

Republic of the Philippines
House of Representatives
Quezon City

Eighteenth Congress
First Regular Session

HOUSE BILL NO. 5267



Introduced by **Representative Joey Sarte Salceda**

EXPLANATORY NOTE

Online gaming facilities, also known as Philippine Offshore Gaming Operations (POGOs), have recently proliferated in the country, that it is necessary to determine their taxability. While the Bureau of Internal Revenue (BIR) has issued Revenue Memorandum Circular No. 102-2017 which clarified the tax treatment for these facilities and associated services, a law that settles questions of taxability, through amendments in the National Internal Revenue Code, will once and for all address confusion on the taxation of this emerging industry.

Questions have emerged on whether POGOs do business in the Philippines, with implications on their tax status. As the services are rendered in the Philippines, this bill seeks to definitively answer that POGOs indeed do business in the country.

This bill also intends to clarify the taxability of POGO employees. As POGOs are companies doing business in the Philippines, their employees' income shall be subject to tax.

A clear, definitive tax regime for POGOs will be a potent revenue source, as well as a means of placing these facilities under stricter oversight. Failure to faithfully report revenues and expenses will now unequivocally constitute tax evasion.

Codifying the tax regime for POGOs will provide the government a broader set of levers with which to monitor and oversee the industry and to stabilize the gyrations in tax revenue intake and enforcement.

In view of the foregoing, the approval of this bill is urgently sought.



JOEY SARTE SALCEDA

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AN ACT
TAXING TAXPAYERS ENGAGED IN PHILIPPINE OFFSHORE GAMING
OPERATIONS AMENDING FOR THE PURPOSE SECTIONS 22, 25, AND 119 OF
THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 **SECTION 1.** Title II Chapter I Section 22 of the National Internal Revenue Code of 1997,
2 as amended is hereby amended, to add the following:

3 **(II) THE TERM “OFFSHORE GAMING LICENSEE” SHALL REFER TO**
4 **THE OFFSHORE GAMING OPERATOR, DULY LICENSED AND AUTHORIZED**
5 **TO PROVIDE OFFSHORE GAMING SERVICES, WHICH MAY BE:**

6 **a. PHILIPPINE-BASED OPERATOR, A DULY CONSTITUTED**
7 **BUSINESS ENTERPRISE ORGANIZED IN THE PHILIPPINES.**

8 **b. OFFSHORE-BASED OPERATOR, A DULY CONSTITUTED**
9 **BUSINESS ENTERPRISE ORGANIZED IN ANY FOREIGN**
10 **COUNTRY, WHO WILL ENGAGE THE SERVICES OF THE**
11 **PAGCOR-ACCREDITED SERVICE PROVIDER OR SUPPORT**
12 **PROVIDER OR ANY SPECIAL ECONOMIC ZONE AUTHORITY**
13 **AND TOURISM AUTHORITIES.**

1 **FOR PURPOSES OF THIS CODE, OFFSHORE GAMING LICENSEES**
2 **(OGL) SHALL BE CONSIDERED ENGAGED IN DOING BUSINESS IN THE**
3 **PHILIPPINES.**

4 **(JJ) THE TERM "OGL-GAMING AGENT" SHALL REFER TO THE**
5 **REPRESENTATIVE IN THE PHILIPPINES OF AN OFFSHORE-BASED**
6 **OPERATOR.**

7 **SEC. 2.** Chapter III Section 25, of the National Internal Revenue Code of 1997, as
8 amended, is hereby amended to add letter (G) to read as follows:

9 **(G) ALIEN INDIVIDUAL EMPLOYED BY OFFSHORE GAMING**
10 **LICENSEES - AS DEFINED IN SECTION 22 (II) OF THIS CODE, AN ALIEN**
11 **INDIVIDUAL WHO IS A PERMANENT RESIDENT OF A FOREIGN**
12 **COUNTRY AND WHO IS EMPLOYED AND ASSIGNED IN THE**
13 **PHILIPPINES BY AN OFFSHORE GAMING LICENSEE SHALL PAY A TAX**
14 **OF FIFTEEN PERCENT (15%) OF THE SALARIES, WAGES, ANNUITIES,**
15 **COMPENSATION, REMUNERATION AND OTHER EMOLUMENTS, SUCH**
16 **AS HONORARIA AND ALLOWANCES RECEIVED FROM SUCH**
17 **LICENSEE.**

18 **IN COMPUTING THE TAX PROVIDED IN THIS SECTION, TWO**
19 **HUNDRED FIFTY THOUSAND PESOS (PhP 250,000.00) SHALL BE THE**
20 **MINIMUM GROSS ANNUAL INCOME.**

21 **ANY INCOME EARNED FROM ALL OTHER SOURCES WITHIN**
22 **THE PHILIPPINES BY THE ALIEN EMPLOYEES REFERRED TO UNDER**
23 **THIS SUBSECTION SHALL BE SUBJECT TO THE PERTINENT INCOME**
24 **TAX, AS THE CASE MAY BE, IMPOSED UNDER THIS CODE.**

1 **SEC. 3.** Title V Section 119 of the National Internal Revenue of 1997, as amended, is
2 hereby amended to read as follows:

3 SEC. 119. Tax on Franchises.- Any provision of general or special law to the
4 contrary notwithstanding, there shall be levied, assessed and collected in respect to all
5 franchises on radio and/or television broadcasting companies whose annual gross
6 receipts of the preceding year do not exceed Ten million pesos (P10,000,000), subject
7 to Section 236 of this Code, a tax of three percent (3%), on gas and water utilities, a
8 tax of two percent (2%) on the gross receipts derived from the business covered by the
9 law granting the franchise **AND A TAX OF FIVE PERCENT (5%) ON ALL**
10 **OFFSHORE GAMING COMPANIES ON GROSS RECEIPTS DERIVED**
11 **FROM GAMING OPERATIONS COVERED BY THE LAW GRANTING THE**
12 **FRANCHISE:** Provided, however, That radio and television broadcasting companies
13 referred to in this Section shall have an option to be registered as a value-added
14 taxpayer and pay the tax due thereon: Provided, further, that once the option is
15 exercised, said option shall be irrevocable.

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17 **SEC. 4.** Implementing Rules and Regulations. – The Secretary of Finance shall, upon
18 the recommendation of the Commissioner of Internal Revenue, promulgate the necessary
19 rules and regulations for the effective implementation of this Act.

20 **SEC. 5.** Separability Clause. – If any provision of this Act shall be held unconstitutional or
21 invalid, the other provisions not otherwise affected shall remain in full force and effect.

22 **SEC. 6.** Repealing Clause. – All laws, decrees, executive orders, rules and regulations or
23 parts thereof which are contrary to or inconsistent with this Act are hereby repealed, amended or
24 modified accordingly.

1 **SEC. 7.** Effectivity. – This Act shall take effect fifteen days after its complete publication
2 either in the Official Gazette or in a newspaper of general circulation.

3 Approved,