



Client Advisory Letter

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February 2019

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PwC launches new tool to help organisations assess their workforce strategy

February 2019 – As organisations prepare for a future world of work that will look vastly different to today, PwC has launched a new tool allowing them to assess the maturity of their workforce strategy and compare it to others in their region and industry.

Available free of charge on PwC's website, the tool assesses an organisation's preparedness in four distinct areas: planning, purpose, talent and technology.

The tool draws on PwC's research and extensive experience in designing and implementing future workforce strategies.

Bhushan Sethi, Global Leader, People and Organisation, PwC, says:

"Now more than ever, organisations need the right workforce strategy to prepare for the future world of work. It's critical they get this right. Our new Workforce Strategy Diagnostic tool is designed to help them achieve just that, allowing them to identify which changes they need to make today to ensure they are future proofed for tomorrow."

Notes to editors

PwC's Workforce Strategy Diagnostic is available at: www.pwc.com/workforce-strategy-diagnostic

For PwC insights on the future of work, visit www.pwc.com/people.

About PwC

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Taxes, compliance matters, assessments, and refunds

Lease on love

DST on financial leases

Citing the Financing Company Act (RA No. 5980), the CTA held that financial leasing is a mode of extending credit and falls within the same category of loans subject to the DST on debt instruments.

However, the DST should be computed on the principal amount of indebtedness which pertains to the cost of the leased property less the guaranty deposit representing the residual value of the property.

(CTA Case No. 8735, promulgated 12 February 2019)

Short-term relationship

Computing DST on advances with terms of less than one year

In computing deficiency DST on short-term advances, the CTA used the general ledger, promissory notes and official receipts to determine the specific number of days each advance was outstanding. However, for advances with no available records to determine the term, the CTA relied on the transaction movements in the GL, *i.e.*, the dates the amount was credited and debited.

(CTA Case No. 8735, promulgated 12 February 2019)

Love knows no bounds

Implication of failure to revalidate the LOA

A revenue officer (RO) has one hundred twenty (120) days from the date of receipt of the LOA by the taxpayer to conduct a tax investigation and to submit the required

report of investigation. If the investigation is not completed within the 120-day period, the RO may request the revalidation of the LOA.

The CTA ruled that the failure of the RO to request a revalidation does not nullify the LOA. It will only be a ground for the imposition of disciplinary action and demerit in the performance rating of said RO.

(CTA Case No. 9199, promulgated 8 February 2019)

Cold heart

When a preliminary collection letter constitutes a final decision

The BIR issued a preliminary collection letter (PCL) requesting the taxpayer to settle the tax assessments in the FAN within ten (10) days. The CTA treated said PCL as a final demand letter from the BIR tantamount to a denial of the taxpayer's request for reconsideration of the FAN.

In other words, the PCL already constitutes the final decision of the BIR on the protest to the FAN. Therefore, the taxpayer had thirty (30) days from receipt of the PCL to appeal to the CTA.

(CTA Case No. 8730, promulgated 17 January 2019)

Love tips

Whether service charges should be subjected to VAT

Service charges collected by hotels, restaurants and other similar establishments that are earmarked and set aside for purposes of distributing the same to the employees should not be subject to VAT.

According to the CTA, gross receipts subject to VAT do not include monies or receipts which do not belong or redound to the benefit of the taxpayer.

(CTA Case No. 9349, promulgated 18 January 2019)

Glossary

BIR – Bureau of Internal Revenue

CTA – Court of Tax Appeals

DST – Documentary Stamp Tax

FAN – Final Assessment Notice

GL – General Ledger

LOA – Letter of Authority

RA – Republic Act

VAT – Value-Added Tax

Imperfect match

Utilization of creditable withholding taxes corresponding to prior year's income

In 2009, the taxpayer utilized creditable withholding taxes (CWT) that correspond to income recognized in 2008. The taxpayer explained that this was due to the fact that its customers-withholding agents only issued the related withholding tax certificates (BIR Form No. 2307) in 2009.

The CTA allowed the late utilization because the CWT was supported with withholding tax certificates. It cited Section 2.58.3(B) of RR No. 2-1998 which allows claims for CWT refunds/credits if the income payments were declared as part of gross income and are supported by BIR Form No. 2307 duly issued by the withholding agent.

Note: Section 2.58.3(A) of RR No. 2-1998 provides that the amount of CWT shall be allowed as a tax credit against the income tax liability of the payee in the quarter of the taxable year in which the income was earned or received.

(CTA Case No. 9298, promulgated 21 January 2019)

On my own

Cancellation of unrefuted deficiency tax assessment

In its FDDA, the BIR disallowed excess tax credits carried over to the succeeding year. However, the BIR did not indicate any reason for the disallowance.

Although the taxpayer failed to refute said disallowance, the CTA, on its own, cancelled the disallowance and the corresponding deficiency income tax assessment. The CTA held that the assessment was void because the BIR did not inform the taxpayer of the law and facts on which the assessment was based.

(CTA Case No. 9298, promulgated 21 January 2019)

Glossary

BIR – Bureau of Internal Revenue

BOI – Board of Investments

CTA – Court of Tax Appeals

FAN – Final Assessment Notice

FDDA – Final Decision on Disputed Assessment

RR – Revenue Regulations

VAT – Value-Added Tax

Admission of feelings

When input VAT carry-over is allowed to be credited against the VAT assessment

In a deficiency VAT assessment, the BIR argued that the CTA Division erred when it deducted input VAT carried over to the succeeding taxable quarters from the deficiency VAT liability without requiring the taxpayer to substantiate such input VAT.

The CTA explained that substantiation was no longer necessary because the BIR already admitted its existence in the Details of Discrepancies attached to the FAN where the input VAT carry-over was disallowed on the assumption that it was credited against output VAT liabilities in the succeeding taxable years.

(CTA EB No. 1743, promulgated 21 January 2019)

A love misplaced

Serving the FAN to the new address

The BIR mailed the FAN to the old address of the taxpayer. The CTA cancelled the deficiency tax assessments in the FAN because there was no proper service thereof.

Although the taxpayer did not file a formal written notice of its change of address, it was found that the BIR was already aware of the taxpayer's new address prior to the mailing of the FAN. This was evident in the following BIR-issued correspondences which already reflected the taxpayer's new address:

- Letters of Authority
- Second and Final Request for Presentation of Books of Accounts and Other Relevant Records
- Notice of Informal Conference

In this light, the CTA ruled that the FAN should have been mailed to the new address.

(CTA Case No. 8782, promulgated 21 January 2019)

Proof of love

When proof of actual shipment is not required

The sales of goods by a VAT-registered supplier to a BOI-registered producer whose products are 100% exported are considered export sales subject to the VAT zero-rate. The CTA held that in a claim for refund/credit of input VAT attributable to such VAT zero-rated sales, the supplier-claimant is not required to prove that the

BOI-registered producer actually exported or shipped the goods from the Philippines.

(CTA EB No. 1681, promulgated 28 January 2019)

Lucky in love

When prescribed deficiency tax assessments are nevertheless upheld

On 12 January 2015, the taxpayer received the FAN/FLD containing deficiency income tax, VAT, EWT, WTC and FWT assessments for taxable year 2011. The CTA found that the right of the BIR to assess the following taxes already prescribed:

- VAT for the first three (3) quarters
- EWT, WTC and FWT from January to November 2011

However, since the taxpayer was not able to point out which portions of the EWT and WTC assessments pertains to the months of January to November 2011, the entire taxable year's assessments for EWT and WTC were considered by the CTA.

(CTA Case Nos. 9213 and 9214, promulgated 30 January 2019)

Withholding affection

Amendments to the withholding tax regulations

The BIR amended the following provisions of RR No. 2-1998 (as recently amended by RR No. 11-2018):

Glossary

BIR – Bureau of Internal Revenue
BOI – Board of Investments
CTA – Court of Tax Appeals
DU – Distribution Utilities
ERB – Energy Regulation Board
EWT – Expanded Withholding Tax
FAN – Final Assessment Notice
FLD – Formal Letter of Demand
FWT – Final Withholding Tax
ITR – Income Tax Return
MERALCO – Manila Electric Company
PRC – Professional Regulation Commission
RR – Revenue Regulations
SC – Supreme Court
VAT – Value-Added Tax
WTC – Withholding Tax Credit

1. Section 2.57.2(P)(1) – 15% EWT on MERALCO refund arising from the SC decision in GR No 141314 to Phase IV customers as approved by the ERB;
2. Section 2.57.2(P)(2) – 10% or 15% EWT on interest paid by MERALCO directly to customers or applied against customer billings;
3. Section 2.57.2(Q) – 10% or 15% EWT on interest paid by other electric DUs directly to customers or applied against customer billings; and
4. Section 2.57.2(S) – 15% EWT on interest income derived from any other debt instruments not within the coverage of deposit substitutes or RR No. 14-2012.

The above amendments are effective beginning 1 January 2019.

(Revenue Regulations No. 1-2019, published 11 February 2019)

Lessons from the heart

Amending the guidelines on the Continuing Professional Development Program

The BIR disseminated PRC Resolution No. 2016-990 which contains the Amendments to the Revised Guidelines on the Continuing Professional Development (CPD) Program. The following provisions were amended:

- Creation and composition of CPD Council
- Operational protocol
- Qualifications for accreditation of CPD providers
- CPD credit units
- Maximum creditable units for self-directed and/or lifelong learning
- Quality assurance review
- Matrix of CPD activities
- Prescribed forms and list of documentary requirements

(Revenue Memorandum Circular No. 20-2019, issued 31 January 2019)

Brand-new feeling

New ITR form for individuals earning purely business or professional income

The BIR issued a new ITR, BIR Form No. 1701A, for individuals earning income purely from business/profession who are subject either to the

graduated income tax rates (with OSD as mode of deduction) or to the 8% final income tax.

The new ITR shall be used in filing the annual ITR for 2018 due on 15 April 2019. It may be filed manually by downloading and printing the PDF version from the BIR website, or electronically through the Offline eBIRForms Package v7.3.

It is not yet available in the eFPS. However, eFPS taxpayers are required to use the BIR Form No. 1701A in the Offline eBIRForms Package v7.3. If the 2018 ITR has already been filed using the old BIR Form No. 1701, the eFPS taxpayer should re-file using BIR Form No. 1701A marked as an amended return.

(Revenue Memorandum Circular No. 17-2019, issued 24 January 2019)

Courtship rituals

Work-around procedures for applications for PTUs of sales machines

In light of the temporary unavailability of the eAccReg System, the BIR issued standard work-around procedures to be followed by the RDOs, LTAD, ELTRD, LTDOs regarding the issuance of permit to use CRMs, POS machines, receipting system software and other sales machines (collectively, “sales machines”), and SPMs.

In light of these standard work-around procedures, the procedures under RMO No. 10-2005 are suspended.

(BIR Memorandum OPM-CSS-TSPMD No. 2019-01-13, dated 24 January 2019)

Glossary

BIR – Bureau of Internal Revenue
eFPS – Electronic Filing and Payment System
ELTRD – Excise Large Taxpayers Regulatory Division
ITR – Income Tax Return
LTAD – Large Taxpayers Assistance Division
LTDO – Large Taxpayers District Office
OSD – Optional Standard Deduction
PDF – Portable Document Format
POS – Point-of-Sale
PTU – Permit to Use
RDO – Revenue District Office
RMO – Revenue Memorandum Order
SPM – Special Purpose Machine



Latest on regulatory landscape

Price of desire

Imposition of review and processing fees under the SBL Program

The PSE announced that it will be charging ~~PHP~~5,000.00 for services extended to review and process Bilateral or Multilateral Master Securities Lending Agreements under the PSE SBL Program.

The fee will be imposed on a per application basis and took effect on 21 January 2019.

(PSE Memorandum CN – NO. 2019-0003 dated 21 January 2019)

Secret affairs

Issuance of the Post Clearance Audit and Prior Disclosure Program

The BOC issued its Post Clearance Audit and Prior Disclosure Program which deals with the following:

- Audit and examination of records
- Who are required to maintain records
- Purposes of keeping records
- Period and place to keep records
- Records required to be kept
- Post clearance audit
- Prior disclosure program
- Interest on deficiency duties, taxes and other charges
- Remedies of the importer and the BOC
- Administrative and criminal offenses

(Customs Administrative Order No. 1-2019, approved 29 November 2018)

Taking responsibility

Guidelines on BPO activities of insurers and reinsurers

The IC issued guidelines on BPO activities of insurers/reinsurers to balance the interests of protecting the insuring public, and developing and strengthening the insurance and reinsurance industries.

The guidelines provide for the responsibilities of the insurer/reinsurer, qualifications of BPO providers, limitations on outsourcing and compliance with data privacy laws.

(IC Circular Letter No. 2018-72 dated 28 December 2018)

Thinking of our future

Guidelines on the attachment of sustainability reports to the Annual Reports

The SEC issued the Sustainability Reporting Guidelines for PLCs (“Guidelines”) to help PLCs assess and manage non-financial performance across economic, environmental and social aspects of their organization and to enable PLCs to measure and monitor their contributions towards achieving universal targets of sustainability. The Guidelines may be downloaded from <http://www.sec.gov.ph/wp-content/uploads/2019/02/2019MCNo4-1.pdf>.

A reporting template (sustainability report) is required to be submitted together with the Annual Report (SEC Form 17-A). The first sustainability report shall be attached to the 2019 Annual Report to be submitted in 2020. Companies which already have sustainability reports compliant with internationally recognized frameworks and standards will already be considered in compliance.

The Guidelines shall be adopted on a “comply or explain” approach for the first three (3) years of implementation. This means that companies are required to attach the sustainability report to their Annual Reports but can provide explanations for items where they still have no available data on.

The non-attachment of the sustainability report to the Annual Report will be penalized as an Incomplete Annual Report.

(SEC Memorandum Circular No. 4-2019 dated 15 February 2019)

Glossary

BOC – Bureau of Customs
BPO – Business Process Outsourcing
IC – Insurance Commission
PLC – Publicly-Listed Companies
PSE – Philippine Securities and Exchange
SBL – Securities Borrowing and Lending
SEC – Securities and Exchange Commission

Full disclosure

Issuance of new GIS requiring disclosure of beneficial ownership information

The SEC issued a new GIS form which includes beneficial ownership information. It can be downloaded from the SEC website using the link <http://www.sec.gov.ph/reportorial-requirements/corporations-with-primary-licenses-2/>.

Starting 1 March 2019, the SEC will accept only the new GIS form. However, submission of the new GIS form containing the Beneficial Ownership Disclosure page was deferred to 30 June 2019.

(SEC Notice and Office of the Commission Secretary dated 28 February 2019)

Changes of heart

Amendments to the 2017 IPP

The BOI amended the “General Policies and Specific Guidelines to implement the 2017 IPP” with respect to the following provisions:

- Geographical Consideration in Industry Development Policy
 - Locational Restriction in NCR
- Corporate Social Responsibility
- Definition of ‘Consumer Durables’, ‘New Project’ and ‘Start of Commercial Operations’
- Preferred Activities
 - All Qualified Manufacturing Activities Including Agro-Processing
 - Strategic Services
 - Healthcare Services including Drug Rehabilitation Centers
 - Infrastructure and Logistics Including LGU-PPPs
- Publication or Printing of Books/Textbooks

(BOI Memorandum Circular No. 2018-09 dated 19 November 2018)

Second chance

Extending the deadline for submission of alphabetical list of employees/payees

The BIR extended the deadline from 31 January 2019 to 15 February 2019 for the submission of 2018 alphabetical lists of employees or payees from whom taxes were withheld. The extension was due to the delay in the availability of the enhanced Data Entry and Validation Module.

(Tax Advisory issued by the CIR dated 21 January 2019)

Kiss marks

Marking of imported goods or their containers

The BOC issued guidelines for the marking of imported goods or their containers to indicate country of origin. The guidelines provide for the following:

- Manner of marking
- Fines for and other implications of failure to mark
- Goods exempted from marking requirements

(Customs Administrative Order No. 2-2019, approved 29 January 2019)

Responsible adults

Responsibilities of independent accountants and auditors

The SEC amended Rule 5.8.2 of the IRR of the Investment Company Act regarding the responsibilities of independent accountants and auditors in the performance of their financial audit function.

The amendments take effect fifteen (15) days after their publication in a newspaper of general circulation and will be applicable beginning with 2018 audit engagements.

(SEC Memorandum Circular NO. 2-2019 dated 7 February 2019)

Glossary

BIR – Bureau of Internal Revenue
BOC – Bureau of Customs
BOI – Board of Investments
GIS – General Information Sheet
IPP – Investment Priority Program
LGU – Local Government Unit
NCR – National Capital Region
SEC – Securities and Exchange Commission
PPP – Public-Private Partnership

Meet us

Alex Cabrera speaks on integrity for social development in MBC forum



PwC Philippines Chairman and Senior Partner, and concurrently Integrity Initiative Chairman, Alex Cabrera was a panelist in Makati Business Club's "Integrity for Social Development" forum on 28 February 2019 at the Tower Club, Philamlife Tower, Makati City.

The forum is part of the MBC Integrity Series. Alex joined Timothy Paul Limgenco, GSK Philippines' Director for Customer Trade, in the Private Sector Panel that was moderated by Coco Alcuaz, MBC's Executive Director.



Their panel discussion transpired after the keynote presentations delivered by De La Salle Philippines President Br. Armin A. Luistro, FSC and Department of Health Assistant Secretary Atty. Charade Mercado-Grande. They talked about best practices in integrity for social development.



MBC Trustee and PHINMA Group Chairman Ramon R. del Rosario Jr. gave the welcome remarks while Philippine-British Business Council Chairman Ambassador Jesus P. Tambunting introduced the speakers.

Pharma finance execs learn about megatrends



PwC Philippines Consulting Manager Bryan Christopher King Kay was the guest speaker in the general membership meeting of the Association of Pharma Financial Executives, Inc. (APFEI) on 21 February 2019 at the Makati Shangri-La Hotel. He shared his insights on the topic "Megatrends: Shaping the Future of Finance"

Team PwC goes to PLM



Team PwC staged the "Aspire to Lead: Being a Professional" career talk program for around 500 graduating students of Pamantasan ng Lungsod ng Maynila (PLM) on 7 February 2019. Assurance Partner JM Reyes, Human Capital (HC) Director Pam Gregorio, Learning & Development Director Ron Melendres, Assurance Manager John Mark Respeto, Tax Senior Consultant Kyra Diola, Assurance Associate Marvey Vidania, and HC Associate Gioia Cepillo comprised the team that delivered talks and conducted activities focused on the PwC Professional attributes.

Talk to us

For further discussion on the contents of this issue of the **Client Advisory Letter**, please contact any of our partners.

For tax and related regulatory matters



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