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

Presidential Decree (PD) No. 1869, as amended by Republic Act (RA) No. 9487
BIR Ruling No. 0383-2019
OT-0317-2020
JUN 09 2020

VENTURANZA, HOSTALERO AND COMPANY, CPAs
Unit 2704-C West Tower PSE Centre,
Exchange Road, Pasig City

Attention: ATTY. THADDEUS E. VENTURANZA

Gentlemen:

This refers to your request on behalf of **BINGO AMUSEMENTS CORPORATION ("BAC" for brevity)**, for a ruling on the preferential tax rate (which includes income tax and value added tax [VAT]) extended to grantees and licensees of the Philippine Amusement and Gaming Corporation (PAGCOR) pursuant to Presidential Decree (PD) No. 1869, as amended by Republic Act (RA) No. 9487.

Documents submitted that BAC, with Taxpayer's Identification Number (TIN) and principal office address at 3/F Marsk Bldg., Aurora Blvd. cor. Balete Drive, Kaunlaran, Quezon City, is a corporation duly organized under the laws of the Republic of the Philippines, the primary purpose of which is to establish and conduct general amusement enterprise and provide amusement to the general public; acquire, establish, own, hold, sell, lease, conduct and manage amusement enterprises of every kind; purchase, acquire, develop, sell, lease, let, own and manage places of exhibitions, games, contests and amusements of every kind; erect amusement enterprises in all the branches pertaining to said amusement places; to buy, lease, option or otherwise acquire, hold, exchange, sell or otherwise dispose of and deal in real estate of buildings for the erection of and establishment of such amusement places; purchase, lease or otherwise acquire, own and operate computers, machines, equipment, vehicles and all appliances and accessories necessary for said purpose; and generally to engage in, produce, operate, manage, control and conduct any and all manner of indoor and outdoor sports and/or games; that it is a holder of a Gaming License for its Bingo Games operations which was issued by PAGCOR pursuant to PD No. 1869, as amended by RA No. 9487, to *wit*:

Gaming License Reg. No.	Gaming Activity	Gaming Site	Date of Issuance	Date of Expiration
	Bingo Games	Ever Gotesco Commonwealth, Commonwealth Avenue, Quezon City	June 10, 2019	Sept. 24, 2021

and that Revenue District No. 40, Cubao, Quezon City, issued a Certification stating that BAC has no outstanding Letter of Authority (LOA) as of December 23, 2019.

In reply, please be informed that Section 13(2)(b) of PD No. 1869, as amended by RA No. 9487, provides, *viz*:

"***SEC. 13. Exemptions.*** –

(2) Income and other taxes – (a) Franchise Holder: No tax of any kind or form, income or otherwise, as well as fees, charges or levies of whatever nature,

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whether National or Local, shall be assessed and collected under this Franchise from the Corporation, nor shall any form of tax or charge attach in any way to the earnings of the Corporation, except a Franchise Tax of five (5%) percent of the gross revenue or earnings derived by the Corporation from its operation under this Franchise. *Such tax shall be due and payable quarterly to the National Government and shall be in lieu of all kinds of taxes, levies, fees or assessments of any kind, nature or description, levied, established or collected by any municipal, provincial, or national government authority.*

xxx xxx xxx

(b) *Others: The exemption herein granted for earnings derived from the operations conducted under the franchise, specifically from the payment of any tax, income or otherwise, as well as any form of charges, fees or levies,* ***shall inure to the benefit of and extend to corporation(s), association(s), agency(ies), or individual(s) with whom the Corporation or operator has any contractual relationship in connection with the operations of the casino(s) authorized to be conducted under this Franchise and to those receiving compensation or other remuneration from the Corporation or operator as a result of essential facilities furnished and/or technical services rendered to the Corporation or operator.*** " (Emphasis and underscoring supplied)

In the case of *Bloomberry Resorts and Hotels, Inc. vs. Bureau of Internal Revenue*[1], the Supreme Court affirmed the applicability of the tax exemption provisions of PD No. 1869, as amended by RA No. 9487, to PAGCOR's licensees. Thus, the Supreme Court ruled that:

> *"As the PAGCOR Charter states in unequivocal terms that exemptions granted for earnings derived from the operations conducted under the franchise specifically from the payment of any tax, income or otherwise, as well as any form of charges, fees or levies,* ***shall inure to the benefit of and extend to*** *corporation(s), association(s), agency(ies), or individual(s) with whom the PAGCOR or operator has any contractual relationship in connection with the operations of the casino(s) authorized to be conducted under this Franchise, so* ***it must be that all contractees and licensees of PAGCOR****, upon payment of the 5% franchise tax, shall likewise be exempted from all other taxes, including corporate income tax realized from the operation of casinos.*
>
> *For the same reasons that made us conclude in the December 10, 2014 Decision of the Court sitting En Banc in G.R. No. 215427 that PAGCOR is subject to corporate income tax for "other related services", we find it logical that its contractees and licensees shall likewise pay corporate income tax for income derived from such "related services.*
>
> *xxx xxx xxx*
>
> *Plainly, too, 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, defined within the purview of the aforesaid section, is not subject to corporate income tax."* (Emphasis supplied and underscoring supplied)

With regard to the VAT exemption of BAC, Section 109 (1) (K) of the National Internal Revenue Code of 1997, as amended, provides:

[1] G.R. No. 212530 dated August 10, 2016.

*"**SEC. 109. Exempt Transactions.** – (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:*

xxx xxx xxx

*(K) Transactions which are exempt under international agreements to which the Philippines is a signatory or **under special laws**, except those under Presidential Decree No. 529;"* (Emphasis supplied)

Thus, PAGCOR and its licensees are exempt from the payment of VAT because PAGCOR's charter, PD 1869, is a special law that grants the latter exemption from taxes and such exemptions extend or inure to the benefit of its licensees.[2]

Premises considered, this Office hereby rules that since BAC is a holder of a Gaming License for its Bingo Games operations issued by PAGCOR, the exemption from taxes, fees and charges enjoyed by PAGCOR is extended to BAC pursuant to Section 13 (2) (b) of PD No. 1869, as amended by RA No. 9487. Therefore, the income derived by BAC solely from its Bingo Games operations at Ever Gotesco Commonwealth, Commonwealth Avenue, Quezon City, **during the validity of its Gaming License**, is subject only to the 5% franchise tax, and shall be exempted from corporate income tax and VAT.

However, for the purpose of applying the 5% franchise tax, any income that may be realized by BAC from related services or such services not falling under gaming operations, shall be subject to corporate income tax and VAT.[3]

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it shall be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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[2] Philippine Amusement and Gaming Corporation vs. Bureau of Internal Revenue, G.R. No. 172087 dated March 15, 2011.
[3] Section 14 (5) of PD No. 1869, as amended by RA No. 9487.