REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

PD 1869; Secs. 109 & 27 of NIRC
BIR Ruling No. 1090-18
OT-0365-2020
JUL 02 2020

BANIQUED LAYUG & BELLO
8/F Jollibee Center, San Miguel Avenue
Ortigas Center, Pasig City

Attention: **Attys. Suzette A. Celicious- Sy**
Kathleen Mae M. Villamin
Ana Margaret T. Dahilig

Gentlemen:

This refers to your letters dated November 29, 2018 and September 4, 2019 requesting on behalf of your client, **BIG TIME GAMING CORPORATION ("BIG TIME",** for brevity), for confirmation of your opinion that income derived from bingo games operations conducted by BIG TIME, as a licensee of the Philippine Amusement and Gaming Corporation (PAGCOR), shall be subject to 5% franchise tax, in lieu of all kinds of taxes, pursuant to Section 13(2)(b) of Presidential Decree ("PD") No. 1869, as amended by Republic Act ("RA") No. 9487.

It is represented that BIG TIME, with Tax Identification Number , is a corporation duly organized under the laws of the Philippines, the primary purpose of which is to engage in, conduct and maintain the business of amusement, entertainment, gaming and recreational activities, including the operation of electronic games and similar games for the general public, at specified venues allowed by law. BIG TIME is a holder of various Gaming Licenses[1] for its Bingo Games Operations which were issued by PAGCOR pursuant to PD No. 1869, as amended by RA No. 9487.

In reply, please be informed that Section 13(2) 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, 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***

[1] Please see attached Annex "A" for the list of Gaming Licenses issued to Big Time

<u>from its operation under this Franchise.</u> *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.*

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(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, ***<u>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.</u>*** *(Emphasis and underscoring supplied)*

In the case of *Bloomberry Resorts and Hotels, Inc. vs. Bureau of Internal Revenue*,[2] 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 <u>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."</u>

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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 and underscoring supplied)

With regard to the VAT exemption of BIG TIME, Section 109 (1) (K) of the National

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

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Internal Revenue Code of 1997, as amended, provides:

> "***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 No. 1869, is a special law that grants the latter exemption from taxes and such exemptions extend or inure to the benefit of its licensees.[3]

Premises considered, this Office hereby rules that since BIG TIME is a holder of Gaming Licenses for its Bingo Games Operations issued by PAGCOR, the exemption from taxes, fees and charges enjoyed by PAGCOR is extended to BIG TIME pursuant to Section 13 (2) (b) of PD No. 1869, as amended by RA No. 9487. Therefore, the income derived by BIG TIME solely from its Bingo Games Operations, during the validity period of its Gaming Licenses on the specified gaming sites, 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 BIG TIME from related services or such services not falling under gaming operations, shall be subject to corporate income tax and VAT.[4]

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

BIG TIME GAMING CORPORATION
List of Gaming Sites

Annex "A"

No.	Tax Identification No.	Registered Address / Location	Gaming License No.	Valid Until
		BIG TIME GAMING CORPORATION		
1		Sunshine Blvd. Plaza, Quezon Ave. Corner Sct Santiago St., South Triangle, Quezon City		April 15, 2021
2		Unit 21 Intrepid Plaza, E. Rodriguez Jr. Avenue, Bagumbayan, Quezon City		October 13, 2021
3		233 Tomas Morato Ave., South Triangle, Quezon City		October 13, 2022
4		Unit 102, G/F Web Jet Acropolis Bldg. 88 E. Rodriguez Jr Ave., Bagumbayan 3, Quezon City		July 23, 2021
5		RS228 06 to 08 Robinsons' Supermarket, EMA Town Center, Brgy. Camalig, Meycauayan Bulacan		December 17, 2021
6		Units 8, 9 10 & 32 Auburn Place, Alabang Zapote Road, Talon III, Las Pinas City		December 18, 2021
7		Merville Arcade, West Service Road, corner Merville Brgy. 201 Pasay City		Decemher 17, 2021
8		N Falcon St., Brgy Poblacion, Sta. Cruz, Laguna		May 08, 2023
9		2/F Bocobo Commercial Center, 1253 Bocobo St. cor Padre Faura St., Barangay 670, Zone 072, Ermita Manila		April 10, 2022
10		G/F Hotel Sogo, Distrito 1 O Purok 7, Mahalika Highway,San Juan ACCFA Cabanatuan City		March 25, 2023
11		21 Puregold Gen. Luna St., Banaba, San Mateo Rizal		February 06, 2022
12		2F Parkmall, Ouano Avenue, South Special Economic Zone Mandaue City		April 21, 2020
13		138 -142 SkyOne Bldg., M. L. Quezon Avenue, San Isidro Angono Rizal		December 21, 2020
14		Roben Theatre C. M Recto Avenue Brgy. 313 Zone 31, Sta. Cruz Manila		March 30, 2021
15		2F Syquio Business Center Bldg., Maharlika Highway, Purok Lambingan, Daan Sarile Cabanatuan City		June 29, 2021
16		G/F Jea Bldg. Lopez St., Corner Jalandoni St., Iloilo City		January 19, 2021
17		Insular Square, J.P. Rizal St., Tabok, Mandaue City, Cebu		September 21, 2021
18		Emiliano Pineda Building, Mac Arthur Highway, San Francisco, Mabalacat City, Pampanga		August 06, 2021
19		2F Blue Horizon Bldg.Quezon Avenue Poblacion Alaminos City Pangasinan 2404		January 26, 2022
20		ATDRMAM Bldg., Sitio Kanluran, Kumintang Ibaba, Batangas City		May 16, 2020
21		Zone C-1,2,3,4 Meerea High St., Ouano Ave., North Reclamation Area, Mandaue City		January 26, 2022
22		243 Dizon Building, Sto. Entiero Street, Brgy. Sto. Cristo, Angeles City		November 04, 2021
23		L2-107-108 Robinsons Place Las Pinas Alabang Zapote Rd. Talon Uno, Las Piñas City		May 09, 2021
24		2F, No. 14 Tanjuatco Building, Plaza Aldea, Sampaloc, Tanay, Rizal		December 19, 2021
25		2F Sir Thomas Bldg., No. 18 Matalino St. corner Matatag St., Barangay Central Diliman Quezon City.		June 10, 2022
26		252 EJ Arcade, Friendship Highway, Brgy.Anunas, Angeles City		November 16, 2021
27		G/F CS-15 and 2/F Unit C1 Chinatown Mall, Annex B Calle Felipe II cor. La Chambre St., Barangay 293, Zone 028, Binondo, Manila		November 27, 2021
28		Robinson's Place, J. Catolico Sr. Ave., Brgy. Lagao, General Santos City		December 11, 2021