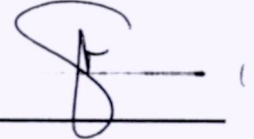


SENATE

20 JAN 27 P 1:31

S. No. 1295

Referred to



Introduced by Senator Ralph G. Recto

AN ACT
ESTABLISHING THE TAX REGIME OF PHILIPPINE OFFSHORE GAMING
OPERATORS, AMENDING FOR THIS PURPOSE SECTIONS 27, 28, 42 AND
119 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED

EXPLANATORY NOTE

This proposed measure seeks to establish the tax regime of Philippine Offshore Gaming Operators (POGO). POGOs are the entities duly licensed and authorized by the Philippine Amusement and Gaming Corporation (PAGCOR) to provide offshore gaming services to players located outside the Philippines and not Filipino citizens.

"Taxes are what we pay for civilized society. Without taxes, the government would be paralyzed for lack of the motive power to activate and operate it. Hence, despite the natural reluctance to surrender part of one's hard-earned income to the taxing authorities, every person who is able must contribute his share in the burden of running the government. The government for its part, is expected to respond in the form of tangible and intangible benefits intended to improve the lives of the people and enhance their material and moral values."¹ This Doctrine of Symbiotic Relationship enunciated by the Supreme Court is the rationale of taxation.

In our jurisdiction, the power of taxation of the State extends not only to its own citizens, but also to foreigners, natural or juridical, whether engaged in trade or

¹ Commissioner v. Algue, Inc., G.R. No. L-28896 February 17, 1988

business with respect to their income within the Philippines. Therefore, POGOs both Philippine-based and foreign-based operators are taxable on their income from gaming operations and other related services.

However, despite the fact that POGO is a growing industry in this country, the peculiarity of the nature of its business activity creates confusion in the enforcement of our existing tax laws. Hence, establishing the tax regime of POGOs and incorporating the same in the National Internal Revenue Code (NIRC) of 1997, as amended, is necessary to remove any doubt and avoid the confusion whether or not POGOs are taxable in our jurisdiction.

In view of the foregoing, the approval of this bill is earnestly sought.



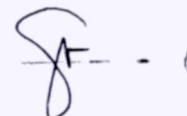
RALPH G. RECTO

/jiao

SENATE

20 JAN 27 P1:31

S. No. 1295



Introduced by Senator Ralph G. Recto

AN ACT
ESTABLISHING THE TAX REGIME OF PHILIPPINE OFFSHORE GAMING OPERATORS, AMENDING FOR THIS PURPOSE SECTIONS 27, 28, 42 AND 119 OF THE NATIONAL 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 27 of the National Internal Revenue Code of 1997, as
2 amended, is hereby further amended to read as follows:

3 "SEC. 27. *Rates of Income Tax on Domestic Corporations.* –

4 "(A) xxx

5 "xxx

6 "(D) **PHILIPPINE OFFSHORE GAMING OPERATORS.** – THE
7 PROVISIONS OF EXISTING SPECIAL OR GENERAL LAWS TO THE
8 CONTRARY NOTWITHSTANDING, PHILIPPINE-BASED OFFSHORE
9 GAMING OPERATORS AS DEFINED AND DULY LICENSED BY THE
10 PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR)
11 SHALL BE SUBJECT TO AN INCOME TAX EQUIVALENT TO THIRTY
12 PERCENT (30%) OF THE TAXABLE INCOME DERIVED IN THE
13 PRECEDING TAXABLE YEAR FROM ALL SOURCES WITHIN AND
14 WITHOUT THE PHILIPPINES.

15 "(E) **LOCAL GAMING AGENTS AND SERVICE PROVIDERS.** –
16 THE PROVISIONS OF EXISTING SPECIAL OR GENERAL LAWS TO THE
17 CONTRARY NOTWITHSTANDING, ALL LOCAL GAMING AGENTS AND

1 **SERVICE PROVIDERS OF PHILIPPINE OFFSHORE GAMING**
2 **OPERATORS (POGO) AS DEFINED AND DULY AUTHORIZED BY THE**
3 **PAGCOR SHALL BE SUBJECT TO AN INCOME TAX EQUIVALENT TO**
4 **THIRTY PERCENT (30%) OF THE TAXABLE INCOME DERIVED IN THE**
5 **PRECEDING TAXABLE YEAR FROM ALL SOURCES WITHIN AND**
6 **WITHOUT THE PHILIPPINES.**

7 "[(D)](F)

8 "[(E)](G)

9 "xxx"

10 Sec. 2. Section 28 of the National Internal Revenue Code of 1997, as
11 amended, is hereby further amended to read as follows:

12 "SEC. 28. *Rates of Income Tax on Foreign Corporations.* –

13 "(A) *Tax on Resident Foreign Corporations.* –

14 "(1) xxx

15 "xxx

16 "**(7) PHILIPPINE OFFSHORE GAMING OPERATORS.** – **THE**
17 **PROVISIONS OF EXISTING SPECIAL OR GENERAL LAWS TO THE**
18 **CONTRARY NOTWITHSTANDING, FOREIGN-BASED PHILIPPINE**
19 **OFFSHORE GAMING OPERATORS (POGO) AS DEFINED AND DULY**
20 **LICENSED BY THE PAGCOR SHALL BE SUBJECT TO AN INCOME TAX**
21 **EQUIVALENT TO THIRTY PERCENT (30%) OF THE GROSS INCOME**
22 **DERIVED IN THE PRECEDING TAXABLE YEAR ATTRIBUTED TO GAME**
23 **OFFERINGS OR FACILITIES LOCATED WITHIN THE PHILIPPINES.**

24 "[(7)](8) xxx

25 "xxx"

26 Sec. 3. Section 42 of the National Internal Revenue Code of 1997, as
27 amended, is hereby further amended to read as follows:

28 "SEC. 42. *Income From Sources Within the Philippines.* –

29 "(A) *Gross income From Sources Within the Philippines.* – The following
30 items of gross income shall be treated as gross income from sources within
31 the Philippines:

32 "(1) xxx

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

"xxx

"(3) *Services.* – Compensation **OR FEE** for [labor or personal] services performed, **OR INCOME FROM ANY ACTIVITY WHICH IS NECESSARY TO THE CONSUMMATION OF THE TRANSACTION, [in] WITHIN** the Philippines;

"xxx

"(C) *Gross Income From Sources Without the Philippines.* – The following items of gross income shall be treated as gross income from sources without the Philippines:

"(1) xxx

"xxx

"(3) Compensation **OR FEE** for [labor or personal] services performed, **OR INCOME FROM ANY ACTIVITY WHICH IS NECESSARY TO THE CONSUMMATION OF THE TRANSACTION,** without the Philippines;

"xxx"

Sec. 4. Section 119 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 119. *Tax on Franchises.* – **(A)** Any provision of general or special law to the contrary notwithstanding, there shall be levied, assessed and collected in respect to all franchises on radio and/or television broadcasting companies whose annual gross receipts of the preceding year do not exceed Ten million pesos (P10,000,000), subject to Section 236 of this Code, a tax of three percent (3%) and on gas and water utilities, a tax of two percent (2%) on the gross receipts derived from the business covered by the law granting the franchise: *Provided, however,* That radio and television broadcasting companies referred to in this Section shall have an option to be registered as a value-added taxpayer and pay the tax due thereon: *Provided, further,* That once the option is exercised, said option shall not be irrevocable.

"(B) ANY PROVISION OF EXISTING GENERAL OR SPECIAL LAWS TO THE CONTRARY NOTWITHSTANDING, THERE SHALL BE LEVIED, ASSESSED AND COLLECTED A FRANCHISE TAX EQUIVALENT TO FIVE PERCENT (5%) OF THE GROSS RECEIPTS DERIVED FROM

1 **OFFSHORE GAMING OPERATIONS BY PHILIPPINE OFFSHORE**
2 **GAMING OPERATORS (POGO) AS DEFINED AND DULY LICENSED BY**
3 **THE PAGCOR.**

4 "xxx"

5 Sec. 5. *Implementing Rules and Regulations (IRR)*. – Within thirty (30) days
6 from the effectivity of this Act, the Secretary of Finance, upon the recommendation
7 of the Commissioner of Internal Revenue, shall promulgate the necessary rules and
8 regulations for its effective implementation.

9 Sec. 6. *Separability Clause*. – If any provision or part hereof is declared
10 unconstitutional, the remainder of this Act or any provision not affected shall remain
11 in full force and effect.

12 Sec. 7. *Repealing Clause*. – All laws, acts, decrees, executive orders,
13 issuances, and rules and regulations or parts thereof which are contrary to and
14 inconsistent with this Act are hereby repealed, amended or modified accordingly.

15 Sec. 8. *Effectivity*. – This Act shall take effect fifteen (15) days after its
16 complete publication in the *Official Gazette* or in at least two (2) newspapers of
17 general circulation.

 Approved,