Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
Eighteenth Congress
First Regular Session

COMMITTEE REPORT NO.- 130

Submitted by the Committee on Ways and Means on DEC 1 0 2019
Re: House Bill No. 5777
Recommend its approval in substitution of House Bill No. 5267

Sponsor: Representative Joey Sarte Salceda

Mr. Speaker:

The Committee on Ways and Means to which was referred House Bill No. 5267 introduced by Rep. Joey Sarte Salceda, entitled:

"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",

has considered the same and recommends that the attached House Bill No. 5777, entitled:

"AN ACT TAXING PERSONS ENGAGED IN PHILIPPINE OFFSHORE GAMING OPERATIONS, AMENDING FOR THE PURPOSE SECTION 25 AND ADDING A NEW SECTION 150-C OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED",


Respectfully submitted,

REP. JOEY SARTE SALCEDA
Chairperson
Committee on Ways & Means

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY
AN ACT
TAXING PERSONS ENGAGED IN PHILIPPINE OFFSHORE GAMING OPERATIONS
AMENDING SECTION 25, SECTION 27, SECTION 108 AND ADDING A NEW
SECTION 125-A 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:

SECTION 1. Section 25 of the National Internal Revenue Code of 1997, as amended, is
hereby amended to add letter (G) to read as follows:

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

(A) xxx

(B) xxx

(C) xxx

(D) xxx

(E) xxx
(G) ALIEN INDIVIDUAL EMPLOYED BY AN OFFSHORE GAMING LICENSEE
- AN ALIEN INDIVIDUAL REGARDLESS OF RESIDENCY AND WHO IS
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 125-A AND SECTION 27 (F) OF THIS CODE, SHALL PAY A FINAL
WITHHOLDING TAX OF TWENTY-FIVE PERCENT (25%) ON THEIR GROSS
INCOME AS COMPUTED IN THE SUCCEEDING PARAGRAPH.

IN COMPUTING THE TAX PROVIDED IN THIS SECTION, SIX
HUNDRED THOUSAND PESOS (P 600,000.00) SHALL BE THE PRESUMED
MINIMUM GROSS ANNUAL INCOME WHICH SHALL INCLUDE BASIC
SALARY WAGES, ANNUITIES, COMPENSATION, REMUNERATION AND
OTHER EMOLUMENTS, SUCH AS HONORARIA AND ALLOWANCES
RECEIVED FROM SUCH SERVICE PROVIDER OR OFFSHORE GAMING
LICENSEE.

THE TAX IMPOSED HEREIN MUST BE WITHHELD BY THE SERVICE
PROVIDER OR OFFSHORE GAMING LICENSEE AND SHALL BE REMITTED
QUARTERLY IN ADVANCE WITHIN TEN (10) DAYS OF THE FOLLOWING
MONTH OF THE INITIAL COMPENSATION PAYMENT AND ON THE 30TH
DAY OF THE THIRD MONTH OF THE SUCCEEDING QUARTERS TO THE
BUREAU OF INTERNAL REVENUE (BIR), BUT THE EXCESS OF THE
AMOUNT OF TAX SO WITHHELD OR SO REMITTED IN ADVANCE OVER
THE TAX DUE UNDER THIS SECTION SHALL BE REFUNDED TO THE
TAXPAYER OR THE WITHHOLDING ENTITY OR TREATED AS A TAX
CREDIT, WHICHEVER MAY BE APPLICABLE, SUBJECT TO THE
PROVISIONS OF SECTION 204; PROVIDED, THAT IF THE INCOME TAX
COLLECTED FROM THE WITHHOLDING ENTITY OR TAXPAYER IS LESS
THAN THE TAX DUE UNDER THIS SECTION, THE DIFFERENCE SHALL BE
PAID IN ACCORDANCE WITH THE PROVISIONS OF SECTION 56 OF THIS
CODE; PROVIDED FURTHER, THAT THE TAXPAYER OR WITHHOLDING
ENTITY MAY AVAL OF THE RECOURSES PROVIDED IN TITLE VIII,
CHAPTER III OF THIS CODE, BY REPUBLIC ACT NO. 11032 OR THE EASE OF
DOING BUSINESS LAW, AND OTHER APPLICABLE LEGAL REMEDIES AND
RECOURSES.

GOVERNMENT AGENCIES AND INSTRUMENTALITIES COLLECTING
APPLICABLE MANDATORY CONTRIBUTIONS, SUCH AS THE PHILIPPINE
HEALTH INSURANCE CORPORATION (PHIC), THE SOCIAL SECURITY
SYSTEM (SSS), AND THE HOME DEVELOPMENT MUTUAL FUND (HDMF),
MAY USE THE BASIC SALARY PORTION OF THE MINIMUM GROSS
ANNUAL INCOME PROVIDED HEREIN AS THE BASE FOR COMPUTING
APPLICABLE CONTRIBUTIONS, AND MAY IMPLEMENT A REFUND
SYSTEM SIMILAR TO SECTION 204 OF THIS CODE.

FOR THE EFFICIENT ASSESMENT, VERIFICATION, AND
ADMINISTRATION OF TAXES IMPOSED IN THIS SECTION, THE BUREAU OF
IMMIGRATION, THE DEPARTMENT OF LABOR AND EMPLOYMENT, AND
THE BUREAU OF INTERNAL REVENUE SHALL ISSUE JOINT AND
CONSOLIDATED RULES AND REGULATIONS 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: PROVIDED THAT THE
MECHANISMS FOR FILING, WITHHOLDING OF TAXES, AND CLAIMING OF
REFUNDS PROVIDED HEREIN SHALL ALSO APPLY TO ALIEN INDIVIDUALS
EMPLOYED BY AN OFFSHORE GAMING LICENSEE WHO ARE WORKING
UNDER PROVISIONAL WORKING PERMITS, SPECIAL WORKING PERMITS,
ALIEN EMPLOYMENT PERMITS, OR SIMILAR ARRANGEMENTS.

THE FOREGOING SHALL NOT PRECLUDE THE COMMISSIONER OF
INTERNAL REVENUE FROM ISSUING SUCH RULES AND REGULATIONS AS
MAY BE ALLOWED BY THE NATIONAL INTERNAL REVENUE CODE AND
OTHER LAWS, RULES, AND REGULATIONS IN ACCORDANCE WITH THIS
SECTION.

ANY INCOME EARNED FROM ALL OTHER SOURCES WITHIN THE
PHILIPPINES BY THE ALIEN EMPLOYEE REFERRED TO UNDER THIS
SUBSECTION SHALL BE SUBJECT TO THE PERTINENT INCOME TAX,
IMPOSED UNDER THIS CODE.”

SEC. 2. Section 27 of the National Internal Revenue Code of 1997, as amended, is hereby
amended to add letter (F) to read as follows:

“SEC. 27. Rates of Income Tax on Domestic Corporations –

(A) xxx
(B) xxx
(C) xxx
(D) xxx
(E) xxx
(F) ACCREDITED SERVICE PROVIDERS TO OFFSHORE GAMING
LICENSEES. – UNLESS OTHERWISE PROVIDED IN THIS CODE,
ACREDITED SERVICE PROVIDERS TO OFFSHORE GAMING LICENSEES SHALL NOT BE SUBJECT TO THE 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 ACREDITED SERVICE PROVIDER TO AN OFFSHORE GAMING LICENSEE ("SERVICE PROVIDER") SHALL BE A CORPORATION THAT IS DULY CREATED OR ORGANIZED IN THE PHILIPPINES OR UNDER ITS LAWS AND DULY AUTHORIZED BY THE PAGCOR OR ANY ECONOMIC ZONE TO PROVIDE ANCILLARY SERVICES TO AN OFFSHORE GAMING LICENSEE AS DEFINED BY SECTION 125-A 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. 3. Section 108 of the National Internal Revenue Code of 1997, as amended, is hereby amended to add item no. (8) to read as follows:

"Sec. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. –

(b) Transactions Subject to Zero Percent (0%) Rate - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

(1) xxx;

(2) xxx;
(3) xxx;
(4) xxx;
(5) xxx;
(6) xxx;
(7) xxx;

(8) SERVICES RENDERED BY ACCREDITED SERVICE PROVIDERS, AS DEFINED UNDER SECTION 27(F) OF THIS CODE, TO OFFSHORE GAMING LICENSEES.

SEC. 4. A new Section designated as Section 125-A of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:

"SEC. 125-A. GAMING TAX ON SERVICES RENDERED BY OFFSHORE GAMING LICENSEES. - ANY PROVISION OF EXISTING LAWS, RULES OR REGULATIONS TO THE CONTRARY NOTWITHSTANDING, THERE SHALL BE LEVIED, ASSESSED AND COLLECTED A GAMING TAX EQUIVALENT TO FIVE PERCENT (5%) ON THE GROSS REVENUE OR RECEIPTS DERIVED FROM GAMING OPERATIONS AND SIMILAR RELATED ACTIVITIES OF ALL OFFSHORE GAMING LICENSEES IN LIEU OF ALL KINDS OF TAXES, INCLUDING FRANCHISE TAXES, LEVIES, FEES OR ASSESSMENTS OF ANY KIND, NATURE OR DESCRIPTION EXCEPT FOR REGULATORY FEES THAT MAY BE IMPOSED BY PAGCOR AND THE SPECIAL ECONOMIC ZONES. THIS INCOME IS THEREFORE EXEMPT FROM ANY KIND OF TAX, INCOME OR OTHERWISE, AS WELL AS FEES, CHARGES OR LEVIES OF WHATEVER NATURE, WHETHER NATIONAL OR LOCAL: PROVIDED, THAT THE PHILIPPINE AMUSEMENT GAMING CORPORATION (PAGCOR) SHALL COLLECT SAID AMOUNT AND DIRECTLY REMIT TO THE BUREAU OF
INTERNAL REVENUE: PROVIDED, FURTHER, THAT IN THE CASE OF OFFSHORE GAMING LICENSEES LOCATED WITHIN A SPECIAL ECONOMIC ZONE, SAID AMOUNT SHALL BE COLLECTED BY THE CONCERNED SPECIAL ECONOMIC ZONE AUTHORITY AND SHALL BE DIRECTLY REMITTED TO THE BUREAU OF INTERNAL REVENUE. PROVIDED FURTHER, THAT PAGCOR OR A SPECIAL ECONOMIC ZONE MAY IMPOSE REGULATORY FEES ON OFFSHORE GAMING LICENSEES WHICH SHALL NOT CUMULATIVELY EXCEED TWO PERCENT (2%) OF THE GROSS REVENUE OR RECEIPTS DERIVED FROM GAMING OPERATIONS AND SIMILAR RELATED ACTIVITIES OF ALL OFFSHORE GAMING LICENSEES OR A PRE-DETERMINED MINIMUM GUARANTEED FEE, WHICHEVER IS HIGHER. PROVIDED, FURTHERMORE, THAT FOR PURPOSES OF THIS SECTION, GROSS REVENUE OR RECEIPTS SHALL MEAN GROSS WAGERS LESS PAYOUTS: PROVIDED FINALLY, THAT THE TAKING OF WAGERS MADE IN THE PHILIPPINES SHALL RESULT IN THE REVOCATION OF THE LICENSE OF THE OFFSHORE GAMING LICENSEE.

AN OFFSHORE GAMING LICENSEE SHALL REFER TO THE OFFSHORE GAMING OPERATOR, WHETHER ORGANIZED AND REGISTERED ABROAD OR IN THE PHILIPPINES DURY LICENSED AND AUTHORIZED, THROUGH A GAMING LICENSE, BY THE PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR) OR ANY SPECIAL ECONOMIC ZONE AUTHORITY OR TOURISM ZONE AUTHORITY TO CONDUCT GAMING OPERATIONS INCLUDING THE ACCEPTANCE OF BETS FROM OFFSHORE CUSTOMERS.
FOR PURPOSES OF THIS SECTION, AN OFFSHORE GAMING LICENSEE (OGL) SHALL BE CONSIDERED ENGAGED IN DOING BUSINESS IN THE PHILIPPINES.

AN OGL-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 OGL AND TO COMPLY WITH DISCLOSURE REQUIREMENTS OF THE SECURITIES AND EXCHANGE COMMISSION (SEC). THE OGL-GAMING AGENT SHALL NOT BE INVOLVED WITH THE BUSINESS OPERATIONS OF THE OFFSHORE GAMING LICENSEE AND SHALL DERIVE NO INCOME THEREFROM.”

SEC. 5. Implementing Rules and Regulations. – Within ninety (90) days after the effectivity of this Act, the Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules and regulations for its implementation.

SEC. 6. Separability Clause. – If any provision of this Act shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

SEC. 7. Repealing Clause. – All laws, decrees, executive orders, rules and regulations or parts thereof, including Republic Act 9487 and Republic Act No. 11494, which are contrary to or inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 8. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,
Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
First Regular Session

HOUSE BILL NO. 5777
(in substitution of House Bill No. 5267)


AN ACT
TAXING PERSONS ENGAGED IN PHILIPPINE OFFSHORE GAMING OPERATIONS AMENDING FOR THE PURPOSE SECTION 25 AND ADDING A NEW SECTION 150-C 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. Section 25 of the National Internal Revenue Code of 1997, as amended, is hereby amended to add letter (G) to read as follows:

   “SEC. 25. Tax on Nonresident Alien Individual. –

   (A) xxx
   (B) xxx
   (C) xxx
   (D) xxx
   (E) xxx
   (F) xxx
(G) ALIEN INDIVIDUAL EMPLOYED BY AN OFFSHORE GAMING LICENSEE

- AN ALIEN INDIVIDUAL WHO IS A PERMANENT RESIDENT OF A FOREIGN
COUNTRY AND WHO IS EMPLOYED AND ASSIGNED IN THE PHILIPPINES
BY AN OFFSHORE GAMING LICENSEE, AS DEFINED IN SECTION 150-C OF
THIS CODE, SHALL PAY A TAX OF TWENTY-FIVE PERCENT (25%) OF THE
SALARIES, WAGES, ANNUITIES, COMPENSATION, REMUNERATION AND
OTHER EMOLUMENTS, SUCH AS HONORARIA AND ALLOWANCES
RECEIVED FROM SUCH LICENSEE.

IN COMPUTING THE TAX PROVIDED IN THIS SECTION, SIX
HUNDRED THOUSAND PESOS (P 600,000.00) SHALL BE THE MINIMUM
GROSS ANNUAL INCOME.

ANY INCOME EARNED FROM ALL OTHER SOURCES WITHIN THE
PHILIPPINES BY THE ALIEN EMPLOYEE REFERRED TO UNDER THIS
SUBSECTION SHALL BE SUBJECT TO THE PERTINENT INCOME TAX,
IMPOSED UNDER THIS CODE."

SEC. 2. A new Section designated as Section 150-C of the National Internal Revenue Code
of 1997, as amended, is hereby added to read as follows:

“SEC. 150-C. TAX ON SERVICES RENDERED BY OFFSHORE GAMING
LICENSEES. - ANY PROVISION OF EXISTING LAWS, RULES OR
REGULATIONS TO THE CONTRARY NOTWITHSTANDING, THERE SHALL
BE LEVIED, ASSESSED AND COLLECTED A TAX EQUIVALENT TO FIVE
PERCENT (5%) BASED ON THE GROSS REVENUE OR RECEIPTS DERIVED
FROM GAMING OPERATIONS AND SIMILAR RELATED ACTIVITIES OF ALL
OFFSHORE GAMING LICENSEES: PROVIDED, THAT THE PHILIPPINE
AMUSEMENT GAMING CORPORATION (PAGCOR) SHALL COLLECT SAID
AMOUNT AND DIRECTLY REMIT TO THE BUREAU OF INTERNAL REVENUE: PROVIDED, FURTHER, THAT IN THE CASE OF OFFSHORE GAMING LICENSEES LOCATED WITHIN A SPECIAL ECONOMIC ZONE, SAID AMOUNT SHALL BE COLLECTED BY THE CONCERNED SPECIAL ECONOMIC ZONE AUTHORITY AND SHALL BE DIRECTLY REMITTED TO THE BUREAU OF INTERNAL REVENUE.

AN OFFSHORE GAMING LICENSEE SHALL REFER TO THE OFFSHORE GAMING OPERATOR, DULY LICENSED AND AUTHORIZED TO PROVIDE OFFSHORE GAMING SERVICES, WHICH MAY BE:

a. A PHILIPPINE-BASED OPERATOR WHICH IS A DULY CONSTITUTED BUSINESS ENTERPRISE ORGANIZED IN THE PHILIPPINES; OR

b. AN OFFSHORE-BASED OPERATOR WHICH IS A DULY CONSTITUTED BUSINESS ENTERPRISE ORGANIZED IN ANY FOREIGN COUNTRY, WHO ENGAGES THE SERVICES OF THE ACCREDITED SERVICE PROVIDER OR SUPPORT PROVIDER OF PAGCOR OR ANY SPECIAL ECONOMIC ZONE AUTHORITY OR TOURISM ZONE AUTHORITY.

FOR PURPOSES OF THIS SECTION, AN OFFSHORE GAMING LICENSEE (OGL) SHALL BE CONSIDERED ENGAGED IN DOING BUSINESS IN THE PHILIPPINES.

AN OGL-GAMING AGENT SHALL REFER TO THE REPRESENTATIVE IN THE PHILIPPINES OF AN OFFSHORE-BASED OPERATOR."
SEC. 3. Implementing Rules and Regulations. – Within ninety (90) days after the effectivity of this Act, the Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules and regulations for its implementation.

SEC. 4. Separability Clause. – If any provision of this Act shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

SEC. 5. Repealing Clause. – All laws, decrees, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 6. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,
Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City  

COMMITTEE ON WAYS AND MEANS  
FACT SHEET  
HOUSE BILL NO. 5777  
(in substitution of House Bill No. 5267)  

"AN ACT TAXING PERSONS ENGAGED IN PHILIPPINE OFFSHORE GAMING OPERATIONS AMENDING FOR THE PURPOSE SECTION 25 AND ADDING A NEW SECTION 150-C OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED"


Committee Referral: COMMITTEE ON WAYS AND MEANS  
Committee Chairperson: HON. JOEY SARTE SALCEDA

OBJECTIVES:

- To impose a tax on persons engaged in Philippine Offshore Gaming Operations (POGO) thereby amending Section 25 and adding a new Section 150-C of the National Internal Revenue Code of 1997, as amended

KEY PROVISIONS:

- Defines offshore gaming licensee which may be a Philippine-Based Operator or an Offshore-Based Operator under Section 150-C to clarify its taxability;

- Imposes income tax to alien individuals employed by offshore gaming licensees an amount equivalent to twenty five percent (25%) of the salaries, wages, annuities, compensation, remuneration and other emoluments, such as honoraria and allowances received from such licensee; and

- Imposes an excise tax equivalent to five percent (5%) of the gross revenue or receipts from gaming operations and other similar related activities on all offshore gaming operators.

RELATED LAWS:
• Republic Act No. 8424, otherwise known as the National Internal Revenue Code of 1997, as amended;

• Presidential Decree 1869 entitled "Consolidating and Amending Presidential Decrees No. 1067-A, 1067-B, 1067-C, 1399 AND 1632 Relative to the Franchise and Powers of the Philippine Amusement and Gaming Corporation (PAGCOR)".