an appeal to the High Court from the decision on any question of law or of mixed law and fact.

(3) Sections 79 to 84 of the Income Tax Act shall apply in relation to an appeal under subsection (1) or (2) as if it were an appeal in relation to an assessment of tax under that Act.

Time within which payment is to be made

146E.—(1) Any amount of casino tax assessed to be payable under section 146B shall, notwithstanding any objection or appeal against the assessment, be payable in the time and manner stated in the notice of assessment issued by the Comptroller under that section.

(2) The Comptroller may, in his discretion and subject to such terms and conditions as he may impose, including the imposition of interest, extend the time limit within which payment is to be made.”.

Amendment of section 147

5. Section 147 of the principal Act is amended by inserting, immediately after subsection (3), the following subsection:

“(4) The Comptroller may for any good cause remit the whole or part of the penalty payable under subsection (1) or (2).”.

Amendment of section 148

6. Section 148 of the principal Act is amended —

- (a) by inserting, immediately after the words “Casino tax” in subsection (1), the words “and any penalty”;
- (b) by inserting, immediately after the words “such tax” in subsection (1), the words “and penalty”;
- (c) by inserting, immediately after subsection (1), the following subsections:

“(1A) The Comptroller shall be entitled to all costs allowed by law against a casino operator liable in any proceedings under subsection (1).

(1B) The Comptroller may appear personally or by counsel in any suit instituted under subsection (1).”; and

(d) by inserting, immediately after the word “tax” in the section heading, the words “and penalty”.

New section 148A

7. The principal Act is amended by inserting, immediately after section 148, the following section:

“Remission of tax

148A. The Minister may, in his discretion, remit, wholly or in part, the casino tax payable by any casino operator if he is satisfied that it is just and equitable to do so.”.

New section 149A

8. The principal Act is amended by inserting, immediately after section 149, the following section:

“Penalty for incorrect return

149A. Any person who —

- (a) makes an incorrect return by omitting or understating any gross gaming revenue or casino tax of which a casino operator is required by this Act to make a return; or
- (b) gives any incorrect information in relation to any matter affecting a casino operator’s liability to casino tax,

shall be guilty of an offence and shall be liable on conviction —

- (i) to a penalty equal to double the amount of casino tax which has been underpaid in consequence of such incorrect return or incorrect information, or which would have been so underpaid if the return or information had been accepted as correct; and
- (ii) to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 2 years or to both.”.

Amendment of section 150

9. Section 150(1) of the principal Act is amended by inserting, immediately after the word “underpaid” in the penultimate line, the words “in consequence of the offence, or which would have been so underpaid if the offence had not been detected,”.

New section 150A

10. The principal Act is amended by inserting, immediately after section 150, the following section:

“Power to appoint agent for recovery of tax

150A.—(1) The Comptroller may by notice in writing, if he thinks it necessary, declare any person to be the agent of a casino operator.

(2) The person declared to be the agent of a casino operator under subsection (1) shall be the agent of the casino operator for the purposes of this Part and may be required to pay any casino tax or penalty due from any moneys which, at the date of the receipt of the notice or at any time during the period of 90 days thereafter, may be held by him for or due by him to the casino operator whose agent he has been declared to be.

(3) In default of payment under subsection (2), the casino tax shall be recoverable from the agent in the manner provided under section 148.

(4) For the purposes of this section, the Comptroller may require any person to give him information as to any moneys, funds or other assets which may be held by him for, or of any moneys due by him to, any casino operator.

(5) Where any person declared by the Comptroller to be the agent of a casino operator under subsection (1) is aggrieved by such declaration he may, by notice in writing to the Comptroller within 14 days, or within such further time as the Comptroller in his discretion may allow, object to the declaration.

(6) The Comptroller shall examine the objection and may cancel, vary or confirm the declaration.

(7) Where the objector is aggrieved by the Comptroller’s decision upon his objection, he may appeal against such decision to the Board

of Review and the provisions of section 146D shall apply with the necessary modifications.

(8) Where an agent makes any payment of moneys to the Comptroller under this section —

- (a) the agent shall be deemed to have been acting under the authority of the casino operator by whom the casino tax is payable (referred to in this section as the defaulting taxpayer);
- (b) the agent is hereby indemnified in respect of the payment to the Comptroller;
- (c) the amount of casino tax due from the defaulting taxpayer shall be reduced by the amount paid by the agent to the Comptroller; and
- (d) the amount of the reduction shall, to the extent of that amount, be deemed to have been paid to the defaulting taxpayer in accordance with any law, contract or scheme governing the payment of moneys held by the agent for or due from the agent to the defaulting taxpayer.”.

Amendment of section 151

11. Section 151 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

“(3) Notwithstanding anything in section 6 of the Income Tax Act or section 190 of this Act, the Comptroller or any officer of the Inland Revenue Authority of Singapore may —

- (a) furnish to any officer of the Authority any information obtained by the Comptroller in the performance of his duties under this Part, where such information may be required by the officer in the performance of his duties; and
- (b) upon the request of the Authority, permit any officer of the Authority to have access to, including taking copies of, such records or documents relating to casino tax in the possession of the Comptroller as the Comptroller may allow,

where the Comptroller is satisfied that such information or access is necessary for the performance of the duties of the officer of the Authority.”.

Amendment of section 152

12. Section 152 of the principal Act is amended —

- (a) by inserting, immediately after the word “underpaid” in subsection (1), the words “in consequence of the offence, or which would have been so underpaid if the offence had not been detected”;
- (b) by inserting, immediately after subsection (1), the following subsection:

“(1A) The Comptroller may compound any offence under section 149A by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the penalty under paragraph (i) of that section.”; and
- (c) by deleting the word “and” in subsection (2) and substituting the word “or”.

Amendment of section 165

13. Section 165 of the principal Act is amended —

- (a) by deleting subsections (1) and (2) and substituting the following subsection:

“(1) A Committee may, on its own motion, by written order make an exclusion order against a person if it comes to the attention of the Committee that the person has a poor credit record.”;
- (b) by deleting the words “or (2)” in subsections (4) and (5); and
- (c) by deleting the words “the person satisfies subsection (1)(a), (b) or (c)” in subsection (4) and substituting the words “the circumstances in subsection (1) exist in relation to that person”.

New section 165A

14. The principal Act is amended by inserting, immediately after section 165, the following section:

“Persons to be excluded from casino

165A.—(1) The following persons shall be excluded from entering or remaining, or taking part in any gaming, on any casino premises:

- (a) a person who is on any social assistance programme funded by the Government or any statutory body;
- (b) an undischarged bankrupt;
- (c) a person who has made a voluntary application in the prescribed form and manner to the Council to be excluded from entering or remaining, or taking part in any gaming, on any casino premises.

(2) A person referred to in subsection (1)(a) or (b) shall be excluded from entering or remaining, or taking part in any gaming, on any casino premises for so long as the circumstances in subsection (1)(a) or (b) exist in relation to that person.

(3) A person referred to in subsection (1)(c) shall be excluded from entering or remaining, or taking part in any gaming, on any casino premises until such time as the person notifies the Council in the prescribed form and manner that he wishes to cease to be so excluded.

(4) The Council shall establish, maintain and regularly update a list that sets out the names and particulars of persons for the time being excluded from the casino premises under subsection (1), and shall furnish the list to the following persons:

- (a) the Authority;
- (b) the Commissioner of Police; and
- (c) every casino operator.

(5) Upon being satisfied that any person whose name is on the list of excluded persons has ceased to be on a social assistance programme referred to in subsection (1)(a) or has ceased to be an undischarged bankrupt, or upon receiving a notice under subsection (3) from any such person, the Council shall —

- (a) remove the name and particulars of the person from the list of excluded persons; and
- (b) notify the persons referred to in subsection (4)(a), (b) and (c) of the removal.

(6) Without prejudice to subsection (5), the Council may, from time to time, vary or update the list of excluded persons —

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- (a) to correct any clerical or other error in the names or particulars therein;
 - (b) to include the names and particulars of new persons excluded from any casino premises under subsection (1); or
 - (c) to update any of the names or particulars therein in order that they remain sufficient to identify any excluded person,
- and the Council shall notify the persons referred to in subsection (4)(a), (b) and (c) of those variations and updates.

(7) It shall be a defence to disciplinary action for a contravention of section 126(1) by permitting a person referred to in subsection (1) to enter or remain on the casino premises if it is proved that —

- (a) before the person entered the casino premises or while the person was on the casino premises, there was produced to the casino operator or to its agent or employee proof of the person's identity; and
- (b) at that time, the person's name and particulars were not on the list of excluded persons furnished by the Council to the casino operator.

(8) It shall be lawful for the person for the time being in charge of a casino, an agent of the casino operator or a casino employee to refuse entry to, or remove or cause to be removed from the casino premises using no more force than is reasonably necessary, any person whose name and particulars are at that time on the list of excluded persons furnished by the Council to the casino operator.

(9) In this section, "list of excluded persons" means the list established and maintained under subsection (4) and includes that list as varied or updated from time to time in accordance with subsection (5) or (6)."

Amendment of section 166

15. Section 166(1) of the principal Act is amended by inserting, immediately after the words "for whose benefit the" in paragraph (a), the words "family exclusion".

Repeal and re-enactment of section 168

16. Section 168 of the principal Act is repealed and the following section substituted therefor:

“Notification of family exclusion order or exclusion order

168. As soon as practicable after a family exclusion order or an exclusion order is made, varied or revoked under this Part, the Council shall notify the following persons of the order or the variation or revocation thereof, as the case may be:

- (a) the applicant, in the case of a family exclusion order;
- (b) the Authority;
- (c) the Commissioner of Police; and
- (d) every casino operator.”.

Amendment of section 190

17. Section 190 of the principal Act is amended by inserting, immediately after subsection (1), the following subsection:

“(1A) Notwithstanding subsection (1), any person referred to in paragraphs (a) to (d) of that subsection may —

- (a) furnish to the Comptroller of Income Tax or an officer of the Inland Revenue Authority of Singapore any information relating to casino tax which may be required by the Comptroller or officer in the performance of his duties; and
- (b) permit the Comptroller of Income Tax or an officer of the Inland Revenue Authority of Singapore to have access to, including taking copies of, such records or documents relating to casino tax in the possession of the Authority as the Chief Executive may allow,

where the Chief Executive is satisfied that such information or access is necessary for the performance of the duties of the Comptroller or officer.”.

Amendment of section 197

18. Section 197 of the principal Act is amended —

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- (a) by inserting, immediately after the words “this Act” in subsection (1), the words “(other than a fine imposed under Part IX or any regulations made thereunder)”; and
 - (b) by inserting, immediately after the words “this Act” in subsection (2), the words “(other than a penalty payable under Part IX or any regulations made thereunder)”.
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