

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

April 17, 2013

REVENUE MEMORANDUM CIRCULAR NO. 33 - 2013

SUBJECT : Income Tax and Franchise Tax Due From the Philippine Amusement and Gaming Corporation (PAGCOR), Its Contractees and Licensees

TO : The Philippine Amusement and Gaming Corporation (PAGCOR), Its Contractees and Licensees, Internal Revenue Officials, Employees and Others Concerned

I. BACKGROUND

On January 1, 1977, PAGCOR was created pursuant to Presidential Decree (P.D.) No. 1067-A.¹ Simultaneous to its creation, P.D. No. 1067-B² (supplementing P.D. No. 1067-A) was issued. Thereafter, P.D. No. 1067-A and 1067-B were amended by P.D. No. 1399.³ To consolidate the laws pertaining to the franchise and powers of PAGCOR, P.D. No. 1869⁴ was issued.

On January 1, 1998, Republic Act (R.A.) No. 8424, otherwise known as the National Internal Revenue Code of 1997 (NIRC), took effect. Section 27(C) of the NIRC provides that government-owned and controlled corporations (GOCCs) shall pay corporate income tax, except the Government Service and Insurance System (GSIS), the Social Security System (SSS), the Philippine Health Insurance Corporation (PHIC), the Philippine Charity Sweepstakes Office (PCSO) and PAGCOR. However, with the enactment of R.A. 9337 on May 24, 2005, PAGCOR was removed from the list of exempt entities under Section 27(C)

¹ CREATING THE PHILIPPINE AMUSEMENTS AND GAMING CORPORATION, DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES

² GRANTING THE PHILIPPINE AMUSEMENTS AND GAMING CORPORATION A FRANCHISE TO ESTABLISH, OPERATE, AND MAINTAIN GAMBLING CASINOS ON LAND OR WATER WITHIN THE TERRITORIAL JURISDICTION OF THE REPUBLIC OF THE PHILIPPINES

³ AMENDING CERTAIN SECTIONS OF PRESIDENTIAL DECREE NO. 1067-A DATED JANUARY 1, 1977, ENTITLED 'CREATING THE PHILIPPINE AMUSEMENTS AND GAMING CORPORATION, DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,' AND PRESIDENTIAL DECREE NO. 1067-B DATED JANUARY 1, 1977, ENTITLED, 'GRANTING THE PHILIPPINE AMUSEMENTS AND GAMING CORPORATION A FRANCHISE TO ESTABLISH, OPERATE, AND MAINTAIN GAMBLING CASINOS ON LAND OR WATER WITHIN THE TERRITORIAL JURISDICTION OF THE REPUBLIC OF THE PHILIPPINES'

⁴ CONSOLIDATING AND AMENDING PRESIDENTIAL DECREE NOS. 1067-A, 1067-B, 1067-C, 1399 AND 1632, RELATIVE TO THE FRANCHISE AND POWERS OF THE PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR)

of the NIRC. On June 20, 2007, R.A. 9487⁵ was signed into law and amended the provision of P.D. No. 1869 on the nature and term of the franchise of PAGCOR.

This Circular is issued to clarify the income tax and franchise tax due from the Philippine Amusement and Gaming Corporation (PAGCOR), its contractees and licensees.

II. INCOME TAX

Pursuant to Section 1 of R.A. 9337, amending Section 27(C) of the NIRC, as amended, PAGCOR is no longer exempt from corporate income tax as it has been effectively omitted from the list of government-owned or controlled corporations (GOCCs) that are exempt from income tax. Accordingly, PAGCOR's income from its operations and licensing of gambling casinos, gaming clubs and other similar recreation or amusement places, gaming pools, and other related operations are subject to corporate income tax under the NIRC, as amended. 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.

Income from "other related operations" includes, but is not limited to:

- a) Income from licensed private casinos covered by authorities to operate issued to private operators;
- b) Income from traditional bingo, electronic bingo and other bingo variations covered by authorities to operate issued to private operators;
- c) Income from private internet casino gaming, internet sports betting and private mobile gaming operations;
- d) Income from private poker operations;
- e) Income from junket operations;
- f) Income from SM demo units; and
- g) Income from other necessary and related services, shows and entertainment.

PAGCOR's other income that are not connected with the foregoing operations are likewise subject to corporate income tax under the NIRC, as amended.

PAGCOR's contractees and licensees are entities duly authorized and licensed by PAGCOR to perform gambling casinos, gaming clubs and other similar recreation or amusement places, and gaming pools. These contractees and licensees are subject to income tax under the NIRC, as amended.

⁵ AN ACT FURTHER AMENDING PRESIDENTIAL DECREE NO. 1869, OTHERWISE KNOWN AS PAGCOR CHARTER

III. FRANCHISE TAX

Pursuant to Section 13(2)(a) of P.D. No. 1869, PAGCOR is subject to a franchise tax of five percent (5%) of the gross revenue or earnings it derives from its operations and licensing of gambling casinos, gaming clubs and other similar recreation or amusement places, gaming pools, and other related operations as described above.

IV. REPEALING CLAUSE

All other issuances and/or portions thereof that are inconsistent herewith are hereby repealed, modified or amended accordingly.

All concerned are hereby enjoined to be guided accordingly and to give this Circular as wide publicity as possible.

This Circular shall take effect immediately.

(Original Signed)

KIM S. JACINTO-HENARES

Commissioner of Internal Revenue