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Legal Support for Business

Federal Gambling and Drawings Law and its Regulations in Mexico

By

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The Federal Gambling and Drawings Law (“Gambling Law”) of 1947, and the Regulations of the Federal Gambling and Drawings Law (“the Regulations”) of 2004, allow for the establishment of Casinos and other gambling establishments under certain circumstances and with certain restrictions.

The Gambling Law and Regulations will regulate (i) Jai Alai, (ii) Horse Racing, (iii) Greyhound Races, (iv) Rooster Fights, (v) Drawings, and (vi) Slot Machines. Included within the category of drawings are: (a) Drawings involving the sale of tickets; (b) Drawings not involving the sale of tickets; (c) Instantaneous drawings; (d) Drawings in trade systems; (e) Drawings involving symbols or numbers (including Bingo), and (f) Drawings broadcasted by means of mass communication.

Minors, police, uniformed military personnel, persons carrying arms, intoxicated persons, and persons who have previously been caught cheating are prohibited from participating in any gambling or drawings. Minors may however attend live shows on the premises when accompanied by an adult, although they are prohibited from participating in the placement of bets.

Permits.

The Ministry, through the Administration, will decide whether to grant the necessary Permit to open and operate a casino or other gambling establishment and to carry out the respective gambling or drawing. The Permits will only be granted to companies incorporated in the United States of Mexico.

An applicant for a Permit shall include the following with their application to the Ministry: (i) balance sheets and income statements from the last 5 years demonstrating the origin and application of their resources and capital stock; (ii) an approved geographic and financial feasibility study; (iii) the exact location of the proposed installation; (iv) documentation certifying the favorable opinion of the relevant municipality or federal entity; (v) a general program detailing the operation and function of the establishment; (vi) proof of experience in operating that type of establishment; (vii) the internal regulations which will be in effect at the establishment; and (viii) A notarized recitation of the obligations imposed by the Regulations. Evidence of registration, once obtained, shall be presented to the Federal Taxpayers Registry.

In addition, applicants who are individuals shall (a) indicate their name, citizenship, and domicile; (b) present an official photographic identification; and (c) state under oath that he/she has never committed a felony of a fraudulent or fiscal nature, or one relating to organized crime or money laundering.

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Applicants which are companies shall: (a) provide a counterpart or a certified copy of their original incorporation deed, which should include as its corporate purpose that for which the Permit was applied; (b) evidence the legal representation of the applicant; and (c) exhibit a bond guaranteeing payment of the relevant prizes.

Furthermore, individual partners or shareholders holding at least a 10 percent interest shall: (i) indicate their name, citizenship, and domicile; (ii) indicate their condition of ownership, including the origin of capital they have contributed; (iii) indicate any ownership or professional ties to other Permit-Holding companies; (iv) state under oath that he/she has never committed a felony of a fraudulent or fiscal nature, or one relating to organized crime or money laundering; and (v) present a credit report from an authorized credit institution.

Corporations which participate as shareholders shall include: (i) Proof of their deed of incorporation and any amendments thereto; (ii) balance sheets and income statements from the last 5 years demonstrating the origin and application of their resources and capital stock; (iii) a certified copy of the act authorizing investment in the applicant company; (iv) the name and address of each officer and member of the board of directors and examiners, in addition to filings these must make separately; and (v) a list of the partners or the shareholders with at least a 10 percent interest.

Additional technical requirements may be applicable in order to ensure that the events or establishments are run and organized properly. Consultation with the Ministry is permissible in respect to compliance with the corresponding application requirements.

The term of the licenses will be for renewable periods of a maximum of 25 years, provided the Licensees continue to comply with Mexican Law and they request such renewal within a year of the termination of the License. Instant lottery ticket permits are, however, renewable for a one year period. Said Permits are non-transferable.

Regulation of the Permit-Holding Companies & Operators.

The Permit Holder shall comply with the following obligations: (i) deliver quarterly and annual financial statements to the Ministry, (ii) deliver annually a copy of the insurance policy currently in force, (iii) deliver a monthly report on revenue and the payment of corresponding taxes, (iv) inform the Ministry of any misconduct by its customers that might implicate organized crime or money laundering, (v) continually inform the Ministry of security measures which are implemented, (vi) inform the Ministry of any change in ownership or modification of company by-laws, (vii) maintain or increase, as need be, the fixed capital equity of the company, (viii) maintain in force a bond guaranteeing the payment of prizes, (ix) impede partners and shareholders, up to the last beneficiary, from relocating to low-tax or preferred tax regimes (companies which quote their shares in the Mexican Stock Market or one with equal or higher standards are exempted), (x) prevent trusts, in which the settlor is different from the beneficiary, from holding shares, (xi) include in the By-Laws of the Permit-Holding Company all provisions necessary for compliance with Mexico's Code of Better Corporate Governance, (xii) to establish that the Permit-Holding Company management will be performed according to accepted

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financial practices, including a Board which is at least 25% independent, and (xiii) to obtain Ministry authorization for the movement of any gambling facility or the corporate domicile.

Items (i), (iv), (ix), (xi) and (xii) are applicable to both Permit-Holding Companies and Operators.

Failure to comply with any requirement may result in termination or non-renewal of a Permit, as well as potential fines, arrests, or suspension of duty. The level of punishment shall correspond to the seriousness of the offense and its frequency.

Official inspectors shall be appointed to ensure proper functioning of the events and establishments. They shall also warn the Permit Holder of potential violations or manipulation of results and act to prevent them. In the event of irregularities or non-compliance with applicable laws and regulations, they shall inform the Ministry, and, if necessary to prevent continued abuses, suspend the event or establishment and initiate a criminal suit.

Gambling and Drawings Registry.

The Commission will maintain a Casinos and Gambling Registry in which the following must be registered: (i) Casinos, (ii) any Permit in such regard, (iii) high-level employees of the Casinos, (iv) assignments of any right, (v) the internal rules of each Casino, (vi) any sanctions that have been imposed upon a Permit Holder, or any proceeding underway involving such, (vii) persons who render professional services related to the brokerage and placing of bets in authorized establishments, (viii) financial statements, and (ix) names and photos of Ministry inspectors.

The information contained in the Data Base shall be updated and appear on the Ministry's website within ten working days of the previous update, in strict compliance with the provisions of the Federal Law of Transparency and Access to Public Governmental Information, and its Regulations.

Jorge Santistevan, is a business lawyer licensed to practice both in Mexico and in the United States (State of Illinois). He holds a degree of "Abogado" from the Escuela Libre de Derecho in Mexico, and in the United States the degrees of "Master of Comparative Law" from the University of Illinois, and "Juris Doctor" from the Illinois Institute of Technology. He has lectured on international business transactions as a "Fulbright Scholar" at the University of San Diego, and as a "Visiting Professor" at the University of Houston. He counsels international companies in Mexico and Latin America, with more than 25 years of experience. He practices in Mexico City, and is the Managing Partner at Santistevan Abogados, S.C.