

SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)



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SENATE

P. S. RES. NO. 1030

RECEIVED BY: _____

Introduced by **SENATOR LEILA M. DE LIMA**

RESOLUTION

TO DIRECT THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE REPORTED FAILURE OF PHILIPPINE OFFSHORE GAMING OPERATIONS (POGO) ESTABLISHMENTS TO COMPLY WITH GOVERNMENT REGULATIONS WITH REGARD TO THEIR FOREIGN NATIONAL EMPLOYEES LEADING TO TAX REVENUE LOSSES, WITH THE END IN VIEW OF CRAFTING LEGISLATION THAT WOULD INCREASE OUR CAPABILITY TO MEET THE INCREASING CHALLENGES IN IMPLEMENTING OUR LAWS ON RESIDENT FOREIGN NATIONALS

1 WHEREAS, Article II, Section 7 of the 1987 Constitution provides that “(t)he
2 State shall pursue an independent foreign policy. In its relations with other states the
3 paramount consideration shall be national sovereignty, territorial integrity, national
4 interest, and the right to self-determination”;

5 WHEREAS, Article VI, Section 28(1) of the same states that “(t)he rule of
6 taxation shall be uniform and equitable. The Congress shall evolve a progressive
7 system of taxation”;

8 WHEREAS, Article 15 of the Agreement between the Government of the
9 Republic of the Philippines and the Government of the People's Republic of China for
10 the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect
11 to Taxes on Income, which entered into force on 23 March 2001, states in part that
12 “...salaries, wages and other similar remuneration derived by a resident of a
13 Contracting State in respect of an employment shall be taxable only in that State
14 unless the employment is exercised in the other Contracting State...”, provided that
15 “the recipient is present in the other State for a period or periods not exceeding in the
16 aggregate 183 days in the calendar year concerned; the remuneration is paid by, or
17 on behalf of, an employer who is not a resident of the other State; and the

1 remuneration is not borne by a permanent establishment or a fixed base which the
2 employer has in the other State”;

3 WHEREAS, Title II, Chapter III, Section 25(A)(1) of Republic Act No. 8424,
4 otherwise known as the Tax Reform Act of 1997, provides that “(a) nonresident alien
5 individual engaged in trade or business in the Philippines shall be subject to an
6 income tax in the same manner as an individual citizen and a resident alien
7 individual, on taxable income received from all sources within the Philippines. A
8 nonresident alien individual who shall come to the Philippines and stay therein for
9 an aggregate period of more than one hundred eighty (180) days during any calendar
10 year shall be deemed a 'nonresident alien doing business in the Philippines”;

11 WHEREAS, Bureau of Internal Revenue (BIR) Revenue Memorandum
12 Circular No. 102-2017, on the “Taxation of Taxpayers Engaged in Philippine Offshore
13 Gaming Operations (POGO)”, provides for the classification of POGO taxpayers,
14 taxability of income from POGO, and tax treatment of POGO activities;

15 WHEREAS, BIR Revenue Memorandum Circular No. 78-2018, on the
16 “Registration Requirements of POGO and Its Accredited Service Providers”, provides
17 “guidelines in the registration of business entities and persons who will engage in the
18 business of offshore gaming operations, including their agents and service providers
19 licensed and authorized by the Philippine Amusement and Gaming Corporation
20 (PAGCOR)”;

21 WHEREAS, on 4 May 2018, it was reported that since President Rodrigo Roa
22 Duterte’s administration began awarding licenses nineteen (19) months ago, more
23 than fifty (50) offshore gambling companies catering to overseas Chinese bettors
24 have received permits to operate in Manila, allegedly employing about 200,000
25 predominantly Chinese workers who have been arriving since late 2016¹;

26 WHEREAS, on 4 March 2019, Department of Finance (DOF) Secretary Carlos
27 G. Dominguez III was quoted as saying that the Departments of Foreign Affairs
28 (DFA), Justice (DOJ), Labor and Employment (DOLE) and Trade and Industry
29 (DTI), PAGCOR and the Securities and Exchange Commission (SEC), being the
30 frontline agencies in providing work permits and registering POGO workers, “should

¹Bloomberg. 4 May 2018. “Chinese Money Triggers a Dizzying Rally in Manila Property”. Retrieved from <https://www.bloomberg.com/news/articles/2018-05-03/in-china-s-new-gambling-hot-spot-property-prices-are-on-a-tear>

1 be consolidating and reconciling the list of these foreign nationals so that
2 government can begin to collect taxes and enforce the law on foreign workers
3 operating in the Philippines”²;

4 WHEREAS, DOJ Secretary Menardo Guevara said that as of mid-2018, “less
5 than 95,000 foreign nationals were issued by the Bureau of Immigration with
6 various forms of temporary work permits as POGO employees”, to which PAGCOR
7 Chair Andrea Domingo commented that the number may not be “accurate because
8 foreign workers that were given six-month special work permits (SWPs) may have
9 already secured provisional working permits and remained on the list of those still
10 with SWPs, while those with provisional working permits may have already been
11 issued alien employment permits by DOLE”³;

12 WHEREAS, on 6 March 2019, Secretary Dominguez was quoted as saying
13 that, “the government is losing at least ₱3 billion in tax revenues a month from
14 foreign POGO workers who do not pay personal income taxes, the calculation
15 stemming from an estimated 100,000 workers earning about \$2,500 a month had to
16 pay 25% personal income tax amounting to \$600”⁴;

17 WHEREAS, the same report cited that the BIR earlier disclosed that just seven
18 (7) of ten (10) local POGO licensees had been registered with the Bureau, on top of
19 only eight (8) of forty-four (44) offshore operators⁵;

20 WHEREAS, Congress legislated the Tax Reform for Acceleration and
21 Inclusion (TRAIN) law to improve government tax collection effort to support the
22 ‘Build, Build, Build’ and other government programs, yet the uncollected revenue
23 from foreign workers provides no relief to Filipino taxpayers, especially with the
24 ensuing increase of prices of basic commodities;

25 WHEREAS, given the huge discrepancy between the number of foreign POGO
26 workers in the Philippines and tax revenues from them, there is a need to document

² De Vera, Ben O. 4 March 2019. “Gov’t tax efforts target Chinese Pogo workers”. Philippine Daily Inquirer. Retrieved from https://business.inquirer.net/265999/govt-tax-efforts-target-chinese-pogo-workers?utm_exp= .XqNwTug2W6nwDVUSgFJXed.1.

³ Ibid.

⁴ De Vera, Ben O. 6 March 2019. “Dominguez: Gov’t loses at least P3B a month from foreign Pogo workers”. Philippine Daily Inquirer. Retrieved from <https://business.inquirer.net/266175/dominguez-govt-loses-at-least-p3b-a-month-from-foreign-pogo-workers#ixzz5hICO6FIR>.

⁵ Ibid.

1 all foreign workers to ensure the legality of their presence and identify their taxpayer
2 classification to accurately determine their corresponding tax liability;

3 WHEREAS, these discrepancies in government records of foreign nationals
4 employed in POGO establishments show how flawed our current registry and
5 regulation system is and highlights the lack of a unified and harmonized effort
6 among different government agencies;

7 WHEREAS, this failure of our government agencies to coordinate their
8 regulatory activities could lead to serious issues, including those of criminality,
9 national security, and possible abuse of our citizens by undocumented foreign
10 nationals;

11 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE, to direct the
12 appropriate Senate Committee to conduct an inquiry, in aid of legislation, on the
13 reported failure of Philippine Offshore Gaming Operations (POGO) establishments
14 to comply with government regulations with regard to their foreign national
15 employees leading to tax revenue losses, with the end in view of crafting legislation
16 that would increase our capability to meet the increasing challenges in implementing
17 our laws on resident foreign nationals.

Adopted,


LEILA M. DE LIMA