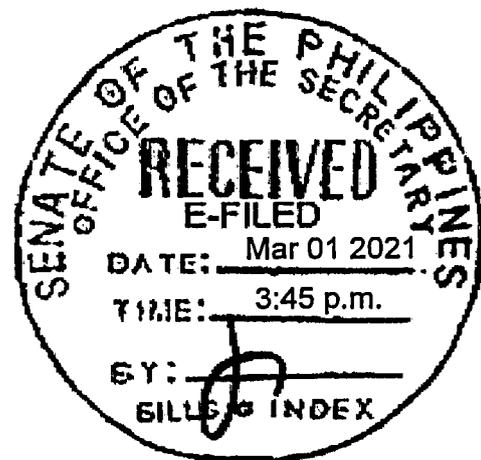


**EIGHTEENTH CONGRESS OF THE  
REPUBLIC OF THE PHILIPPINES )**  
*Second Regular Session* )



**SENATE**

**S.B. No. 2076**

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Introduced by **SEN. IMEE R. MARCOS**

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**AN ACT  
TAXING PERSONS ENGAGED IN PHILIPPINE OFFSHORE GAMING  
OPERATIONS AMENDING SECTION 25, SECTION 27, SECTION 108  
AND ADDING A NEW SECTION 125-A OF THE NATIONAL  
INTERNAL REVENUE CODE OF 1997, AS AMENDED**

**EXPLANATORY NOTE**

Article IV, Section 28 of the 1987 Constitution provides that, "*the Congress shall evolve a progressive system of taxation.*"

The Congressional Policy and Budget Research Department (CPBRD) of the House of Representatives defined the "*Philippine Offshore Gaming Operators (POGOs)*" as an entity that offers and participates in offshore gaming services by providing games to players, taking bets, and paying the winning players. On the other hand, the Philippine Amusement and Gaming Corporation (PAGCOR) defined "*POGO Service Providers*" as corporations which are registered in the Philippines that provide support to the operations of licensed operators in various areas of operations.

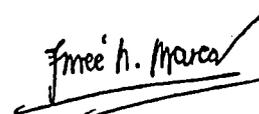
As of 23 February 2021, PAGCOR granted a total of thirty-three (33) Authority to Resume Operations for POGOs following their cessation due to the pandemic. While the PAGCOR Primer on POGOs claims that POGOs increase revenues for the government and create jobs for both Filipinos and foreigners, various questions regarding the implication and treatment of their taxes to the Philippine economy continue to proliferate.

As of today, the latest issuance of the Bureau of Internal Revenue (BIR) with regard to the issue still dates back to the year 2017 (BIR Revenue Memorandum Circular No. 102-2017) which was issued to clarify the taxability of POGOs and other gaming components. BIR Commissioner Cesar Dulay said that POGO licensees or operators are not being assessed nor paying income tax and other taxes because the BIR's RMC 102-2017 clearly states that in lieu of such taxes, they are only subject to the franchise tax. Further, he stated that, "*Only POGO service providers are subject*

*to the regular taxes, such as income and VAT. However, both POGO operators and service providers whose employees earn compensation income need to withhold and remit the taxes due FROM them."*

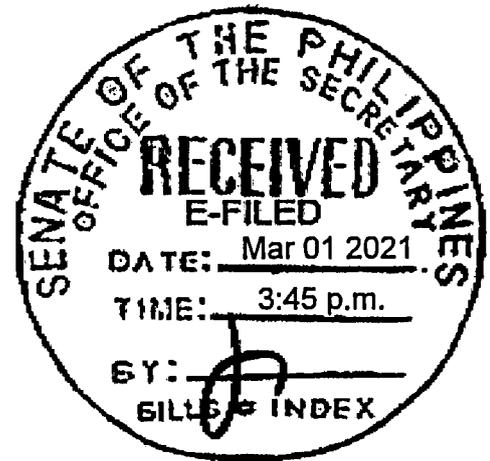
Thus, this bill seeks to establish a definitive law which shall settle the so-called "*lost potential tax revenues*" and address questions with regard to the taxability of POGOs and POGO employees/ workers by amending the National Internal Revenue Code (NIRC).

Therefore, the immediate passage of this bill is earnestly sought.

A handwritten signature in black ink that reads "Imee R. Marcos". The signature is written in a cursive style and is underlined with two parallel lines.

**IMEE R. MARCOS**

EIGHTEENTH CONGRESS OF THE)  
REPUBLIC OF THE PHILIPPINES )  
Second Regular Session . . . . . )



SENATE

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INTERNAL REVENUE CODE OF 1997, AS AMENDED**

*Be it enacted by the Senate and House of Representatives of the Philippines in  
Congress assembled:*

1           SECTION. 1. Section 25 of the National Internal Revenue Code of 1997, as  
2 amended, is hereby amended to add letter (G) to read as follows;

3           "SEC. 25. *Tax on Nonresident Alien Individual.* -

4           (A) xxx

5           (B) xxx

6           (C) xxx

7           (D) xxx

8           (E) xxx

9           (F) xxx

10          **(G) ALIEN INDIVIDUAL EMPLOYED BY AN OFFSHORE GAMING**  
11          **LICENSEE. - AN ALIEN INDIVIDUAL REGARDLESS OF RESIDENCY AND**  
12          **WHO IS EMPLOYED AND ASSIGNED IN THE PHILIPPINES,**  
13          **REGARDLESS OF TERM AND CLASS OF WORKING OR EMPLOYMENT**  
14          **PERMIT OR VISA, BY AN OFFSHORE GAMING LICENSEE OR ITS**  
15          **SERVICE PROVIDER AS DEFINED IN SECTION 125-A AND SECTION 27**  
16          **(F) OF THIS CODE, SHALL PAY A FINAL WITHHOLDING TAX OF**  
17          **TWENTY-FIVE PERCENT (25%) ON THEIR GROSS INCOME AS**  
18          **COMPUTED IN THE SUCCEEDING PARAGRAPH.**

1           **IN COMPUTING THE TAX PROVIDED IN THIS SECTION, SIX**  
2 **HUNDRED THOUSAND PESOS (P600,000.00) SHALL BE THE PRESUMED**  
3 **MINIMUM GROSS ANNUAL INCOME WHICH SHALL INCLUDE BASIC**  
4 **SALARY WAGES, ANNUITIES, COMPENSATION, REMUNERATION AND**  
5 **OTHER EMOLUMENTS, SUCH AS HONORARIA AND ALLOWANCES**  
6 **RECEIVED FROM SUCH SERVICE PROVIDER OR OFFSHORE GAMING**  
7 **LICENSEE.**

8           **THE TAX IMPOSED HEREIN MUST BE WITHHELD BY THE**  
9 **SERVICE PROVIDER OR OFFSHORE GAMING LICENSEE AND SHALL BE**  
10 **REMITTED QUARTERLY IN ADVANCE WITHIN TEN (10) DAYS OF THE**  
11 **FOLLOWING MONTH OF THE INITIAL COMPENSATION PAYMENT AND**  
12 **ON THE 30th DAY OF THE THIRD MONTH OF THE SUCCEEDING**  
13 **QUARTERS TO THE BUREAU OF INTERNAL REVENUE (BIR), BUT THE**  
14 **EXCESS OF THE AMOUNT OF TAX SO WITHHELD OR SO REMITTED IN**  
15 **ADVANCE OVER THE TAX DUE UNDER THIS SECTION SHALL BE**  
16 **REFUNDED TO THE TAXPAYER OR THE WITHHOLDING ENTITY OR**  
17 **TREATED AS A TAX CREDIT, WHICHEVER MAY BE APPLICABLE,**  
18 **SUBJECT TO THE PROVISIONS OF SECTION 204: *PROVIDED*, THAT IF**  
19 **THE INCOME TAX COLLECTED FROM THE WITHHOLDING ENTITY OR**  
20 **TAXPAYER IS LESS THAN THE TAX DUE UNDER THIS SECTION, THE**  
21 **DIFFERENCE SHALL BE PAID IN ACCORDANCE WITH THE PROVISIONS**  
22 **OF SECTION 56 OF THIS CODE: *PROVIDED, FURTHER*, THAT THE**  
23 **TAXPAYER OR WITHHOLDING ENTITY MAY AVAIL OF THE RECOURSES**  
24 **PROVIDED IN TITLE VIII, CHAPTER III OF THIS CODE, BY REPUBLIC**  
25 **ACT NO. 11032 OR THE EASE OF DOING BUSINESS LAW, AND OTHER**  
26 **APPLICABLE LEGAL REMEDIES AND RECOURSES.**

27           **GOVERNMENT AGENCIES AND INSTRUMENTALITIES**  
28 **COLLECTING APPLICABLE MANDATORY CONTRIBUTIONS, SUCH AS**  
29 **THE PHILIPPINE HEALTH INSURANCE CORPORATION (PHIC), THE**  
30 **SOCIAL SECURITY SYSTEM (SSS), AND THE HOME DEVELOPMENT**  
31 **MUTUAL FUND (HDMF), MAY USE THE BASIC SALARY PORTION OF THE**  
32 **MINIMUM GROSS ANNUAL INCOME PROVIDED HEREIN AS THE BASE**  
33 **FOR COMPUTING APPLICABLE CONTRIBUTIONS, AND MAY**  
34 **IMPLEMENT A REFUND SYSTEM SIMILAR TO SECTION 204 OF THIS**  
35 **CODE.**

36           **FOR THE EFFICIENT ASSESSMENT, VERIFICATION, AND**  
37 **ADMINISTRATION OF TAXES IMPOSED IN THIS SECTION, THE**  
38 **BUREAU OF IMMIGRATION, THE DEPARTMENT OF LABOR AND**  
39 **EMPLOYMENT, AND THE BUREAU OF INTERNAL REVENUE SHALL ISSUE**  
40 **JOINT AND CONSOLIDATED RULES AND REGULATIONS FOR THE**  
41 **IMPLEMENTATION OF FREE AND EFFICIENT EXCHANGE OF**

1 INFORMATION AMONG THE SAID AGENCIES IN RELATION TO THE  
2 PROPER PAYMENT OF TAXES BY PERSONS COVERED UNDER THIS  
3 SECTION: *PROVIDED*, THAT THE MECHANISMS FOR FILING,  
4 WITHHOLDING OF TAXES, AND CLAIMING OF REFUNDS PROVIDED  
5 HEREIN SHALL ALSO APPLY TO ALIEN INDIVIDUALS EMPLOYED BY AN  
6 OFFSHORE GAMING LICENSEE WHO ARE WORKING UNDER  
7 PROVISIONAL WORKING PERMITS, SPECIAL WORKING PERMITS,  
8 ALIEN EMPLOYMENT PERMITS, OR SIMILAR ARRANGEMENTS.

9 THE FOREGOING SHALL NOT PRECLUDE THE COMMISSIONER OF  
10 INTERNAL REVENUE FROM ISSUING SUCH RULES AND REGULATIONS  
11 AS MAY BE ALLOWED BY THE NATIONAL INTERNAL REVENUE CODE  
12 AND OTHER LAWS, RULES, AND REGULATIONS IN ACCORDANCE WITH  
13 THIS SECTION.

14 ANY INCOME EARNED FROM ALL OTHER SOURCES WITHIN THE  
15 PHILIPPINES BY THE ALIEN EMPLOYEE REFERRED TO UNDER THIS  
16 SUBSECTION SHALL BE SUBJECT TO THE PERTINENT INCOME TAX,  
17 IMPOSED UNDER THIS CODE."

18 SEC. 2. Section 27 of the National Internal Revenue Code of 1997, as amended,  
19 is hereby amended to add letter (F) to read as follows:

20 "SEC. 27. *Rates of Income Tax on Domestic Corporations.* -

21 (A) xxx

22 (B) xxx

23 (C) xxx

24 (D) xxx

25 (E) xxx

26 **(F) ACCREDITED SERVICE PROVIDERS TO OFFSHORE GAMING**  
27 **LICENSEES. - UNLESS OTHERWISE PROVIDED IN THIS CODE,**  
28 **ACCREDITED SERVICE PROVIDERS TO OFFSHORE GAMING LICENSEES**  
29 **SHALL NOT BE SUBJECT TO THE GAMING TAX IMPOSED BY SECTION**  
30 **125-A BUT SHALL PAY SUCH RATE OF TAX AS IMPOSED IN SECTION**  
31 **27(A) OF THIS CODE, AND SHALL BE SUBJECT TO ALL OTHER**  
32 **APPLICABLE LOCAL AND NATIONAL TAXES.**

33 FOR PURPOSES OF THIS SECTION, AN ACCREDITED SERVICE  
34 PROVIDER TO AN OFFSHORE GAMING LICENSEE ("SERVICE  
35 PROVIDER") SHALL BE A CORPORATION THAT IS DULY CREATED OR  
36 ORGANIZED IN THE PHILIPPINES OR UNDER ITS LAWS AND DULY  
37 AUTHORIZED BY THE PAGCOR OR ANY ECONOMIC ZONE TO PROVIDE

1           **ANCILLARY SERVICES TO AN OFFSHORE GAMING LICENSEE AS**  
2           **DEFINED BY SECTION 125-A OF THIS CODE OR TO ANY GAMING**  
3           **LICENSEE OR OPERATOR WITH LICENSES FROM OTHER**  
4           **JURISDICTIONS. SUCH ANCILLARY SERVICES MAY INCLUDE, BUT**  
5           **SHALL NOT BE LIMITED TO, CUSTOMER AND TECHNICAL RELATIONS**  
6           **AND SUPPORT INFORMATION TECHNOLOGY, GAMING SOFTWARE,**  
7           **DATA PROVISION, PAYMENT SOLUTIONS, AND LIVE STUDIO AND**  
8           **STREAMING SERVICES.**

9           SEC. 3. Section 108 of the National Internal Revenue Code of 1997, as amended,  
10          is hereby amended to add item no. (9) to read as follows:

11          "Sec. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.*

12          -

13          (A) xxx

14          (B) *Transactions Subject to Zero Percent (0%) Rate.* - The following services  
15          performed in the Philippines by VAT-registered persons shall be subject to zero  
16          percent (0%) rate:

17                  (1) xxx;

18                  (2) xxx;

19                  (3) xxx;

20                  (4) xxx;

21                  (5) xxx;

22                  (6) xxx;

23                  (7) xxx;

24                  (8) xxx;

25                  **(9) SERVICES RENDERED BY ACCREDITED SERVICE**  
26                  **PROVIDERS, AS DEFINED UNDER SECTION 27(F) OF THIS CODE,**  
27                  **TO OFFSHORE GAMING LICENSEES.**

28          SEC. 4. A new Section designated as Section 125-A of the National Internal  
29          Revenue Code 12 of 1997, as amended, is hereby amended to read as follows:

30          "SEC. . 125-A. **GAMING TAX ON SERVICES RENDERED BY OFFSHORE**  
31          **GAMING LICENSEES. - ANY PROVISION OF EXISTING LAWS, RULES OR**  
32          **REGULATIONS TO THE CONTRARY NOTWITHSTANDING, THERE SHALL**  
33          **BE LEVIED, ASSESSED AND COLLECTED A GAMING TAX EQUIVALENT**  
34          **TO FIVE PERCENT (5%) ON THE GROSS REVENUE OR RECEIPTS**

1 DERIVED FROM GAMING OPERATIONS AND SIMILAR RELATED  
2 ACTIVITIES OF ALL OFFSHORE GAMING LICENSEES IN LIEU OF ALL  
3 KINDS OF TAXES, INCLUDING FRANCHISE TAXES, LEVIES, FEES OR  
4 ASSESSMENTS OF ANY KIND, NATURE OR DESCRIPTION EXCEPT FOR  
5 REGULATORY FEES THAT MAY BE IMPOSED BY THE PHILIPPINE  
6 AMUSEMENT AND GAMING CORPORATION (PAGCOR) AND THE  
7 SPECIAL ECONOMIC ZONES. THIS INCOME IS THEREFORE EXEMPT  
8 FROM ANY KIND OF TAX, INCOME OR OTHERWISE, AS WELL AS FEES,  
9 CHARGES OR LEVIES OF WHATEVER NATURE, WHETHER NATIONAL OR  
10 LOCAL: *PROVIDED*, THAT THE PAGCOR SHALL COLLECT SAID AMOUNT  
11 AND DIRECTLY REMIT TO THE BUREAU OF INTERNAL REVENUE:  
12 *PROVIDED, FURTHER*, THAT IN THE CASE OF OFFSHORE GAMING  
13 LICENSEES LOCATED WITHIN A SPECIAL ECONOMIC ZONE, SAID  
14 AMOUNT SHALL BE COLLECTED BY THE CONCERNED SPECIAL  
15 ECONOMIC ZONE AUTHORITY AND SHALL BE DIRECTLY REMITTED TO  
16 THE BUREAU OF INTERNAL REVENUE: *PROVIDED, FURTHER*, THAT  
17 PAGCOR OR A SPECIAL ECONOMIC ZONE MAY IMPOSE REGULATORY  
18 FEES ON OFFSHORE GAMING LICENSEES WHICH SHALL NOT  
19 CUMULATIVELY EXCEED TWO PERCENT (2%) OF THE GROSS REVENUE  
20 OR RECEIPTS DERIVED FROM GAMING OPERATIONS AND SIMILAR  
21 RELATED ACTIVITIES OF ALL OFFSHORE GAMING LICENSEES OR A  
22 PRE-DETERMINED MINIMUM GUARANTEED FEE, WHICHEVER IS  
23 HIGHER: *PROVIDED, FURTHER*, THAT OFFSHORE GAMING LICENSEES  
24 WITHIN SPECIAL ECONOMIC ZONES SHALL PAY AT THEIR EXISTING  
25 RATE OF TAX OR THAT WHICH IS PROVIDED HEREIN, WHICHEVER IS  
26 HIGHER: *PROVIDED, FURTHERMORE*, THAT FOR PURPOSES OF THIS  
27 SECTION, GROSS REVENUE OR RECEIPTS SHALL MEAN GROSS  
28 WAGERS LESS PAYOUTS: *PROVIDED, FINALLY*, THAT THE TAKING OF  
29 WAGERS MADE IN THE PHILIPPINES SHALL RESULT IN THE  
30 REVOCATION OF THE LICENSE OF THE OFFSHORE GAMING LICENSEE.

31 AN OFFSHORE GAMING LICENSEE SHALL REFER TO THE  
32 OFFSHORE GAMING OPERATOR, WHETHER ORGANIZED AND  
33 REGISTERED ABROAD OR IN THE PHILIPPINES DULY LICENSED AND  
34 AUTHORIZED, THROUGH A GAMING LICENSE, BY PAGCOR OR ANY  
35 SPECIAL ECONOMIC ZONE AUTHORITY OR TOURISM ZONE  
36 AUTHORITY TO CONDUCT GAMING OPERATIONS INCLUDING THE  
37 ACCEPTANCE OF BETS FROM OFFSHORE CUSTOMERS.

38 FOR PURPOSES OF THIS SECTION, AN OFFSHORE GAMING  
39 LICENSEE (OGL) SHALL BE CONSIDERED ENGAGED IN DOING  
40 BUSINESS IN THE PHILIPPINES. AN OGL-GAMING AGENT SHALL

1           **REFER TO THE REPRESENTATIVE IN THE PHILIPPINES OF AN**  
2           **OFFSHORE-BASED OPERATOR WHO SHALL ACT AS A RESIDENT AGENT**  
3           **FOR THE MERE PURPOSE OF RECEIVING SUMMONS, NOTICES AND**  
4           **OTHER LEGAL PROCESSES FOR THE OGL AND TO COMPLY WITH**  
5           **DISCLOSURE REQUIREMENTS OF THE SECURITIES AND EXCHANGE**  
6           **COMMISSION (SEC). THE OGL-GAMING AGENT SHALL NOT BE**  
7           **INVOLVED WITH THE BUSINESS OPERATIONS OF THE OFFSHORE**  
8           **GAMING LICENSEE AND SHALL DERIVE NO INCOME THEREFROM.”**

9           **SEC. 5. *Implementing Rules and Regulations.*** – Within ninety (90) days after the  
10          effectivity of this Act, the Secretary of Finance shall, upon the recommendation of the  
11          Commissioner of Internal Revenue, promulgate the necessary rules and regulations  
12          for its implementation.

13          **SEC. 6. *Separability Clause.*** – If, for any reason or reasons, any part or provision  
14          of this Act shall be declared as unconstitutional or invalid, the other parts or provisions  
15          hereof which are not affected thereby shall continue to be in full force and effect.

16          **SEC. 7. *Repealing Clause.*** – All provisions of existing laws, orders, rules and  
17          regulations or parts thereof, including Republic Act No. 9487 and Republic Act No,  
18          11494, which are contrary to 19 or inconsistent with this Act are hereby repealed,  
19          amended or modified accordingly.

20          **SEC. 8. *Effectivity.*** — This Act shall take effect effect fifteen (15) days after its  
21          publication in the Official Gazette or in a newspaper of general circulation in the  
22          Philippines.

*Approved,*