

[REPUBLIC ACT NO. 11590, September 22, 2021]

AN ACT TAXING PHILIPPINE OFFSHORE GAMING OPERATIONS, AMENDING FOR THE PURPOSE SECTIONS 22, 25, 27, 106, 108, AND ADDING NEW SECTIONS 125-A AND NEW SECTIONS 125-A AND 228(G) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES

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

SECTION 1. *Declaration of Policy.* – It is hereby declared the policy of the State to promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all. Towards this end, the State shall strictly regulate all forms of legal gambling and prohibit all forms of illegal gambling. While doing so, the State recognizes that revenues generated from legal gambling are not a sustainable source of income. The State further reiterates that the recognition of legal forms of gambling, including offshore gaming, shall not be construed as a favorable state endorsement of such activity.

SEC. 2. Section 22 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

“SEC. 22. *Definitions.* – When used in this Title:

“x x x

“(II) The term ‘offshore gaming licensee’ shall refer to the offshore gaming operator, whether organized abroad or in the Philippines, duly licensed and authorized, through a gaming license, by the Philippine Amusement and Gaming Corporation or any special economic zone authority or tourism zone authority or freeport authority to conduct offshore gaming operations, including the acceptance of bets from offshore customers, as provided for in their respective charters.

“Notwithstanding any law to the contrary, no offshore gaming license shall hereinafter be issued by the Aurora Pacific Economic Zone and Freeport Authority. All offshore gaming licensees whose licenses was issued by the Aurora Pacific Economic Zone and Freeport Authority shall be transferred, regulated, and monitored by the Philippine Amusement and Gaming Corporation.

“For purposes of this Section, an offshore gaming licensee shall be considered engaged in doing business in the Philippines.

“(JJ) The term ‘offshore gaming licensee-gaming agent’ shall refer to the representative in the Philippines of an offshore-based operator who shall act as a resident agent for the mere purpose of receiving summons, notices and other legal processes for the offshore gaming licensee and to comply with disclosure requirements of the Securities and Exchange Commission. The offshore gaming licensee-gaming agent shall not be involved with the business operations of the offshore gaming licensee and shall derive no income therefrom.”

SEC. 3. Section 25 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 25. *Tax on Nonresident Alien Individual.* –

"(A) x x x

"(B) x x x

"(C) x x x

"(D) x x x

"(E) x x x

"(F) x x x

"(G) *Alien Individuals Employed by an Offshore Gaming Licensee and Service Providers.* – Alien individuals regardless of residency and who are employed and assigned in the Philippines, regardless of term and class of working or employment permit or visa, by an offshore gaming licensee or its service provider as defined in Section 22(II) and Section 27(G) of this Code, shall pay a final withholding tax of twenty-five percent (25%) on their gross income as computed in the succeeding paragraph: *Provided, however;* That the minimum final withholding tax due for any taxable month from said person shall not be lower than Twelve thousand five hundred pesos (P12,500.00).

"In computing the tax provided in this Section, gross income shall include, whether in cash or in kind, basic salary/wages, annuities, compensation, remuneration and other emoluments, such as *honoraria* and allowances, received from such service provider or offshore gaming licensee: *Provided,* That all offshore gaming licensees and service providers shall submit to the Bureau of Internal Revenue the original copy of notarized contract of employment clearly stating therein the annual salary and other benefits and entitlements of the concerned alien.

"The tax imposed herein shall be withheld and remitted in accordance with the provision of this Code and failure to do so shall be governed by this Code. In addition, the alien concerned may be subject to deportation and may be barred from reentering the Philippines, or blacklisted as a foreign employee by the Department of Labor and Employment, Bureau of Immigration, and other relevant agencies.

"For the efficient assessment, verification, and administration of taxes imposed in this Section, the Bureau of Immigration, the Department of Labor and Employment, the Bureau of Internal Revenue, the Securities and Exchange Commission, the Philippine Amusement and Gaming Corporation, and any special economic zone authority, tourism zone authority, freeport authority, as provided for in their respective charters, shall issue joint and consolidated rules and regulations, including the issuance of a gaming employment license by the issuance of a gaming employment license by the concerned agency, for the implementation of free and efficient exchange of information among the said agencies in relation to the proper payment of taxes by persons covered under this Section. For this purpose, the data sharing and reporting system as well as the joint inspection team created under Joint Memorandum Circular No, 1, Series of 2019, entitled, "Rules and Procedures Governing Foreign Nationals Intending to Work in the Philippines" shall be institutionalized.

"All foreign employees of offshore gaming licensees and their service providers, regardless of nature of employment, shall have a tax identification number, All offshore gaming licensee and service providers

that employ or engage a foreign national without the foregoing shall be liable for a fine of Twenty thousand pesos (20,000.00) for every foreign national without such tax identification number and, in proper instances, revocation of their primary and other licenses obtained from government agencies and/or perpetual or temporary ban in employing or engaging foreign nationals for their operations: *Provided*, That the foreign national concerned shall still pay, and the employer shall remit, any corresponding taxes, penalties, interests, and surcharges due in accordance with this Code.

"Any income earned from all other sources within the Philippines by the alien employee referred under this Subsection shall be subject to pertinent income tax imposed under this Code."

SEC. 4. Section 27 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 27. *Rates of Income Tax on Domestic Corporations.* –

"(A) x x x

"(B) x x x

"(C) x x x

"(D) x x x

"(E) x x x

"(F) *Offshore Gaming Licensees.* – The provisions of existing special or general laws to the contrary notwithstanding, the non-gaming revenues of Philippine-based offshore gaming licensees as duly licensed by the Philippine Amusement and Gaming Corporation or any special economic zone authority or tourism zone authority or freeport authority shall be subject to an income tax equivalent to twenty-five percent (25%) of the taxable income derived during each taxable year from all sources within and without the Philippines.

"(G) *Accredited Service Providers to Offshore Gaming Licensees.* – Unless otherwise provided in this Code, accredited service providers to offshore gaming tax imposed by Section 125-A, but shall pay such rate of tax as imposed in Section 27(A) of this Code, and shall be subject to all other applicable local and national taxes.

"For purposes of this Section, an accredited service provider to an offshore gaming licensee ("Service provider") shall be a juridical person that is duly created or organized within or outside the Philippines or a natural person, regardless of citizenship or residence, which provides ancillary services to an offshore gaming licensee as defined by Section 22(II) of this Code or to any gaming licensee or operator with licenses from other jurisdictions. Such ancillary services may include, but shall not be limited to, customer and technical relations and support, information technology, gaming software, data provision, payment solutions, and live studio and streaming services."

SEC. 5. Section 28 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 28. *Rates of Income Tax on Foreign Corporations.* –

"(A) *Tax on Resident Foreign Corporations* –