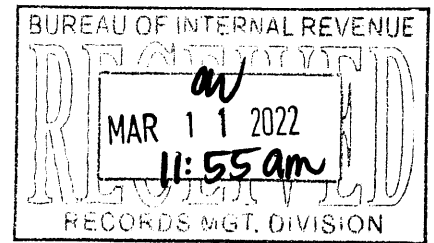




REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office
Quezon City



11 MAR 2022

REVENUE MEMORANDUM CIRCULAR NO. 25-2022

SUBJECT : Clarifying the Taxability of Electronic Sabong (e-Sabong)
Operations as regulated by the Philippine Amusement and
Gaming Corporation (PAGCOR)

TO : All Internal Revenue Officers and Others Concerned

I. Background

Electronic Sabong or e-Sabong is defined as the online and/or remote or off-site wagering/betting on live cockfighting matches, events, and/or activities streamed or broadcasted live from cockpit arenas/s licensed or authorized by the Local Government Units having jurisdiction thereof.

The e-Sabong fights are being streamed live online, and bettors can place their bet through different agents that use different platforms. The bettor must be a member of a certain platform under an agent in order to watch and place bets.

With the onset of the pandemic and the prolonged mobility restrictions that came with it (the closure of cockpits being one of them), e-Sabong saw a phenomenal increase in adoption and use.

The Bureau of Internal Revenue (BIR) has always remained steadfast in its commitment to its transformation process in line with our government's general campaign for good governance. This is manifested thru the continuous reforms in our tax system based on the policies and directions set by the Department of Finance (DOF) and reengineering of our tax processes, especially now, in response to the fast-paced developments in modern technology. The goal has always been to implement a fair and equitable taxation, to elevate the standards of our service delivery and to close the gaps resulting from the shift to digital transactions not clearly or explicitly covered by existing tax regulations, including those electronic derivatives of physically-conducted activities.

Presidential Decree (PD) No. 1869, or the PAGCOR Charter, as amended by Republic Act (RA) No. 9487, vests upon PAGCOR the authority to license gambling casinos, gaming clubs and other similar recreation or amusement places, gaming pools,

whether on land or sea, within the territorial jurisdiction of the Republic of the Philippines. Relative hereto, the Supreme Court, in *Bloomberry Resorts and Hotels, Inc. v. BIR*,¹ held that like PAGCOR, its contractees and licensees remain exempted from the payment of corporate income tax and other taxes, except the 5% franchise tax, on their income from gaming operations since the PAGCOR Charter is clear that said exemption inures to their benefit. Upon payment of the 5% franchise tax, petitioner's income from its gaming operations of gambling casinos, gaming clubs and other similar recreation or amusement places and gaming pools is not subject to income tax. For VAT purposes, however, the ruling of the Supreme Court in *CIR v. Acesite (Philippines) Hotel Corporation*,² as further clarified by the Court in the recent case of *Thunderbird Pilipinas Hotel & Resorts, Inc. v. CIR*,³ is instructive. There, the Supreme Court clarified that PAGCOR, pursuant to its Charter, is also exempt from indirect tax, like VAT, on its gaming operations. The tax exemption of PAGCOR extends only to those individuals or entities that have contracted with PAGCOR (PAGCOR contractees and not licensees) in connection with PAGCOR's gaming operations. This is to proscribe any indirect tax, like VAT, that may be shifted to PAGCOR because the tax exemptions granted under the PAGCOR Charter were primarily meant to favor PAGCOR, and not any other entity.

The foregoing is the standpoint from which the current issue of taxing e-Sabong entities should be viewed. In relation thereto, it is noteworthy to state that this Circular shall apply to e-Sabong as soon as they are accredited and/or licensed by PAGCOR.

Given the above perspective, this Circular is being issued to clarify the taxability of e-Sabong operations regulated by the Philippine Amusement and Gaming Corporation (PAGCOR) and its components.

II. Definition of Terms

For purposes of this Circular, the following words and phrases shall have the meaning indicated below:

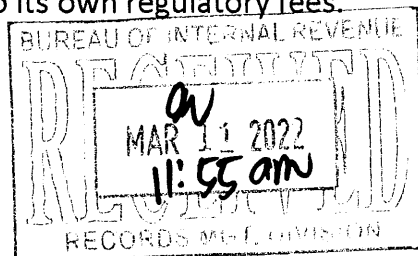
Cockpit Owner/Operator refers to the entity owning; the rightful proprietor, having the legal or rightful title to and has the exclusive right to hold, use, benefit from, enjoy, convey, transfer and otherwise dispose of the cockpit arena.

e-Sabong Auxiliary Operations (ESAO) refers to small-scale e-Sabong operations to be conducted by an e-Sabong Operator in various geographical areas where only local fighting cocks are used with local bettors as intended clients. These operations are separate and distinct from the main operations of the e-Sabong Operator, utilizing a different set of cockfights, local fighting cocks in the area, a separate totalizator and website, and which PAGCOR subject to its own regulatory fees.

¹ 792 Phil. 751 (2016)

² 545 Phil. 1 (2007)

³ G.R. No. 211327, November 11, 2020



e-Sabong Betting Platform or System (e-Sabong platform) refers to the system developed to allow the live-streaming and/or broadcasting of cockfight feeds through the internet from an LGU-licensed cockpit arena, which is then processed for wagering or betting on the outcome of each fight, match, or events through the use of a remote device or an off-site betting station.

e-Sabong Entities collectively refers to the e-Sabong Operator, the e-Sabong Promoter/Coordinator, Master Agent/Agent, Cockpit Owner/Operator, Game Cock Owner and Third Party OCBS Host and others involved in e-Sabong.

e-Sabong Game Cock Owner - refers to the gamefowl breeder, contracted and/or affiliated with the e-Sabong Operator, who supplies the gamecocks utilized in the cockfights under the e-Sabong platform/system.

e-Sabong Master Agent/Agent refers to the person contracted by the e-Sabong Operator to conduct the marketing of their e-Sabong platform, and tasked to drive internet traffic in the direction of the e-Sabong Operator's website.

e-Sabong Promoter/Coordinator refers to a person who puts up a cockfighting event under the e-Sabong platform/system in coordination with licensed cockpit owners and e-Sabong Operator.

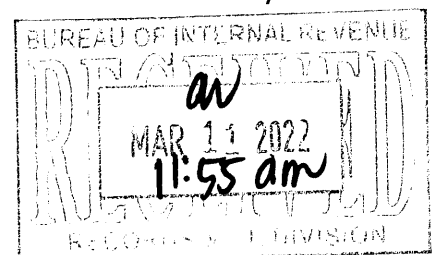
e-Sabong Operator refers to the entity who was granted license by PAGCOR to develop, maintain and operate an e-Sabong betting platform or system.

Gaming Income refers to the "Plasada" or the income/percentage commission of the e-Sabong Operator taken from the center or initial bet (parada), which is the amount of money the gamecock owner/s wager/s on his/their own fighting cock.

Off-Cockpit Betting Station (OCBS) refers to a physical site where an e-Sabong player may register, view live-stream of cockfights, wager, and conduct other activities related to e-Sabong, as may be allowed. This may either be located within an existing licensed Casino, Integrated Resort, e-Bingo and e-Games facilities or a new gaming site specifically established for this purpose.

Off-Cockpit Betting Station Host (OCBS Host) refers to one who shall set-up an OCBS in an existing licensed Casino, Integrated Resort, e-Bingo or e-Games facilities or a new gaming site specifically established for this purpose. The OCBS Host, may either be the e-Sabong Operator, or a third party who shall source live stream of cockfights from a licensed e-Sabong Operator.

Parada refers to the "center bet" or initial bet which is the amount of money the gamecock owner/s wager/s on his/their own fighting cock.



Service Income refers to the income or percentage commission of the e-Sabong Operator taken from the gross sales or the total of the bets for every cockfight in the “Meron”, “Wala” and “Draw” sides, accepted through the e-Sabong betting portals excluding the “parada” or the “center bets” of the opposing cocks.

Totalizator refers to a mechanical or electronic device for issuing and recording betting tickets. It calculates betting pools and current odds on each cockfight and flashes these figures to the public at regular intervals. It may also display fight results, payoff amounts that correspond to ticket holders of winning side, and other information such as the total number of tickets sold on each cockfight or event.

Unauthorized e-Sabong Operator refers to a person/entity who develops, maintains and operates an e-Sabong betting platform or system without the required appropriate license from PAGCOR.

III. Policies and Guidelines

Consistent with tax laws applicable to business entities and establishments, e-Sabong entities shall observe and comply with the following:

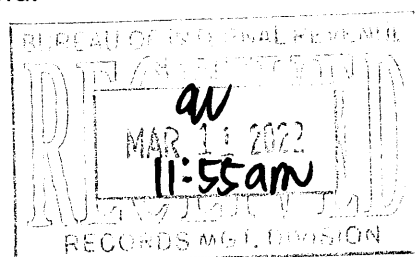
1. Register the business at the Revenue District Office (RDO) having jurisdiction over the principal place of business/head office (or residence in case of individuals), taking into consideration the provisions under RMC No. 57-2020 prescribing the updated policy and checklist of documentary requirements of business registration, and pay the registration fee to any Authorized Agent Bank (AAB) located within the RDO.

A BIR Certificate of Registration (CoR) shall be issued by the RDO, reflecting therein the tax types required of the concerned taxpayer for filing and payment, which shall be displayed conspicuously in the business establishment.

2. File applicable tax returns on or before the due dates; pay correct internal revenue taxes; and submit information returns & other appropriate tax compliance reports in accordance with existing revenue rules and regulations.

3. Keep books of accounts and other business/accounting records within the time prescribed by applicable laws, and such shall be made available anytime for inspection and verification by authorized Revenue Officer/s for the purpose of ascertaining compliance with existing tax rules and regulations.

4. Withhold the required creditable/expanded withholding tax, final tax on compensation of employees, and other withholding taxes, if applicable. They are obliged to remit the same to the BIR at the time or times required, and issue to the concerned payees the necessary Certificate of Tax withheld.

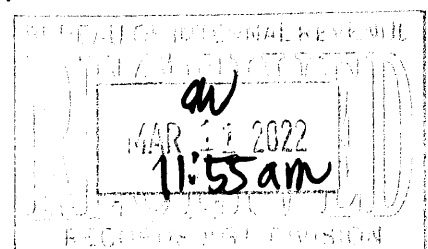


The BIR shall have the authority to inspect totalizators and other betting devices used in the collection, consolidation and recording of wagers made in online or remote/offsite betting activities on locally licensed games.

IV. Taxability of e-Sabong Operations

The different types of income earned/generated from e-Sabong operation, may be classified as follows:

- a. *E-Sabong Operator's Income*
 1. Income from e-Sabong Operation – refers to the Gaming Income and/or Service Income generated from activities authorized under the e-Sabong license issued by PAGCOR, including but not limited to those derived from the plasada.
 2. Other Income from e-Sabong Operation – refers to all income or earnings realized by the e-Sabong Operator from all other activities (i.e., advertisements, promotions, etc.) whose authorization does not derive from the e-Sabong license issued by PAGCOR.
- b. Agent's Commission – the Commission Income received by an authorized Third-Party Master Agent/Agent, which is usually computed as a percentage of the bets from e-Sabong players registered under his/her account.
- c. Promoter/Coordinator's Commission – the Commission Income received by a Third-Party e-Sabong Promoter/Coordinator for services rendered to the e-Sabong Operator.
- d. Cockpit Owner/Operator's Income from e-Sabong Operation – the revenue accruing to the Third-Party Cockpit Owner/Operator for the use of the cockpit arenas/venues in holding cockfights for e-Sabong duly licensed by the Local Government Units (LGUs) and registered with PAGCOR.
- e. Game Cock Owner's Income from e-Sabong Operation – the revenue accruing to a Third-Party Gamefowl breeder who supplies the gamecocks utilized in the cockfights under the e-Sabong platform/system.
- f. Duly Licensed Third-Party Betting Station Host Income from e-Sabong Operation – the revenue accruing to the Third-Party OCBS Host duly licensed by PAGCOR for setting up a betting station who shall source live stream of cockfights from an e-Sabong Operator.



The income generated from the operations or activities of e-Sabong, including the above, shall have the following tax treatment:

a) The Gaming Income from e-Sabong Operation by an e-Sabong Operator, shall be subject to a five percent (5%) franchise tax, which shall be in lieu of all internal revenue taxes except VAT or percentage tax, depending on the threshold. In the event that the e-Sabong operator has contracted with PAGCOR for the provision of goods and services in connection with PAGCOR's gaming operations, then, such provision of goods and services to PAGCOR is subject to VAT at zero-rate.

The franchise tax shall be remitted by the e-Sabong Operator directly to the BIR.

The five percent (5%) franchise tax due from the e-Sabong Operator shall be separate and distinct from the five percent (5%) franchise tax due from PAGCOR arising from the licensing and regulatory fees that PAGCOR receives from the e-Sabong Operator.

b) The Service Income from e-Sabong Operation by an e-Sabong Operator, shall be subject to regular income tax, value-added tax or percentage tax depending on the threshold, withholding tax and other taxes, as may be deemed appropriate. The 5% franchise tax in lieu of all internal revenue taxes shall not apply.

c) Other Income from e-Sabong by an e-Sabong Operator, or the income or earnings realized by the e-Sabong Operator from all other activities whose authorization does not derive from the e-Sabong license issued by PAGCOR shall be subject to regular income tax, value-added tax or percentage tax depending on the threshold, withholding tax and other taxes, as may be deemed appropriate. The 5% franchise tax in lieu of all internal revenue taxes shall not apply.

d) Commission Income received by a Third-Party e-Sabong Master Agent/Agent shall be subject to regular income tax, value-added tax or percentage tax depending on the threshold, withholding tax and other taxes, as may be deemed appropriate. The e-Sabong Operator shall withhold and remit the corresponding creditable withholding taxes (5%/10% for individual payees and 10%/15% for non-individual payees) due for the account of the Master Agent/Agent.

e) Commission Income received by a Third-Party e-Sabong Promoter/Coordinator shall be subject to regular income tax, value-added tax or percentage tax depending on the threshold, withholding tax and other taxes, as may be deemed appropriate. The e-Sabong Operator shall withhold and remit the corresponding creditable withholding taxes (5%/10% for individual payees and 10%/15% for non-individual payees) due for the account of the Promoter/Coordinator.

f) Income received by the Cockpit Owner/Operator for the use of the cockpit arenas/venues from the e-Sabong Operator shall be subject to regular income tax, value-added tax or percentage tax, depending on the threshold, withholding tax and

other taxes, as may be deemed appropriate. The e-Sabong Operator shall withhold and remit the corresponding 5% creditable withholding taxes due for the account of the Cockpit Owner/Operator.

g) Income received by a Third Party OCBS Host from the OCBS shall be subject to regular income tax, value-added tax or percentage tax, depending on the threshold, withholding tax and other taxes, as may be deemed appropriate. The e-Sabong Operator shall withhold and remit the corresponding 2% creditable withholding taxes due for the account of the Third Party OCBS Host.

h) Income received by a Third-Party Game Cock Owner from the e-Sabong Operator in relation to the e-Sabong operation shall be subject to regular income tax, value-added tax or percentage tax, depending on the threshold, withholding tax and other taxes, as may be deemed appropriate. The e-Sabong Operator shall withhold and remit the corresponding 2% creditable withholding taxes due for the account of the Third-Party Game Cock Owner.

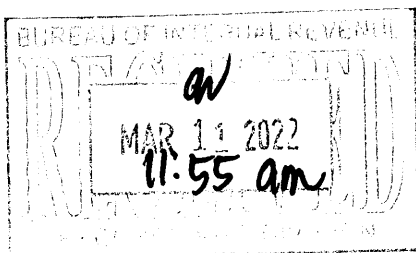
i) Other income derived or received by any person/s or entity/ies in relation to the operation/s of e-Sabong not included in the above-mentioned enumeration shall be subject to appropriate taxes, including but not limited to final withholding taxes and the like, under the National Internal Revenue Code of 1997, as amended.

j) In addition to the penalties and sanctions imposed by the appropriate regulatory government agencies, the income derived by unauthorized e-Sabong Operators and the entities providing ancillary services to its unauthorized e-Sabong operations shall not be covered under the fiscal regime as provided for in the PAGCOR charter but rather subject to appropriate taxes and penalties as provided under the National Internal Revenue Code of 1997, as amended.

V. Repealing Clause

Any ruling or revenue issuance which is inconsistent herewith is hereby amended, repealed or modified accordingly.

All internal revenue officials and others concerned are hereby enjoined to give this circular the most extensive publicity possible.




CAESAR R. DULAY
 Commissioner of Internal Revenue
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