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**Faculty of Law, Administration, and Economics**  
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**SUMMARY OF DOCTORAL DISSERTATION**

**The role and tasks of the National Revenue Administration in implementation of public revenues arising from the Gambling Act**

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The doctoral dissertation „The role and tasks of the National Revenue Administration in implementation of public revenues arising from the Gambling Act” covers three main areas:

- legal and financial regulations of the gambling act;
- public income from gambling;
- functioning of the National Revenue Administration in the field of gambling;

which falls directly into the area of financial law, understood as the science of management of public funds.

The study has several research objectives. The overarching research objective is to systematise and examine the financial regulation of the Gambling Act, to analyse public revenues from gambling and the efficiency of the National Revenue Administration with respect to tasks arising from the Gambling Act. The concept of efficiency for the purposes of the dissertation means the relationship between the results achieved and the resources used.

The next research objectives of the study are to show:

- legal and tax model of gambling regulation in Polish law;
- the legislator's objective in enacting the Gambling Act and its amendments;
- assumed and realised revenue from the gaming tax;
- supervision and control of gambling by the National Revenue Administration;
- the reasons for the emergence of the shadow economy in the area of gambling, the related threats to the financial interests of the State Treasury and attempts to reduce it;

- legal solutions aimed at optimising public revenue from gambling and the model of supervision and control over gambling.

The dissertation analyses the Act of 19 November 2009 on gambling, from which, among others, regulations establishing public revenues from gambling, such as: gaming tax, public fees, gambling surcharges, as well as non-tax revenues of the state budget from fines, were extracted. The analysis also covered the Act of 16 November 2016 on the National Revenue Administration, from which regulations concerning tasks related to the Gambling Act were extracted, in particular: supervision and control over compliance with the provisions of this Act, control and collection of gaming tax and surcharges, conducting criminal fiscal proceedings in cases of fiscal offences and fiscal offences against the organisation of gambling. Realization of the aim of the work would not be possible without the analysis of doctrinal views, positions of courts and tribunals. The work draws on the author's own experience as an active officer of the Customs and Fiscal Service, which is part of the National Revenue Administration.

The following circumstances argue in favour of undertaking research: firstly, gambling in the context of the functioning of the National Revenue Administration and the performance of tasks related to the implementation of the Gambling Act has not been presented in a single study; secondly, the area of financial law outlined in the topic of the dissertation is of significant importance, both theoretically and practically as gambling regulations determine the revenues of the state which obtains significant revenues from gambling and determine the directions of the supervision and control of gambling by the state carried out by the National Revenue Administration; thirdly, the issues of gambling and the functioning of the fiscal apparatus are related to the author's professional activity and, additionally, are the subject of his personal interest.

The study covers many levels of research and for this reason different research methods were used. The dogmatic method was used as the main one, as the considerations were conducted mainly in the legal layer, based on the author's interpretation of regulations, taking into account views presented in literature and in courts' and tribunals' jurisprudence. The observational method was widely used in the study in order to confront the existing legal and financial regulations with their application in practice. Historical and comparative methods were used as auxiliary, and the analyses were supplemented with the author's own experience.

The work, apart from the introduction and conclusions, consists of eleven chapters, cumulatively presenting the issues covered by the dissertation topic.

Chapter one: "Introduction to Gambling Problem" focuses on demonstrating the concept of gambling, its origins and its characteristic features such as randomness, winning and rules of

the game. The effects of gambling are analysed, which are important in that they constitute the justification for the legal and financial solutions in force in the area of gambling. In the following sections of the chapter, the issue of regulatory models and taxation models for gambling is presented. It has been concluded that individual countries have a broad catalogue of solutions for regulating the gambling market and the principles of taxing gambling with various public levies. The adoption of appropriate system solutions, taking into account the realities of the national gambling market, seems to determine the level of public revenue from gambling and the directions of the state control over gambling.

Chapter two: "Gambling Regulations" contains analyses of the conditions for organising gambling games and the rules of conducting gambling activity. The chapter presents, among other things, analyses of the historical regulation of gambling in Poland and the Community regulation of gambling. The main scope of the analysis concerns the regulations of the current Gambling Act, in particular the goal assumed by the legislator for the introduction of the act, the scope of introduced limitations on conducting gambling activities, and definitions of particular categories of gambling games.

The third chapter, entitled "Gambling market", includes analyses of the functioning of particular categories of games and betting. A significant part of the chapter concerns the category of games on slot machines, as regulations concerning this category have had a major impact on the size of the entire gambling market, the level of public revenue from gambling and the directions of state control over gambling. The chapter also analyses financial results of entities conducting gambling activities and revenues from particular categories of gambling games.

The fourth chapter: "Tasks of the National Revenue Administration in the context of the Gambling Act" contains, inter alia, an analysis of the reasons for the introduction of National Revenue Administration, its structure and evaluation by the doctrine. The main part of the chapter is a systematic and analysis of the competences of individual National Revenue Administration bodies in the performance of tasks relating to the Gambling Act.

Chapter five: "Gaming tax as the basic public and legal burden of gambling" contains considerations about public and legal revenues, budgetary revenues, the concept of tax and its functions, as well as the legal construction of the gaming tax. The analysis covers, inter alia, the level of execution of revenue from the gaming tax and the structure of revenue from the gaming tax from particular categories of gambling.

The sixth chapter, „Other public and legal revenue accruing from gambling”, is devoted to analyses of public levies other than the gaming tax, such as public charges, subsidies for

gambling, state budget revenue from the taxation of winnings in gambling games and revenue in the nature of penalties and sanctions. The purpose and scope of such revenue is shown. The analysis also covers the use of funds from surcharges.

The subject of chapter seven: "Control of the Observance of the Gambling Act by the National Revenue Administration" includes analyses concerning the control of the organisation and conduct of gambling games carried out at legal operators, as well as the fulfilment of legal operators' obligations with regard to games and surcharges. A large part of the chapter is devoted to analyses of violations of the Gambling Act by illegal operators and players, as well as the effectiveness of the control carried out by the National Tax Administration.

Chapter eight: "Counteracting violations of the Gambling Act by the National Revenue Administration through administrative sanctions" contains considerations on the scope and role of administrative sanctions. The chapter details administrative sanctions found in the Gambling Act, divides them into: administrative enforcement sanctions and administrative repressive sanctions, and then analyses them. Further analysis was made of the application of monetary penalties placed in the Gambling Act and the effectiveness of the National Revenue Administration in terms of the imposition of such penalties.

In chapter nine: "Counteracting violations of the Gambling Act by the National Revenue Administration by means of criminal sanctions", the analysis covers criminal regulations, especially fiscal penalties, penalising gambling. The subject of consideration are the principles of responsibility for the commission of fiscal offences and fiscal transgressions. Individual types of fiscal offences and fiscal transgressions against the organisation of gambling have been extracted from the Fiscal Penal Code and analysed. The subject of further analysis is statistical data showing the application of fiscal penalties in the area of gambling, as well as the effectiveness of the National Revenue Administration in this respect.

Chapter ten: "The implementation of the Gambling Act in Lower Silesia" contains analyses of the functioning of the National Revenue Administration at the local level on the example of Lower Silesia in the context of the implementation of individual tasks arising from the Gambling Act, as well as the effectiveness of the fiscal administration.

The final, eleventh chapter entitled "Diagnosed threats to the financial interest of the State Treasury connected with the Gambling Act" includes analyses of the financial effects of the functioning model of gambling in Polish law, abuse of the condition of randomness in the definition of legal gaming on slot machines, and depletion of public revenue connected with legal and tax provisions of the Gambling Act. The chapter estimates depletions of public

revenue related to the outlawing of the category of games on slot machines, in the gaming tax, from public charges and subsidies for gambling.

Analyses carried out in the study prove that the National Revenue Administration (just like the Customs Service which operated earlier) should be assessed positively in terms of carrying out tasks resulting from the Gambling Act. In 2010-2019 the fiscal administration conducted 41 040 inspections of compliance with the provisions of the act on gambling, secured 136 240 gaming machines infringing the provisions of the act on gambling, conducted 106 893 administrative proceedings for fines under Article 89 of the act on gambling and 79 690 preparatory proceedings in cases of fiscal offences and fiscal transgressions against the organisation of gambling games. Despite that, the scope of violations of the provisions of the Gambling Act and the number of such violations are significant. This means that the causes of violations of the Gambling Act are independent of the functioning of the fiscal administration.

The main, diagnosed threat to the financial interests of the State Treasury in the area of gambling is the grey market. The Gambling Act, particularly the ban on gaming machines operated by private operators, which in 2009 made up over 70% of the gambling market, has contributed to its establishment and consolidation. Legal gambling on slot machines, with the exception of a few casinos, became inaccessible to players, and this solution did not correspond to the realities of the gambling market.

The solutions introduced by the Gambling Act have had a clear negative impact on the level of public revenue from gambling. After five years of the functioning of the Gambling Act, revenue from games tax has fallen by 50% and has still not reached the level of its share in total tax revenue in 2009.

For such reasons, the current legal and tax regulations on gambling require comprehensive systemic changes. I propose replacing the Gambling Act with a new act which should be based on different assumptions. Legislators in the area of gambling should be guided primarily by fiscal objectives. The current regulations are determined by a social objective, namely protecting society from the effects of addiction. Research shows that gambling addiction is a marginal problem in Poland and the restrictive model of gambling regulation, accompanied by turnover tax and high taxation, is the cause of the shadow economy, which, beyond the control of the state, encourages addiction and increases its effects. New regulations should ideally take account of the liberal model of gambling regulation which aims to enable attractive offers in terms of access to gambling services, the range of games on offer and the level of winnings. An attractive offer determines which services (legal or illegal operators) players will use. An attractive offer creates favourable conditions for operators to operate

legally in a national market that should be characterised by the highest possible level of competition. Free competition in the gambling market is restricted by the state monopoly, which should be abolished or significantly reduced.

The legislator should also introduce new solutions for taxing gambling. Solutions concerning tax on games should be based on two assumptions: lowering the level of taxation to an optimal one and changing the structure of taxation based on gross gaming revenue, determined on the basis of operators' actual revenues, which operates in many EU countries, e.g. Denmark, the Czech Republic, Romania and Bulgaria. The solutions concerning subsidies for gambling should take into account the purpose of such a tax and its connection with gambling, which argues in favour of abandoning their use.

The proposed solutions should contribute to reducing the underground economy, placing more players under state supervision, increasing the level of state protection against addiction and, above all, increasing public income from gambling.

Another proposal is to change the current definition of a game of slot machines, which is based on the condition of randomness. The absence of the condition of randomness means that the games do not meet the requirements of this definition and are therefore not covered by the Gambling Act. The definition of slot machine games is commonly used by illegal operators to circumvent the restrictions imposed by the Gambling Act. A return to the previous definition of a game on slot machines, based on a description of the equipment, will prevent illegal operators from abusing it.

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