

REVENUE REGULATIONS NO. 20-2021 issued on December 1, 2021 implements Republic Act (RA) No. 11590, otherwise known as an “Act Taxing Philippine Offshore Gaming Operations, Amending for the Purpose Sections 22, 25, 27, 28, 106, 108 and Adding New Sections 125-A and 288(G) of the NIRC of 1997, as Amended, and for Other Purposes”.

In lieu of all other direct and indirect internal revenue taxes and local taxes, there shall be levied, assessed and collected from Offshore Gaming Licensees (OGLs) (whether Philippine-based or Foreign-based) a gaming tax equivalent to five percent (5%) of the Gross Gaming Revenue or Receipts (GGR) or 5% of the agreed pre-determined minimum monthly revenue from gaming operations, whichever is higher. The gaming tax shall be directly remitted to the BIR not later than the 20th day following the end of each month.

The income from non-gaming operations of Philippine-based OGLs shall be subject to an Income Tax equivalent to twenty-five percent (25%) of the taxable income derived during each taxable year from sources within and without the Philippines.

The income from non-gaming operations of Foreign-based OGLs shall be subject to an Income Tax equivalent to twenty-five percent (25%) of the taxable income derived during each taxable year from sources within the Philippines. The non-gaming revenues of all OGLs shall be subject to Value-Added Tax (VAT) or Percentage Tax, whichever is applicable.

Except as otherwise provided in the NIRC of 1997, as amended, Accredited Service Providers organized within the Philippines shall pay an Income Tax rate of twenty-five percent (25%) imposed upon the taxable income derived during each taxable year from sources within and without the Philippines.

Except as otherwise provided in the NIRC of 1997, as amended, Accredited Service Providers organized outside the Philippines shall pay an Income Tax rate of twenty-five percent (25%) imposed upon the taxable income derived during each taxable year from sources within the Philippines.

Sale of services by VAT-registered service providers, including Accredited Service Providers, to OGLs subject to gaming tax under Section 125-A of the NIRC of 1997, as amended, shall be subject to zero percent (0%) VAT rate. Provided, that the VAT zero-rating shall only apply if the OGLs are paying the 5% gaming tax: Provided further, that in cases wherein the services provided are used in the non-gaming operations of the OGLs, the zero percent (0%) rate shall not apply.

Sale of goods or properties by VAT-registered persons to OGLs subject to gaming tax under Section 125-A of the NIRC of 1997, as amended, shall be subject to zero percent (0%) VAT rate: Provided, that the VAT zero-rating shall only apply if the OGLs are paying the 5% gaming tax: Provided further, that in cases wherein the goods supplied are used in non-gaming operations, the zero percent (0%) rate shall not apply.

Accredited Service Providers shall withhold and remit the applicable Withholding Taxes under the NIRC of 1997, as amended, for their purchases of goods and services.

Foreign nationals or non-Filipinos citizens, regardless of their residency, term and class of working or employment permit or visa, who are employed and assigned in the Philippines by an OGL or its Accredited Service Provider shall have a Taxpayer Identification Number (TIN) and pay a Final Withholding Tax of twenty-five (25%) on their gross income; Provided, however, that the minimum Final Withholding Tax due for any taxable month from said persons shall not be lower than Twelve Thousand Five Hundred Pesos (₱ 12,500.00). The Final Withholding Tax due shall be withheld and remitted monthly by the employer, including the corresponding penalties, interests and surcharges, if any, in accordance with Revenue Regulations No. 2-98, as amended.

The gross income shall include, whether in cash or in kind, basic salary/wages, annuities, compensation, remuneration and other emoluments, such as honoraria and allowances, received by

the alien employee from a Philippine Offshore Gaming Operation (POGO) entity. Any income earned from all other sources within the Philippines by foreign employees shall be subject to Income Tax under the pertinent provisions of the NIRC of 1997, as amended.

Notwithstanding the abovementioned provisions, POGO entities and their employees shall be subject to other taxes under the NIRC of 1997, as amended, and other laws and issuances, as may be applicable. Filing of tax returns and payment of all taxes under Section 3 of these Regulations shall be made utilizing the BIR's Electronic Filing and Payment System (eFPS).

Newly established POGO entities shall submit to the BIR the Summary List and Status Update on Foreign Nationals Employed Form (Annex A of these Regulations), which shall contain an initial list of all foreign nationals they employed until the end of the month of their registration with the BIR. The initial list shall be submitted, together with the original copies of the notarized Employment Contracts, accompanied with the English translation if written in a foreign language, not later than the 20th day of the succeeding month.

All POGO entities shall regularly update the list of their foreign employees by submitting the Summary List and Status Update on Foreign Nationals Employed Form (Annex A), together with its attachments (i.e. notarized employment contracts for newly hired, notice of termination for those separated from employment, etc.), not later than the 20th day after the close of each month.

Each POGO Licensing Authority shall furnish the BIR not later than the 20th day after the close of each month the following:

- a. The Status Report on OGLs Form (Annex B), which shall contain the amount of gross wagers or bets, payouts, the GGR, and the Minimum Guarantee Fee (MGF) or the minimum amount of regulatory fees paid by each OGL as duly certified by their third-party auditors; and
- b. The List of Foreign Nationals with Issued Gaming Employment License (GEL) Forms (Annex C and Annex C-1), which shall contain the list of POGO Entities and foreign employees including their GEL number, etc.

Provided that, nothing herein shall prevent the BIR from undertaking a post-audit or independent verification of the GGR determined by the third-party auditor.

The BIR shall secure from the Department of Labor and Employment (DOLE) the list of foreign nationals employed by POGO entities who secured Alien Employment Permits (AEP). The requested information shall include their names, TIN, AEP number/s issued, nationality, date of birth, employer, month, salary, etc.

The BIR shall secure from the Bureau of Immigration (BI) the list of foreign nationals employed by POGO entities who secured Provisional Working Permits and/or 9(g) visas. The requested information shall include their names, TIN, nationality, date of birth, employer, etc.

The BIR shall ensure that the information or data from DOLE and BI, whether in hardcopy or softcopy, are provided with adequate safeguards for data privacy and security. The softcopy shall be stored in a USB flash drive, particularly in Excel format for data which are in the form of itemized lists. Submission of digital copy of the required documents shall be considered as an original copy pursuant to the Electronic Commerce Act (R.A. No. 8792).

The penalties to be imposed for Fraudulent Acts, Non-Payment of Taxes, Failure to Withhold and Remit Final Withholding Tax, Employment of an Alien without a TIN, Failure to Submit Summary List and Status Updates on Foreign Nationals Employed Forms, Failure to Provide True and Correct Address are specified in the Regulations.

The provisions of existing law to the contrary notwithstanding, sixty percent (60%) of the total revenue collected from the gaming tax imposed on OGLs shall be allocated and used exclusively in the following manner:

- a. Sixty percent (60%) for the implementation of R.A. No. 11223, otherwise known as the “Universal Health Care Act”;
- b. Twenty percent (20%) shall be allocated to the Health Facilities Enhancement Program (HFEP), the annual requirements of which shall be determined by the Department of Health; and
- c. Twenty percent (20%) shall be allocated for the attainment of the Sustainable Development Goals (SDGs): Provided that, the specific SDG targets shall be determined by the National Economic Development Authority.

In relation to the reports to be submitted to Congress under Section 10 of R.A. No. 11590, all existing POGO entities shall submit to the BIR on or before December 20, 2021 the Summary List and Status Update on Foreign Nationals Employed Form (Annex A), together with the documents required under Section 4(A) of these Regulations covering their foreign employees from January 1, 2021 to November 30, 2021.

All POGO entities shall use the appropriate Alphanumeric Tax Code (ATC) for the remittance of their gaming tax and/or final withholding tax, whichever is applicable. Monthly filing of gaming tax return shall be made utilizing the available BIR Form until a new BIR Form for the gaming tax becomes available. A separate revenue issuance for the guidelines and procedures for tax filing and remittances shall be issued pending availability of the eFPS to POGO entities.

A POGO entity duly registered with, and enjoying incentives granted by an Investment Promotion Agency (IPA) prior to the effectivity of R.A. No. 11534 shall continue to enjoy said incentives until the expiration of the transitory period under Section 311 of the NIRC of 1997, as amended, and as implemented by Sections 1, 2, and 3 of Rule 18 of the implementing rules and regulations of Title XIII of the NIRC of 1997, as amended, or the expiration of the license or accreditation, whichever comes earlier: Provided, that the POGO entity shall thereafter be subject to the applicable taxes under R.A. No. 11590 and these Regulations.

Notwithstanding the immediately preceding provision, said POGO entity shall be subject to the reportorial and compliance requirements under these Regulations and to other taxes under the NIRC of 1997, as amended, and other laws and issuances, as may be applicable.