DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

PD 1869; Secs. 109 & 27 of NIRC
BIR Ruling No. 1090-18
OT - 0405 - 2020
JUL 24 2020

BANIQUED LAYUG & BELLO
8/F Jollibee Center, San Miguel Avenue
Ortigas Center, Pasig City

Attention: **Attys. Suzette A. Celicious- Sy**
Kathleen Mae M. Villamin
Ana Margaret T. Dahilig

Gentlemen:

This refers to your letters dated November 29, 2018 and September 4, 2019 requesting on behalf of your client, **GAMEXPERIENCE ENTERTAINMENT CORP. ("GAMEXPERIENCE",** for brevity), for confirmation of your opinion that income derived from electronic gaming operations conducted by GAMEXPERIENCE, as a licensee of the Philippine Amusement and Gaming Corporation (PAGCOR), shall be subject to 5% franchise tax, in lieu of all kinds of taxes, pursuant to Section 13(2)(b) of Presidential Decree ("PD") No. 1869, as amended by Republic Act ("RA") No. 9487.

It is represented that GAMEXPERIENCE, with Tax Identification Number , is a corporation duly organized under the laws of the Philippines, the primary purpose of which is to conduct and operate traditional and/or electronic bingo games; and incidental thereto, to purchase, acquire, establish, own, hold, sell, lease, conduct, operate, manage and supervise restaurants, cafes, bars and general amusement and recreation enterprises of every kind and nature; and to carry on any lawful activities and to do any and everything necessary, suitable, convenient or proper for the accomplishment of any of the purposes enumerated or incidental to the powers of the corporation. GAMEXPERIENCE is a holder of various Gaming Licenses[1] for its Electronic Games Operations which was issued by PAGCOR pursuant to PD No. 1869, as amended by RA No. 9487.

In reply, please be informed that Section 13(2) of PD No. 1869, as amended by RA No. 9487, provides, *viz*:

"***SEC. 13. Exemptions***. –

(2) Income and other taxes – (a) Franchise Holder: ***No tax of any kind or form, income or otherwise, as well as fees, charges or levies of whatever nature, whether National or Local, shall be assessed and collected under this Franchise from the Corporation, nor shall any form of tax or charge attach in any way to the earnings of the Corporation, except a Franchise Tax of five***

[1] Please see attached Annex "A" for the list of Gaming Licenses issued to Gamexperience

(5%) percent of the gross revenue or earnings derived by the Corporation from its operation under this Franchise*. Such tax shall be due and payable quarterly to the National Government and shall be in lieu of all kinds of taxes, levies, fees or assessments of any kind, nature or description, levied, established or collected by any municipal, provincial, or national government authority.*

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(b) Others: The exemption herein granted for earnings derived from the operations conducted under the franchise, specifically from the payment of any tax, income or otherwise, as well as any form of charges, fees or levies, ***shall inure to the benefit of and extend to corporation(s), association(s), agency(ies), or individual(s) with whom the Corporation or operator has any contractual relationship in connection with the operations of the casino(s) authorized to be conducted under this Franchise and to those receiving compensation or other remuneration from the Corporation or operator as a result of essential facilities furnished and/or technical services rendered to the Corporation or operator.*** *(Emphasis and underscoring supplied)*

In the case of *Bloomberry Resorts and Hotels, Inc. vs. Bureau of Internal Revenue*,[2] the Supreme Court affirmed the applicability of the tax exemption provisions of PD No. 1869, as amended by RA No. 9487, to PAGCOR's licensees. Thus, the Supreme Court ruled that:

"As the PAGCOR Charter states in unequivocal terms that exemptions granted for earnings derived from the operations conducted under the franchise specifically from the payment of any tax, income or otherwise, as well as any form of charges, fees or levies, ***shall inure to the benefit of and extend to*** *corporation(s), association(s), agency(ies), or individual(s) with whom the PAGCOR or operator has any contractual relationship in connection with the operations of the casino(s) authorized to be conducted under this Franchise, so* ***it must be that all contractees and licensees of PAGCOR****, upon payment of the 5% franchise tax, shall likewise be exempted from all other taxes, including corporate income tax realized from the operation of casinos.*

For the same reasons that made us conclude in the December 10, 2014 Decision of the Court sitting En Banc in G.R. No. 215427 that PAGCOR is subject to corporate income tax for "other related services," we find it logical that its contractees and licensees shall likewise pay corporate income tax for income derived from such "related services."

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Plainly, too, upon payment of the 5% franchise tax, petitioner's income from its gaming operations of gambling casinos, gaming clubs and other similar recreation or amusement places, and gaming pools, defined within the purview of the aforesaid section, is not subject to corporate income tax." (Emphasis and underscoring supplied)

With regard to the VAT exemption of GAMEXPERIENCE, Section 109 (1) (K) of the

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[2] G.R. No. 212530 dated August 10, 2016.

National Internal Revenue Code of 1997, as amended, provides:

> *"**SEC. 109. Exempt Transactions**. — (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:*
>
> *xxx xxx xxx*
>
> *(K) Transactions which are exempt under international agreements to which the Philippines is a signatory or **under special laws,** except those under Presidential Decree No. 529;* (Emphasis supplied)

Thus, PAGCOR and its licensees are exempt from the payment of VAT because PAGCOR's charter, PD No. 1869, is a special law that grants the latter exemption from taxes and such exemptions extend or inure to the benefit of its licensees.[3]

Premises considered, this Office hereby rules that since GAMEXPERIENCE is a holder of Gaming Licenses for its Electronic Games Operations issued by PAGCOR, the exemption from taxes, fees and charges enjoyed by PAGCOR is extended to GAMEXPERIENCE pursuant to Section 13 (2) (b) of PD No. 1869, as amended by RA No. 9487. Therefore, the income derived by GAMEXPERIENCE solely from its Electronic Games Operations, during the validity period of its Gaming Licenses on the specified gaming sites, is subject only to the 5% franchise tax, and shall be exempted from corporate income tax and VAT. However, for the purpose of applying the 5% franchise tax, any income that may be realized by GAMEXPERIENCE from related services or such services not falling under gaming operations, shall be subject to corporate income tax and VAT.[4]

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it shall be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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[3] Philippine Amusement and Gaming Corporation v. Bureau of Internal Revenue, G.R. No. 172087 dated March 15, 2011.
[4] Section 14 (5) of PD No. 1869, as amended by RA No. 9487.

List of Gaming Sites

GAMEXPERIENCE ENTERTAINMENT CORP.

No.	Tax Identification No.	Registered Address / Location	Gaming License No.	Valid Until
1	[redacted]	Greenhills Town Center , U-7 & 8, No. 2 Granada Street, Valencia, Quezon City	[redacted]	September 09, 2022
2	[redacted]	G/F Mactan Southgate Mall, Pueblo Verde, Mactan Economic Zone-11-Sez Brgy. Basak, Lapulapu City	[redacted]	September 28, 2021
3	[redacted]	G/F & 2/F Gaisano Grand Mall, Mactan, Basak, Lapu-Lapu City, Cebu	[redacted]	May 16, 2020
4	[redacted]	2nd Flr. Blocked D, Mactan Marina Mall, MEPZ 1 Brgy. IBO, Lapu-Lapu City Cebu	[redacted]	October 13, 2021