REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

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September 06, 2018

REVENUE MEMORANDUM CIRCULAR NO. 78 - 2018

SUBJECT : **Registration Requirements of Philippine Offshore Gaming Operators and its Accredited Service Providers**

TO : **All Internal Revenue Officials, Employees and Others Concerned.**

Revenue Memorandum Circular (RMC) No. 102-2017 dated December 27, 2017 was issued to clarify the taxability of Philippine Offshore Gaming Operations (POGO) Licensee and its registration requirement with the Bureau. However, due to different attributes of a foreign corporation, there shall be a special implementation and administration with regard to the registration of POGO Licensee who is a foreign corporation.

The term "Resident Foreign Corporation" applies to a foreign corporation engaged in trade or business in the Philippines while the term "Nonresident Foreign Corporation" applies to a foreign corporation not engaged in trade or business in the Philippines [*Sec. 22 (H)(I) of NIRC, as amended*].

RMC No. 102-2017 reiterates the recognition that online activity is sufficient to constitute doing business in the Philippines, thus, foreign corporation engaged in POGO is considered as Resident Foreign Corporation engaged in business in the Philippines and not a Nonresident Foreign Corporation.

This Circular is being issued to provide guidelines in the registration of business entities and persons who will engage in the business of offshore gaming operations, including their agents and service providers licensed and authorized by Philippine Amusement and Gaming Corporation (PAGCOR), relative to Section II of Revenue Memorandum Circular No. 102-2017 dated December 27, 2017.

A. Definition of Terms

For purposes of this Circular, the following terms are adapted from the Offshore Gaming Regulatory Manual of PAGCOR dated July 03, 2018:

1. "Offshore Gaming License" is an authority granted by PAGCOR to Philippine Offshore Gaming Operators for the establishment, maintenance and the conduct of offshore gaming operations in a specific site within the jurisdiction of PAGCOR.

2. "Philippine-based Operator" refers to duly constituted business corporation organized in the Philippines who will either conduct offshore gaming operations themselves or engage the services of PAGCOR- accredited service providers.

3. "Foreign-based Operator" refers to duly constituted business corporation organized in any foreign country that will engage the services of PAGCOR-accredited local gaming agent and service providers for its offshore gaming operations.

4. "Philippine Offshore Gaming Operations (POGO) Licensee" means the entity that was issued by PAGCOR an Offshore Gaming License.

5. "POGO Hub" is a complex which houses the operations, as well as other logistical, administrative and support services for offshore gaming operations of PAGCOR POGO Licensees and accredited Service Providers.

6. "Local Gaming Agent" refers to duly constituted business enterprise organized in the Philippines or a person of good repute and financial standing who will represent the foreign-based operator in the Philippines.

7. "Service Provider" refers to duly constituted business corporation organized in the Philippines who provide components of offshore gaming operations to POGOs such as the following:

    a. Customer Relations Service Provider – refers to entities which provide customer service to the players and cater to their various needs through direct contact and interaction by means of remote communication devices.

    b. Strategic Support Provider – refers to entities that develop or improve the business processes of the POGO Licensee. These entities usually operate as the back-office support of the POGO Licensees and do not have direct contact with players.

    c. IT Support Provider – refers to entities that provide technical support to POGO Licensees such as but not limited to diagnosing and solving software faults, IT maintenance, installing and configuring computer systems, and the placement and management of player accounts.

    d. Gaming Software Platform Provider – refers to entities that provide propriety products either as gaming systems such as sportsbook for Sportsbetting or games itself such as RNG based games for E-casino.

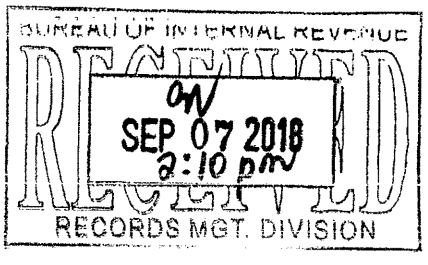
    e. Live Studio and Streaming Provider – refers to entities that provide real time streaming of authorized gaming activities coming from live studios and/or licensed gaming venues via the internet to the websites of the POGO Licensees.

    f. Special Class of BPO – refers to entities that are servicing legitimately licensed gaming operators abroad and do not in any way handle betting but purely product marketing and customer relations and are not servicing any of PAGCOR POGO licensees and have at least ninety (90%) percent Filipino workforce.

B. Registration Requirements of POGO Licensee

All Foreign-based and Philippine-based Operators, including those have already been issued an Offshore Gaming License by PAGCOR are required to register with the Bureau of Internal Revenue on or before the commencement of business; or before payment of any tax due; or before or upon filing of any applicable tax return, statement or declaration as required by the Tax Code, as amended, whichever comes earlier.

"Commencement of business" shall be reckoned from the day when the first sale transaction occurred or within thirty (30) calendar days from the issuance of Mayor's Permit/Professional Tax Receipt (PTR) by LGU, or Certificate of Registration issued by the Securities and Exchange Commission (SEC), whichever comes earlier.



B.1 Philippine-Based Operator, Foreign-Based Operator and Service Provider

a. **Place of Registration** – RDO having jurisdiction over the place where the Head Office and/or branch or POGO Hub is located.

b. **Documentary Requirements** –

For Non-Individual

(1) BIR Form No. 1903;

(2) Photocopy of SEC Certificate of Incorporation; or
Photocopy of Certificate of Recording (in case of partnership); or
Photocopy of License to Do Business in the Philippines (in case of foreign corporation); or

In case of Foreign-based Operator who is not required to be registered with the SEC, in lieu of SEC License to Do Business registration:

- Photocopy of consularized Certificate of Incorporation issued by the proper authority in any foreign country and/or consularized Articles of Incorporation (AOI) (or equivalent Fact if Establishment/Creation/Organization), showing the address and that gaming is one of the purpose of business; and
- Photocopy of a certification from the Philippine Securities and Exchange Commission that the Foreign Corporation is or not registered to engage in business in the Philippines;

(3) Articles of Incorporation; or Articles of Partnerships;

(4) Photocopy of Mayor's Business Permit; or
Duly received Application for Mayor's Business Permit, if the former is still in process with the LGU;

(5) Proof of Payment of Registration Fee (RF);

(6) BIR Form No. 1906;

(7) Final & clear sample of Principal Receipts/ Invoices.

Additional documentary requirement/s, if applicable:

(1) Copy of Appointment letter of the Local Gaming Agent;

(2) Special Power of Attorney and ID

- If applicant/filer is the withholding agent or local representative in the Philippines or Local Gaming Agent
  i. Original copy of Special Power of Attorney (SPA) or written authorization duly executed by the Resident Foreign Corporation authorizing its withholding agent or local representative in the Philippines or Local Gaming Agent to process the application for registration with the BIR.
- If applicant is the local representative of the withholding agent or Local Gaming Agent of the Resident Foreign Corporation
  i. Original copy of a Special Power of Attorney (SPA) or consularized written authorization duly executed by the Resident Foreign Corporation authorizing its withholding agent or local representative in the Philippines or Local Gaming Agent to process the application for registration with the BIR.

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ii. Original copy of Letter of Authorization from the withholding agent or Local Gaming Agent authorizing the local representative to process the application for registration with the BIR.

The registration of Books of Accounts should be done within thirty (30) days from the date of registration.

B.2 Local Gaming Agent

a. **Place of Registration** – RDO having jurisdiction over the place where the Head Office and/or branch.

b. **Documentary Requirements** –

For Individual -

(1) BIR Form No. 1901;
(2) Any identification issued by an authorized government body (e.g. Birth Certificate, passport, driver's license, Community Tax Certificate) that shows the name, address and birthdate of the applicant;
(3) Photocopy of Mayor's Business Permit; or
Duly received Application for Mayor's Business Permit, if the former is still in process with the LGU and/or
Professional Tax Receipt/Occupational Tax Receipt issued by the LGU; or
DTI Certificate;
(4) Proof of Payment of Registration Fee (RF) (if with existing TIN or applicable after TIN issuance);
(5) BIR Form No. 1906;
(6) Final & clear sample of Principal Receipts/ Invoices.

Additional documentary requirement/s, if applicable:

(1) Special Power of Attorney (SPA) and ID of authorized person, in case of authorized representative who will transact with the Bureau;

For Non-Individual

(1) BIR Form No. 1903;
(2) Photocopy of SEC Certificate of Incorporation; or
Photocopy Certificate of Recording (in case of partnership); or
Photocopy of License to Do Business in the Philippines (in case of foreign corporation); or
(3) Articles of Incorporation; or Articles of Partnerships;
(4) Photocopy of Mayor's Business Permit; or
Duly received Application for Mayor's Business Permit, if the former is still in process with the LGU;
(5) Proof of Payment of Registration Fee (RF);
(6) BIR Form No. 1906;
(7) Final & clear sample of Principal Receipts/ Invoices.

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Additional documentary requirement/s, if applicable:

(1) Board Resolution indicating the name of the authorized representative and Secretary's Certificate or Special Power of Attorney (SPA) and ID of authorized person, in case of authorized representative who will transact with the Bureau;

The registration of Books of Accounts should be done within thirty (30) days from the date of registration.

C. Transfer of Registration

In case a POGO Licensee transfers his registered address to a new location, it shall be the duty of POGO Licensee or its Local Gaming Agent to inform the BIR district office where the POGO Licensee is registered of such fact by filing the prescribed BIR Form specifying therein the complete address where the POGO Licensee intends to transfer.

D. Transitory Provisions

For purposes of this Circular, all existing POGO Licensees prior to the issuance of this Circular shall be registered with the RDO having jurisdiction over the place where the Head Office and/or branch or POGO Hub is located with the following documentary requirements:

(1) BIR Form No. 1903;
(2) Copy Articles of Incorporation/Partnerships or Certificate of Incorporation issued by the proper authority in any foreign country;
(3) Proof of Payment of Registration Fee (RF);
(4) BIR Form No. 1906;
(5) Final & clear sample of Principal Receipts/ Invoices.

Additional documentary requirement/s, if applicable:

(1) Special Power of Attorney (SPA) and ID of authorized person, in case of authorized representative who will transact with the Bureau;

The registration of Books of Accounts should be done within thirty (30) days from the date of registration.

All internal revenue officers and employees are hereby enjoined to give this Circular a wide publicity as possible.

CAESAR R. DULAY
Commissioner of Internal Revenue

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