

Advisory on Taxation of POGOs

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20/F Chatham House
Valero cor. Rufino Sts.



Salcedo Village
Makati Zip Code



www.bdblaw.com.ph
info@bdblaw.com.ph



T: (632) 403-2001
F: (632) 403-2001 loc. 130



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BUREAU OF INTERNAL REVENUE
REVENUE REGULATIONS
NO. 20-2021

ADVISORY

TAXATION OF POGO ENTITIES AND THEIR FOREIGN EMPLOYEES

A. Offshore Gaming Licensees (OGLs)

OGL	Tax Treatment	
<p>Gaming Operations (whether Philippine based or Foreign based)</p>	<p>In lieu of all other direct and indirect internal revenue taxes and local taxes, either:</p> <p>(a) 5% of the Gross Gaming Revenue or Receipts (GGR);</p> <p style="text-align: center;">OR</p> <p>(b) 5% of the agreed predetermined minimum monthly revenue from gaming operations, <i>whichever is higher</i>.</p> <p>Note: To be remitted to the BIR not later than the 20th day following the end of each month.</p>	
<p>Non-Gaming Operations</p>	<p><u>Philippine-based OGLs</u></p> <p>Income tax - 25% of the taxable income derived during each taxable year from sources <i>within</i> and <i>without</i> the Philippines.</p>	<p>Non-gaming revenues of all OGLs shall be subject to Value-Added Tax (VAT) or Percentage Tax, <i>whichever is applicable</i>.</p>
	<p><u>Foreign-based OGLs</u></p> <p>Income tax - 25% of the taxable income derived during each taxable year from sources <i>within</i> the Philippines.</p>	

B. Accredited Service Providers (ASPs)

Income Tax	<p>a. <u>ASPs organized within the Philippines</u> – 25% of the taxable income derived during each taxable year from sources <u>within</u> and <u>without</u> the Philippines.</p> <p>b. <u>ASPs organized outside the Philippines</u> – 25% of the taxable income derived during each taxable year from sources <u>without</u> the Philippines.</p>
VAT	<p>Sale of services/goods or properties by VAT-registered service providers/persons to OGLs subject to gaming tax – subject to zero percent (0%) VAT rate: <i>Provided</i>, that the VAT zero-rating shall only apply if the OGLs are paying the 5% gaming tax: <i>Provided further</i>, that in cases wherein the services provided/goods supplied are used in non-gaming operations of the OGLs, the zero percent (0%) rate shall not apply.</p>
Withholding Tax on Purchase of Goods and Services	<p>ASPs shall withhold and remit the applicable withholding taxes.</p>

C. Foreign Employees of POGO entities

- shall have a Taxpayer Identification Number (TIN);
- pay a final withholding tax of 25% on their gross income;
- minimum final withholding tax due for any taxable month from said persons shall not be lower than Twelve Thousand Five Hundred Pesos (Php12,500.00); and
- any income earned from all other sources within the Philippines by foreign employees shall be subject to the income tax.

Information Required by the BIR

- a. Newly established POGO shall submit to the BIR the Summary List of Status Update on Foreign Nationals Employed Form, which shall contain an initial list of all foreign nationals they employed until the end of the month of their registration with the BIR.*
- b. All POGO entities shall regularly update the list of their foreign employees by submitting the Summary List of Status Update on Foreign Nationals Employed Form, together with its attachments.*
- c. Each POGO Licensing Authority shall furnish the BIR with the following:
 - ❖ Status Report on OGLs Form;* and
 - ❖ List of Foreign Nationals with Issued Gaming Employment License (GEL) Forms.*
- d. The BIR shall secure from the Department of Labor and Employment the list of foreign nationals employed by POGO entities who secured Alien Employment Permits.
- e. The BIR shall secure from the Bureau of Immigration the list of foreign nationals employed by POGO entities who secured Provisional Working Permits and/or visas.

** - To be submitted not later than the 20th day after the close of each month.*

Penalties Imposed

- Incremental penalties under Sections 248(B), 249(B), 253, and 255 of the 1997 NIRC, as amended, for fraudulent acts
- Closure order against erring entities
- Penalties for failure to withhold and remit final withholding tax
- Fine of Php20,000.00 for every foreign national employed without a TIN
- Penalties for failure to submit the summary list of status update on foreign nationals employed form
- Failure to provide true and correct office address shall be considered as having failed to register with the BIR
- Other penalties for violations of any provisions of the 1997 NIRC, as amended

Source:

Revenue Regulations No. 20-2021