

Subject : Philippine Offshore Gaming Operator (POGO) Updates

Headnote: Untangling the Tax Puzzle: POGO in the Philippines - Uncovering the Dark Side of Globalization, Illegal Employment, and Lost Gaming Revenues

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The proliferation of illegal gaming activities is one issue the Philippine government is dealing with as a result of increased globalization. Consequently, these illegal online gaming activities are not properly regulated, resulting in the illegal employment of approximately eighty thousand (80,000) overseas and Filipino workers, and gaming revenues are not properly remitted to the government.

With these issues at hand, the Philippine Amusement and Gaming Corporation (PAGCOR) took over the licensing of online gaming operations in order to safeguard the welfare of Filipinos and meet the agency's revenue target to help fund the government's nation-building progress and socio-civic projects.

Hence, if you are planning to operate as an offshore gaming company in the Philippines, here's what you need to know:

1. Applicants must comply with the documentary and financial requirements provided in PAGCOR's offshore gaming regulatory manual.
2. To legally operate, you need to acquire an Offshore Gaming License (OGL) from PAGCOR for the establishment, maintenance, and conduct of offshore gaming operations. It has a validity of three (3) years and is renewable for another three (3) years. Please be aware that unless the PAGCOR Board approves, this license cannot be assigned or transferred.
3. Philippine Offshore Gaming Operators (POGOs) should be aware that they are also subject to tax. POGOs are liable for Philippine taxes just like any other individual or organization conducting business here. Pursuant to Republic Act No. 11590 and Bureau of Internal Revenue's (BIR) Revenue Regulation No. 20-2021, POGOs are subject to the following taxes:
 - **Gaming Operators** - Whether Philippine-Based or Foreign-based a gaming tax is imposed equivalent to five percent (5%) of the Gross Gaming Revenue (GGR) or 5% of the agreed predetermined minimum monthly revenue from gaming operations, whichever is higher. However, Offshore Gaming license holders who do not collectively exceed more than two percent (2%) of the GRR may be charged regulatory fees.
 - **Non-Gaming revenues of Philippine-Based Offshore Gaming licensees** - 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.
 - **Non-Gaming revenues of Foreign-Based Offshore Gaming licensees** - 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.
 - **Non-Gaming Revenues of all OGLs** - shall be subject to twelve percent (12%) VAT or percentage tax, whichever is applicable.

4. Future offshore gaming operators in the Philippines are required to be familiar with the relevant laws and guidelines. Recently, the Supreme Court (SC) declared BIR Revenue Memorandum Circular (RMC) Nos. 102-2017 and 78-2018 null and void for being unconstitutional. Thus, Revenue Regulation No. 30-2020 and RMC No. 64-2020 were declared invalid for lack of legal basis. As a result, POGOs cannot be made liable for franchise tax, and R.A. No. 11590 cannot apply retroactively since there was no law imposing taxes on offshore online gaming prior to the enactment of the Republic Act.

Furthermore, it is essential for offshore gaming operators to be knowledgeable in order to legally operate here in the Philippines.

While it is true that gambling contributes significantly to government revenue, particularly offshore online gambling, this should not be interpreted as a state endorsement of gambling in general. The State continues to acknowledge the negative effects that gambling has on Filipino families in general and the Philippine community as a whole. After all, allowing POGOs to operate in our nation is a method to guarantee that they won't be used as a means of abuse, uphold the integrity of their operations, and safeguard Filipinos' welfare.

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For your guidance and perusal. A copy of the offshore gaming regulatory manual is provided for your reading enjoyment.



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