Bringing In Revenues
for Nation-Building

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

BAGONG PILIPINAS

DEC 09 2024

REVENUE MEMORANDUM CIRCULAR NO. 132-2024

SUBJECT: Further Clarifying the Tax Treatment of the Philippine Amusement and Gaming Corporation, its Licensees and Contractees

TO: All Internal Revenue Officers, Employees, and Others concerned

This Circular is hereby issued to further clarify the franchise tax, income tax and value-added tax (VAT) due from the Philippine Amusement and Gaming Corporation (PAGCOR), its Licensees and Contractees based on existing laws and recent jurisprudence.

BUREAU OF INTERNAL REVENUE
RECORDS MANAGEMENT DIVISION
RECEIVED
DEC 09 2024
ADMIN UNIT - 1
BY: TIME: 3:25 pm

I. Tax Treatment of PAGCOR

Sections 13 and 14 of Presidential Decree (PD) No. 1869[1] state:

"Section 13. Exemptions. –

xxx xxx xxx

*(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 (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.*

xxx xxx xxx

Section 14. Other Conditions. –

xxx xxx xxx

(5) Operation of related services — The Corporation is authorized to operate such necessary and related services, shows and entertainment. Any income that may be

[1] July 11, 1983.

BUREAU OF INTERNAL REVENUE
INTERNAL COMMUNICATIONS DIVISION
RECEIVED
DEC 09 2024
3:32

realized from these related services shall not be included as part of the income of the Corporation for the purpose of applying the franchise tax, but the same shall be considered as a separate income of the Corporation and shall be subject to income tax."
(Emphases and underscoring supplied)

Below is PAGCOR's income classifications and their respective taxability:

1. ***Income from operations under PAGCOR's franchise/gaming operations***

   Income from operations under PAGCOR's franchise/gaming operations refers to income derived from issuing and/or granting the license to operate casinos, gaming clubs and other similar recreation or amusement places, gaming pools, i.e., basketball, football, bingo, etc. except jai-alai, whether on land or sea, within the territorial jurisdiction of the Republic of the Philippines; to PAGCOR's Contractees and Licensees, as well as earnings derived by PAGCOR from its own operations under its franchise (Sections 10 and 13(2) of PD No. 1869). This includes, among others:

   (a) Income from its casino operations
   (b) Income from dollar pit operations;
   (c) Income from regular bingo operations; and,
   (d) Income from mobile bingo operations operated by it, with agents on commission basis. *Provided*, however, that the agents' commission income shall be subject to regular income tax, and consequently, to withholding tax under existing regulations.

   The above income is subject to five percent (5%) franchise tax under PD No. 1869, as amended, in lieu of all taxes of any kind or form, as well as fees, charges or levies of whatever nature, which necessarily include corporate income tax and VAT.

   Considering that the "gaming operations" include granting of licenses to operate casinos, gaming clubs and etc., regulatory/license fees received by PAGCOR from its Licensees shall be considered income from PAGCOR's operations under its franchise or gaming operations subject to five percent (5%) franchise tax, in lieu of all other taxes, including VAT.

2. ***Income from other related services/operations or from non-gaming operations***

   PAGCOR's income from other related services/operations or from non-gaming operations, such as, but not limited to, income from operating necessary and related services, shows and entertainment are subject to corporate income tax

BUREAU OF INTERNAL REVENUE
RECORDS MANAGEMENT DIVISION
RECEIVED
DEC 09 2024
ADMIN UNIT - 1
BY: TIME: 1:25 pm

pursuant to Section 14(5) of PD No. 1869,[2] which provides that income derived by PAGCOR from "other related services" shall not be included as part of the income of PAGCOR for the purpose of applying the franchise tax, but the same shall be considered as a separate income of PAGCOR and shall be subject to income tax. This shall also be subject to VAT under the National Internal Revenue Code of 1997, as amended (Tax Code).

3. ***Collection and remittance of qualifying fee from players***

PAGCOR must also collect a qualifying fee from players and remit the same in accordance with Executive Order No. 48, series of 1993,[3] Revenue Regulations No. 06-1993 and Revenue Memorandum Order No. 14-1993. Pursuant to the mentioned law and revenue issuances, PAGCOR shall issue a check, payable to the Bureau of Treasury and to the credit of the account of the Bureau of Internal Revenue (BIR), equivalent to the amount of collections for a particular week. This check, together with the necessary supporting documents prescribed by the BIR, shall be issued to the Bureau of Treasury not later than Tuesday following each week. The Bureau of Treasury shall then prepare monthly the corresponding journal voucher and any other necessary documents in favor of the BIR for the latter to record the amount of collections in its book of accounts.

PAGCOR shall file an annual report with the BIR Office having jurisdiction over it within thirty (30) days after the close of the taxable year, summarizing all qualifying fees it has collected from its players for the taxable period.

II. Tax Treatment of PAGCOR Licensees and Contractees

To reiterate, Sections 13(2) of PD No. 1869 states:

"Section 13. Exemptions. –

xxx xxx xxx

(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 (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.

[2] Philippine Amusement and Gaming Corp. v. Commissioner of Internal Revenue, G.R. Nos. 210689-90, 210704 & 210725, November 22, 2017.
[3] Requiring the Collection of Qualifying Fees for Players Entering the Casino, January 19, 1993.

BUREAU OF INTERNAL REVENUE
RECORDS MANAGEMENT DIVISION
RECEIVED
DEC 09 2024
ADMIN UNIT - 1
BY: TIME: 3:25 pm

(b) Others: The exemptions 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. xxx" (Underscoring supplied)

In the recent *en banc* decision of the Supreme Court in the consolidated cases of *Saint Wealth Ltd., v. Bureau of Internal Revenue* and *Marco Polo Enterprises Limited v. Secretary of Finance,*[4] citing also the case of *Bloomberry Resorts and Hotels, Inc. v. Bureau of Internal Revenue,*[5] the Supreme Court unequivocally affirmed the applicability of the tax exemption provisions of PD No. 1869, as amended, to both PAGCOR's Contractees and Licensees, to *wit*:

"Considering the above-cited provisions, this Court clarified in Bloomberry Resorts and Hotels, Inc. v. Bureau of Internal Revenue (Bloomberry), that PAGCOR's tax privilege of paying only a five percent (5%) franchise tax for income generated from its gaming operations, in lieu of all other taxes, inures to the benefit of PAGCOR's licensees:

'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.

xxx xxx xxx

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.'" (Underscoring supplied)

In light of the recent jurisprudence, income received by: (1) PAGCOR from its gaming operations; and (2) PAGCOR's Contractees and Licensees from their gaming operations, is subject to five percent (5%) franchise tax, in lieu of all other national and local taxes, including indirect taxes such as VAT.

[4] G.R. Nos. 252965 and 254102, December 7, 2021.
[5] G.R. No. 212530, August 10, 2016.

BUREAU OF INTERNAL REVENUE
RECORDS MANAGEMENT DIVISION
RECEIVED
DEC 09 2024
ADMIN UNIT - 1
BY: TIME: 3:25

On the other hand, income derived by PAGCOR, its Licensees and Contractees from other related services/operations or from non-gaming operations shall be subject to corporate income tax and VAT.

III. Tax Treatment of PAGCOR's Licensees Located in Ecozones/Freeports

For Licensees that are located in Ecozones/Freeports, their income realized from:

1. *Income from gaming operations.*

   Income from gaming operations shall not be subject to the Special Corporate Income Tax (SCIT), Income Tax Holiday (ITH), or corporate income tax but remains subject to five percent (5%) franchise tax, in lieu of all other taxes, including VAT, in accordance with PD No. 1869, as amended, and the aforecited jurisprudence.

2. *Other related services/operations, or non-gaming operations, that are covered by their registered activity with the concerned Investment Promotion Agency (IPA).*

   a. If PAGCOR's Licensee is under the five percent (5%) SCIT, such income shall be exempt from regular corporate income tax and VAT.

   b. If PAGCOR's Licensee is under the ITH, such income shall be exempt from corporate income tax. The same, however, shall be subject to VAT.

3. *Other related services/operations, or non-gaming operations, that are not covered by their registered activity with the concerned IPA.*

   Income received by PAGCOR Licensees from other related services/operations or from non-gaming operations that are not covered by their registered activity with the concerned IPA shall be subject to regular corporate income tax, VAT and other applicable taxes under the Tax Code.

IV. Remittance of the Franchise Tax to the BIR

PAGCOR's Licensees/Contractees shall remit the five percent (5%) franchise tax to the BIR and shall be made directly to the Revenue District Office where the licensee or contractee is registered. The licensee and contractee shall remit the franchise tax to the BIR using BIR Form No. 2553 indicating the Alphanumeric Tax Code OT 010.

License fees are different and distinct from franchise tax. The license fee is being paid by virtue of the license entered into by and between the licensees and PAGCOR based on the aggregate gross gaming revenue. Said fee is the consideration for the authority granted by PAGCOR to its licensees to establish and operate a casino. On the other hand, the five percent (5%) franchise tax is the tax incentive provided to PAGCOR and its licensees and contractees for its income from gaming operations, which is properly collected by and within

BUREAU OF INTERNAL REVENUE
RECORDS MANAGEMENT DIVISION
RECEIVED
DEC 09 2024
BY: ADMIN UNIT - 1 TIME: 3:25pm

the jurisdiction of the BIR and concerned Local Government Units pursuant to Department of Finance Department Order No. 03-08 issued on February 13, 2008.[6]

All revenue circulars and BIR rulings inconsistent herewith are hereby considered amended, modified or revoked accordingly. This Circular, however, shall apply prospectively.

All internal revenue officers, employees and others concerned are hereby enjoined to strictly implement the provision of this Circular.

This Circular takes effect immediately.

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

K-1

BUREAU OF INTERNAL REVENUE
RECORDS MANAGEMENT DIVISION
RECEIVED
DEC 09 2024
BY: ADMIN UNIT - 1 TIME:

[6] Rules and Regulations to Implement Republic Act No. 9400, "An Act Amending Republic Act No. 7227, Otherwise Known as the Bases Conversion and Development Act of 1992, and for Other Purposes.