

# Philippines Enacts New Tax Scheme for POGOs

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On September 22, 2021, President Rodrigo Duterte signed into law RA 11590, imposing new taxes on Philippine Offshore Gaming Operations (POGOs). The act sought to “regulate all forms of legal gambling and prohibit all forms of illegal gambling.”

POGOs operated in the country since 2003 but the government only began regulating the online gaming operators when President Duterte came into power in 2016. By 2019, POGOs have already taken up 1.3 million sqm of office spaces across the country, 49% of which are in the Bay Area (STATISTA 2019).<sup>1</sup> While these companies are operating in the Philippines, the employees are mostly foreign nationals and the gamblers engaging in such activities are from other countries.

Since then, the Philippine Amusement and Gaming Corporation (PAGCOR), as the regulator of the country’s gaming industry, had been eagerly managing the growth of the POGO operators to ensure that activities are properly documented, and appropriate government fees are remitted. By June 2020, the Bureau of Internal Revenue (BIR) diligently kept an eye on the tax compliance of the POGO operators and subsequently imposed a 5% franchise tax based on total bets. The directive was eventually suspended by the Supreme Court in January 2021.

RA 11590 is a legislative restructure of the National Internal Revenue Code of 1997, as amended, to recognize the existence of POGO activities in the country and impose proper taxation as regulative measures to illegal operations. Following its implementation, revenue collections from POGOs are estimated to be at PHP28.7 billion (US\$570 million) in 2021 and PHP32 billion (US\$636 million) in 2022.

The government earnings are to be spent on the implementation of the Universal Healthcare Act (60%), the Department of Health's Health Facilities Enhancement Program or HFEP (20%), and on projects that will promote the Sustainable Development Goals (20%).

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<sup>1</sup> Area divided between the villages of Barangay 719 of Malate, Manila and Barangay 76 of Pasay in the northern Cultural Center of the Philippines Complex-Financial Center Area (CCP-FCA) section, and the villages of Barangay 76 of Pasay and Baclaran, Tambo and Don Galo of Parañaque in the southern Central Business Park and Asiaworld section.

Here is a summary of the provisions in the recently signed RA 11590 imposed on POGO companies and non-resident employees:

	<b>RA 1150 provision</b>	<b>Penalties for noncompliance</b>
<b>Administrative provisions for non-resident alien individuals</b>		
Philippine Tax Identification Number (TIN)	<b>Required</b>	PHP20,000 for every foreign national without TIN.
Submission of notarized contract to the BIR	<b>Required</b> with clear statement of annual salary and other benefits and entitlements.	In accordance with existing NIRC provisions <b>and</b> the alien concerned may be subject to deportation and may be blacklisted.
<b>Taxes</b>		
On nonresident alien individual	<b>25% on gross income,</b> provided that the minimum final withholding tax due for any taxable month <b>shall not be lower than Php12,500.</b>	
On gaming revenues of licensed POGO operators	Gaming tax of <b>5%</b> on gross gaming revenues <b>or</b> receipts <b>or</b> the agreed predetermined minimum monthly revenue, whichever is higher.	
On non-gaming revenues of Philippine-based offshore gaming licensees	<b>25% of the taxable income</b> derived during each taxable year from all sourced within and without the Philippines.	

The PAGCOR or any special economic zone authority or tourism zone authority or freeport authority may also impose regulatory fees on offshore gaming licensees, which should not cumulatively exceed 2% of the gross gaming revenue or receipts.

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