



AM radio show interviews Rick Danao on accountant's role in society

# Client Advisory Letter

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March-April 2021

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# Taxes, compliance matters, assessments, and refunds

## Offshore work

### Establishing the fact that services were performed outside the Philippines

A taxpayer engaged the services of a foreign corporation for the review of engineering designs and online transmittal of review reports. Since the services were performed in Hong Kong, the taxpayer did not subject the services fees to FWT.

The Bureau of Internal Revenue, however, assessed deficiency FWT and deficiency income tax on the corresponding disallowance due to failure to withhold based on the belief that the services were performed in the Philippines.

The case reached the CTA which cancelled the deficiency FWT and income tax assessments because the taxpayer was able to establish the fact that the services were performed in Hong Kong. In this regard, the CTA relied on the following documents:

- Agreement which specifically provided that all the services will be performed in Hong Kong;
- Minutes of the Board of Directors Meeting approving the Agreement where it was priorly agreed that all services will be performed in Hong Kong; and
- Consularized notarized Letter of Work Performed issued by the foreign corporation confirming that the services consisted of desktop review of calculations and drawings which were not performed in the Philippines.

(CTA Case No. 9618, promulgated 3 March 2021)

## Insufficient evidence

### Proper documents to support export sales, importations and VAT payment

In a claim for refund of input VAT arising from importations attributable to VAT zero-rated export sales, the Court of Tax Appeals denied a portion of the claim because:

1. The airway bills presented to prove the VAT zero-rated export sales were unreadable;

2. The Import Entry and Internal Revenue Declarations presented to prove the importations were not machine validated; and
3. The relevant documents to prove payment of VAT on the importations were not presented.

(CTA EB No. 2164, promulgated 22 February 2021)

## PERA-TCC

### Additional guidelines for implementing the PERA Act of 2008

The Commissioner of Internal Revenue issued the following additional guidelines for the implementation of the tax provisions of the Personal Equity and Retirement Account (PERA) Act of 2008:

- PERA-Tax Credit Certificate (TCC) applications shall be filed online thru the PERASys by the PERA Administrator within 60 days from the close of the calendar year. It shall be processed and approved for issuance of the PERA-TCC by the PERA Processing Office.
- The PERA-TCC shall be used to pay income tax liabilities of qualified employees and self-employed contributors. For qualified overseas Filipino contributors, the PERA-TCC can be used to pay any internal revenue taxes.
- In the case of employee contributors, the PERA-TCC shall be submitted to the employer to apply the gross amount of the PERA-TCC in the year-end adjustments for computing withholding tax on compensation.
- In all cases, the PERA-TCC shall be surrendered and attached to the applicable tax returns.

(Revenue Regulations No. 6-2021, published 16 April 2021)

## Glossary

BIR – Bureau of Internal Revenue

CTA – Court of Tax Appeals

FWT – Final Withholding Tax

VAT – Value-added Tax

# Inside CREATE

## Enactment of the CREATE Act and issuance of implementing BIR regulations

Republic Act No. 11534 or the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act, which amends certain provisions of the Tax Code, took effect on 11 April 2021.

The amendments introduced, including those that were vetoed by the President, are as follows:

### A. Income Tax Rates

1. The RCIT was reduced from 30% to 25%. As regards regional operating headquarters, the applicable rate will be increased from 10% to the 25% RCIT effective 1 January 2022.

However, the RCIT on domestic corporations with net taxable income of PHP5m or less and total assets of PHP100m or less, excluding land on which the business office, plant, and equipment are situated, will be reduced to 20%.

2. In this relation, the BIR requires that the land on which the business office, plant, and equipment are situated should be separately accounted for in the Audited Financial Statements and should not be lumped in one title or consolidated with other fixed asset accounts.
3. The MCIT was temporarily reduced from 2% to 1% from 1 July 2021 until 30 June 2023.
4. The income tax on proprietary educational institutions and hospitals was also temporarily reduced from 10% to 1% from 1 July 2021 until 30 June 2023.
5. Income derived by offshore banking units which were originally exempt or subject to the 10% final income tax, as the case may be, are now subject to the 25% RCIT and the MCIT.
6. Foreign-sourced dividends received by domestic corporations will not be subject to income tax if:
  - a. Reinvested in business operations within the next taxable year;
  - b. Used for working capital, capital expenditures, dividend payments, investment in domestic subsidiaries and infrastructure projects; and
  - c. The domestic corporation directly held, for at least two years, at least 20% in value of the

outstanding shares of the foreign corporation.

According to the BIR, the shares should have been held uninterruptedly for at least two years. Moreover, if the foreign corporation is in existence for less than two years, the shares should have been held during the entire existence of the foreign corporation.

7. The tax on capital gains derived by resident or nonresident foreign corporations from the sale of unlisted shares was increased to 15%.
8. The final income tax on interest income derived by a resident foreign corporation from a depository bank under the expanded foreign currency deposit system was doubled from 7.5% to 15%.
9. Dividends received by a NRFC from a domestic corporation shall be subject to the 15% final income tax if the country in which the NRFC is domiciled either shall allow a deemed paid tax credit of 10% against the tax due from the NRFC or does not impose tax on dividends.

### B. Deductible Expenses

1. Enterprises can additionally deduct ½ of the value of labor training expenses incurred for skills development of enterprise-based trainees enrolled in public senior high schools, public higher education institutions, or public technical and vocational institutions and duly covered by an apprenticeship agreement.
2. The limitation on deductible interest expenses was reduced from 33% to 20%, considering the reduction of the RCIT from 30% to 25%. According to the BIR, there will be no limitation anymore if the applicable RCIT is 20% because the final income tax and RCIT rates are already the same.

- C. The IAET was repealed effective 11 April 2021. The BIR clarified that the IAET will not apply to the entire taxable year with respect to all fiscal/taxable years

### Glossary

BIR – Bureau of Internal Revenue

IAET – Improperly Accumulated Earnings Tax

MCIT – Minimum Corporate Income Tax

NRFC – Nonresident Foreign Corporation

RCIT – Regular Corporate Income Tax

that end after 11 April 2021, the effectivity date of the CREATE Act.

#### D. Tax-Free Exchange

1. No gain or loss shall be recognized on a corporation or on its stock/securities if such corporation is a party to a reorganization and exchanges property solely for stock/securities in another corporation that is also a party.
2. The term 'reorganization' is defined as:
  - a. A constituent corporation in a merger or consolidation exchanging property solely for stock in another constituent corporation;
  - b. The acquisition of stock in another corporation in exchange solely for voting stock in the acquiring corporation or in exchange solely for voting stock of a corporation in control of the acquiring corporation, provided, that the acquiring corporation gains or retains control;
  - c. The acquisition of all or substantially all properties of another corporation in exchange solely for voting stock in the acquiring corporation or in exchange solely for voting stock of a corporation in control of the acquiring corporation;
  - d. Recapitalization; and
  - e. Reincorporation.
3. According to the BIR, for purposes of availing the income tax exemption of the sale of shares under Section 40(C)(2) of the Tax Code, a confirmatory ruling is no longer required. Hence, a Certificate Authorizing Registration for the transfer of shares may be issued without said confirmatory ruling. However, the transfer may be subjected to a post-transaction audit.

#### E. Value-Added Tax (VAT)

1. The effectivity date for the VAT exemption of the sale or importation of prescription drugs and medicines for cancer, mental illness, tuberculosis, and kidney diseases was moved from 1 January 2023 to 1 January 2021.

This VAT exemption only applies to the sale or importation by manufacturers, distributors, wholesalers and retailers of drugs and medicines included in the list issued by the DOH within 60 days from the effectivity of the CREATE Act.

2. The sale or importation of the following shall be temporarily VAT-exempt from 1 January 2021 to 31 December 2023:

- a. Capital equipment, its spare parts and raw materials, necessary for the production of personal protective equipment components such as coveralls, gown, surgical cap, surgical mask, N-95 mask, scrub suits, goggles and face shield, double or surgical gloves, dedicated shoes, and shoe covers, for COVID-19 prevention

The DTI shall certify that such equipment, spare parts or raw materials are not locally available or are insufficient in quantity or not in accordance with the specified quality or specification.

- b. All drugs, vaccines and medical devices specifically prescribed and directly used for the treatment of COVID-19

The DOH shall issue a list of prescription drugs and medical devices within 60 days from the effectivity of the CREATE Act.

- c. Drugs for the treatment of COVID-19 approved by the FDA for use in clinical trials, including raw materials directly necessary for production thereof

For items a and c regarding equipment, spare parts and raw materials, the supplier/importer shall submit the following:

- a. Certified true copy of the License to Operate issued by the DOH-FDA to the manufacturer-buyer for the manufacture of personal protective equipment (PPE) components and COVID-19 drugs; and
- b. Sworn Declaration from the manufacturer-buyer that the items shall be used for the manufacture of PPE components and COVID-19 drugs.

#### Glossary

BIR – Bureau of Internal Revenue

DOH – Department of Health

DTI – Department of Trade and Industry

FDA - Food and Drug Administration

VAT – Value-added Tax

3. A VAT-registered taxpayer who opts to register as non-VAT as a result of the additional VAT-exempt transactions under Sections 109(1)(R), (AA) and (BB) of the Tax Code is required to:

- Submit an inventory list of invoices/receipts; and
- Surrender said invoices/receipts for cancellation.

Any unutilized input VAT resulting from the inclusion of the VAT-exempt items or from adjustment in percentage tax rates may be:

- Carried forward to succeeding taxable quarters or be charged as part of cost

Input VAT directly attributable and input VAT pro-rated to transactions now classified as VAT-exempt may be allowed as part of cost.

- If resulting from the change of status from VAT to non-VAT, may also be subject to refund or issuance of Tax Credit Certificate.

4. The amendment to Section 109(1)(P) of the Tax Code increasing the VAT-exempt threshold amount from PHP1.5m to PHP2.5m for residential lots and from PHP2.5m to PHP4.2m for house and lot and other residential dwelling was vetoed by the President.

5. Section 109(1)(R) of the Tax Code was amended to include the sale or importation of review bulletin or any such educational reading material covered by the UNESCO Agreement on the importation of Educational, Scientific and Cultural Materials, including the digital or electronic format thereof.

F. The percentage tax under Section 116 of the Tax Code was temporarily reduced from 3% to 1% from 1 July 2020 until 30 June 2023.

Excess percentage tax payments resulting from the decrease of the percentage tax rate may be carried forward to succeeding taxable quarters by reflecting the same on Line 17 of BIR Form No. 2551Q.

G. The President vetoed the proposed amendment to Section 204 of the Tax Code mandating the Commissioner of Internal Revenue to grant tax refunds within 90 days from the date of complete submission of supporting documents.

## H. Tax Incentives

The CREATE Act introduced a new Title XIII, Tax Incentives, which rationalizes fiscal incentives granted to investors and shifts the administration of such incentives towards a system that is performance-based, targeted, time-bound and transparent.

### 1. Qualified persons

- Export enterprise refers to any person registered with an Investment Promotion Agency (IPA) to engage in manufacturing, assembling or processing activity, and services such as information technology activities and business process outsourcing.
- Domestic market enterprise refers to a person other than an export enterprise and is registered with an IPA.

### 2. Available incentives

- Income tax holiday (ITH)

The ITH period ranges from four to seven years depending on the location and the industry priorities. In this regard, the President vetoed the provision seeking to grant a new set of incentives (e.g., ITH) and corresponding periods of availment for the benefit of qualified expansions or entirely new projects or activities. In his veto message, however, it seems that the veto was intended to target only qualified expansions which involve the same activity.

After the expiration of the ITH period, an export enterprise may choose between the 5% Special Corporate Income Tax or the Enhanced Deductions. However, considering the President's veto with respect to domestic market enterprises, the latter has no such option and can only be entitled to the Enhanced Deductions incentive.

- 5% Special Corporate Income Tax (SCIT)

The 5% SCIT is computed on gross income earned and is in lieu of all national and local taxes.

After the expiration of the ITH, an export enterprise may choose between the 5% Special Corporate Income Tax or the Enhanced Deductions which shall apply for the next 10 years. Following the President's

## Glossary

BIR – Bureau of Internal Revenue

VAT – Value-added Tax

veto on provisions involving domestic market enterprises, the latter is only entitled to the Enhanced Deductions incentive.

The President also vetoed the provision seeking to grant a new set of incentives (e.g., 5% SCIT) and corresponding periods of availment for the benefit of qualified expansions or entirely new projects or activities. As discussed, it seems that the veto was intended to target only qualified expansions which involve the same activity.

c. Enhanced Deductions (EDs)

The EDs include the following:

- Additional 10% depreciation allowance for buildings and additional 20% depreciation allowance for machineries and equipment;
- Additional 50% deduction on labor expense;
- Additional 100% deduction on research and development expense;
- Additional 100% deduction on training expense;
- Additional 50% deduction on domestic input expense;
- Additional 50% deduction on power expense;
- Deduction of 50% of the amount reinvested in projects or activities listed in the Strategic Investment Priority Plan; and
- Five-year carry-over of net operating losses suffered for the first three years from start of commercial operations.

After the expiration of the ITH, an export enterprise may choose between the 5% SCIT or the EDs which shall apply for the next 10 years. Following the President's veto on provisions involving domestic market enterprises, the latter is only entitled to the Enhanced Deductions incentive.

The President vetoed the provision seeking to grant a new set of incentives (e.g., EDs) and corresponding periods of availment for the benefit of qualified expansions or entirely new projects or activities. As discussed, it

seems that the veto was intended to target only qualified expansions which involve the same activity.

d. Duty exemption on importation of capital equipment, raw materials, spare parts or accessories

e. VAT exemption on importation and VAT-zero rating on local purchases

3. Sunset Provisions

- a. Enterprises who were granted only an ITH prior to the CREATE Act can continue the ITH availment for the remaining ITH period.
- b. Enterprises who were granted but have not yet availed an ITH upon effectiveness of the CREATE Act may use the ITH for the period specified in their registration terms and conditions.
- c. Enterprises who were granted an ITH prior to the CREATE Act and are entitled to the 5% gross income tax (GIT) after the ITH can avail such 5% GIT incentive for ten years.
- d. Enterprises enjoying the 5% GIT prior to the effectiveness of the CREATE Act can enjoy such 5% GIT incentive for ten years.

4. Other Presidential Vetoes

The President vetoed the following provisions in the CREATE Act:

- a. The deemed approval of tax incentive applications if not acted upon within 20 days from the date of submission of the application and supporting documents to the Fiscal Incentives Review Board (FIRB) or the Investment Promotion Agency;
- b. The limitation of the exercise of FIRB functions under Sections 297 (A)(1) and (A)(5), (E), (G), (H), (J) and (K) only to the grant of tax incentives to registered projects or activities with the total investment capital of more than PHP1bn; and

## Glossary

BIR – Bureau of Internal Revenue

ITH – Income Tax Holiday

SCIT – Special Corporate Income Tax

VAT – Value-added Tax

- c. The President's power to exempt IPAs from the FIRB's review and approval of applications for incentives and power to modify the policy on thresholds for FIRB approvals.

(Republic Act No. 11534, effective 11 April 2021; Revenue Regulations Nos. 5-2021 and 4-2021, published 9 April 2021; and Revenue Memorandum Circular No. 42-2021, issued 31 March 2021)

## Data sharing

### Submission of tax-related information to the Department of Finance (DOF)

The CREATE Act amended Section 20 of the Tax Code to require the CIR to submit, upon order of the Secretary of Finance, pertinent information on entities receiving incentives under Title XIII of the Tax Code.

To implement the amendment, the CIR issued the following rules and regulations:

- A request for tax-related and pertinent information shall be made upon authority of the Secretary of Finance addressed to the CIR. The request shall identify the specific information sought and the clear reason or justification for the request.
- All responses to said requests shall be coursed through the CIR. No BIR employee or official shall provide or disclose information or documents to the DOF without the prior written consent of the CIR.
- Tax-related and pertinent information refer to tax returns and any amendments thereof, including pertinent information which can be associated with a particular taxpayer.
- The Secretary of Finance and DOF personnel handling the information obtained from the BIR shall be covered by the requirements and penalties under Section 270 of the Tax Code regarding the unlawful divulgence of information.

(Revenue Regulations No. 3-2021, published 9 April 2021)

## Glossary

BIR – Bureau of Internal Revenue

CIR – Commissioner of Internal Revenue

DOF – Department of Finance

FWT – Final Withholding Tax

RR – Revenue Regulations

VAT – Value-added Tax

## Final withholding

### Amending RR No. 2-1998 to reflect new FWT rates under the CREATE Act

Section 2.57.1 of RR No. 2-1998 was amended to reflect the following new FWT rates under the CREATE Act:

Nature of Income	Old FWT Rate	New FWT Rate
Interest income derived by resident foreign corporation from a depository bank under the expanded foreign currency deposit system	7.5%	15%
Capital gains derived by resident foreign corporation from sale of unlisted shares	5%/10%	15%
Income derived by nonresident foreign corporation (NRFC) from Philippine sources	30%	25%
Dividends received by NRFC from a domestic corporation	30%/15%	25%/15%
Capital gains derived by NRFC from sale of unlisted shares	5%/10%	15%

RR No. 2-1998 was also amended to include the exemption from the 20% FWT of winnings amounting to PHP10,000.00 or less from Philippine Charity Sweepstakes Office games derived by nonresident aliens engaged in trade or business in the Philippines.

Lastly, purchases made by Government-Owned and -Controlled Corporations, National Government Agencies, Local Government Units and other government instrumentalities from persons subject to percentage tax shall be subject to the 1% withholding tax from 1 July 2020 to 30 June 2023.

(Revenue Regulations No. 2-2021, published 9 April 2021)

## On the job

### Implementing the tax incentives and fee privileges regarding COVID-19 vaccines

Republic Act No. 11525, otherwise known as the COVID-19 Vaccination Program Act of 2021, exempts from customs duties, VAT, excise tax, donor's tax and other fees the procurement, importation, donation, storage, transport, deployment and administration of COVID-19 vaccines through the COVID-19 Vaccination Program. The exemptions are effective starting 1 January 2021.

To implement said exemption, the BIR issued the following implementing guidelines:

1. The exempt activities should be undertaken through the COVID-19 Vaccination Program of:
  - a. The National Government, through the Department of Health and the National Task Force Against COVID-19;
  - b. Any political subdivisions of the State; and
  - c. Private entities and international humanitarian organizations.
2. VAT shall not be part of the contract price for the procurement of COVID-19 vaccines.
3. VAT and excise tax shall not be imposed on the importation of COVID-19 vaccines.
4. The importation of COVID-19 vaccines shall not be subject to the issuance of an Authority to Release Imported Goods (ATRIG) and may be released by the Bureau of Customs without an ATRIG.
5. Service providers should not impose VAT on the storage, transport, deployment and administration services rendered to the above entities.
6. Donor's tax shall not be imposed on the donation of COVID-19 vaccines to the above entities, subject to the rules of deductibility under Section 34(H) of the Tax Code.
7. The tax exemptions are applicable only if the vaccines are not intended for resale or other commercial use and are not distributed with consideration from the vaccinated individuals.
8. In order to qualify for VAT, excise tax and donor's tax exemption, the above entities must present the following:
  - a. Certified true copy (CTC) of COVID-19 vaccine procurement agreement/multiparty agreement, as may be applicable;
  - b. CTC of COVID-19 vaccine's Certificate of Product Registration or Emergency Use Authorization;
  - c. For private entities, Sworn Declaration from the taxpayer-buyer/importer/donee that the vaccines shall not be intended for resale or other commercial use, shall not be distributed with consideration from the vaccinated individuals, and shall be for the sole and exclusive use of said private entities and their related parties; and

- d. For private entities, a CTC of the duly accepted Deed of Donation and/or BIR Form No. 2322.
9. Any VAT paid on importations from 1 January 2021 until the effectivity of RR No. 1-2021 can only be claimed for refund and cannot be utilized as input VAT credit.

(Revenue Regulations No. 1-2021, published 12 April 2021)

## Tax returns

### Disseminating the List of BIR Forms per facility or platform

The BIR issued a comprehensive List of BIR Forms which are available for use or downloading in/from the Electronic Filing and Payment System (eFPS), Electronic BIR Forms (eBIRForms) Package v7.8 and/or the BIR website.

The List includes the various Payment Forms, Withholding Tax Remittance and Annual Information Returns, Income Tax Returns, Transfer Tax Returns, DST Declarations/Returns, Excise Tax Returns and Business Tax Declarations/Returns. It also provides for the respective version numbers and implementing Revenue Memorandum Circulars.

(Revenue Memorandum Circular No. 55-2021, issued 27 April 2021)

## Related party concerns

### Clarifications regarding the submission of BIR Form No. 1709 and preparation of TPD

The Commissioner of Internal Revenue addressed frequently asked questions regarding the submission of BIR Form No. 1709 (RPT Form) and preparation of Transfer Pricing Documentation (TPD) following the amendment of RR 19-2020 by RR No. 34-2020.

- A taxpayer is required to file an RPT Form if the following conditions are present:
  1. It is required to file an Annual Income Tax Return (AITR);
  2. It has transactions with a related party during the concerned taxable period; and

## Glossary

BIR – Bureau of Internal Revenue

RPT – Related-Party Transaction

RR – Revenue Regulations

VAT – Value-added Tax

- 3. It is a:
  - a. Large Taxpayer;
  - b. Taxpayer enjoying tax incentives or subject to a preferential income tax rate;
  - c. Taxpayer reporting net operating losses for the current and immediately preceding two taxable years; or
  - d. Related party that has transactions with any person in items "a," "b," or "c" above.
- A Large Taxpayer is a taxpayer who has been classified as such and duly notified by the CIR via registered mail, publication or any other mode of service.
- Taxpayers subject to preferential rates include proprietary educational institutions and hospitals and regional operating headquarters but exclude the following:
  1. Taxpayers subject to RCIT but have transactions subject to preferential income rates under the Tax Code or tax treaties; and
  2. International carriers subject to tax based on Gross Philippine Billings or exempt from tax under tax treaty or principle of reciprocity.
  3. However, international carriers subject to tax on Philippine-sourced income are required to file an RPT form.
- Taxpayers operating within an economic zone but subject to RCIT are not required to file RPT Forms. However, those who are also persons in items 3a, 3b or 3c above are required.
- Persons exempt from income under Section 30 or other provisions of the Tax Code or under special laws are not required to file RPT Forms. Post-employment benefit plans are also not required if their related party transactions consist only of employer contributions.
- A domestic party which had transactions with a nonresident foreign related party that reported net operating losses for the current and two immediately preceding taxable years is not required to file an RPT Form.

## Glossary

AITR – Annual Income Tax Return

BIR – Bureau of Internal Revenue

RCIT - Regular Corporate Income Tax

RPT – Related-Party Transaction

RR – Revenue Regulations

- The materiality threshold is only relevant in determining who are required to prepare TPD. Taxpayers required must disclose all related party transactions regardless of amount.
- If possible, similar transactions with the same related party must be aggregated.
- Actual amounts, not reasonable estimates, shall be declared in the RPT Form.
- For short period returns, the filing of the RPT Form shall only be mandatory for such returns originally required by law or BIR issuances to be filed in 2021 and subsequent years.
- The preparation of TPD shall be mandatory if the taxpayer meets any of the following conditions:
  1. Annual gross sales/revenues exceeding PHP150m and total amount of related party transactions exceeds PHP90m;
  2. Sale of tangible goods involving the same related party exceeding PHP60m within the taxable year;
  3. Service transaction, payment of interest utilization of intangible goods or other transaction involving the same related party exceeding PHP15m within the taxable year; or
  4. TPD was required to be prepared during the immediately preceding taxable period for exceeding any of the above threshold amounts.
- Related party transactions under Section 3(a) of RR No. 34-2020 refer to those involving related parties in general while those under Section 3(b) refer to those with a specific related party only.
- The term "annual gross sales/revenue" under Section 3(a) of RR No. 34-2020 is the amount reported in the AITR, irrespective of client/customer.
- The term "other related party transaction" under RR No. 34-2020 includes all related party transactions not specifically enumerated in Section 3(b) of RR No. 34-2020.
- The share in the net income of an associate is akin to dividends, hence, it is not required to be reported in the RPT Form.
- If the taxpayer fails to supply material information in the RPT Form, the latter will be regarded as not duly filed.

- In general, the amounts in foreign currency and their equivalent in local currency should be indicated in the RPT Form. However, only their equivalent in local currency may instead be disclosed if several currencies were used and it seems impractical to indicate all of them in the RPT Form.
- For related party transactions covered by an Advance Pricing Agreement (APA) to be exempt from disclosure in the RPT Form, the APA should be approved and accepted by the BIR.
- Taxpayers who are not required to file RPT Forms and have already finalized their Audited Financial Statements for 2020 prior to the effectivity of RR No. 34-2020 are not expected to comply with the required disclosure under Section 4 of RR No. 34-2020.
- RR No. 34-2020 took effect immediately after its publication on 23 December 2020. Accordingly, it applies to RPT Forms required to be submitted after its effectivity.

(Revenue Memorandum Circular No. 54-2021, issued 27 April 2021)

BIR Form Nos. 1702-RT, 1702-MX and 1702-EX in the new eBIRForms package were modified to add the letter "C" after the 2018 version date. Significantly, the automatic computation of tax due has been disabled and the taxpayer itself should indicate the applicable tax rate based on the matrix below:

Transitory Rates		
Annual Accounting Period	Regular Corporate Income Tax (RCIT) Rates	Other Domestic Corporations Qualified for the 25% RCIT Rate
	30% / 25%	30% / 20%
FY 07/31/2020	29.58	29.16
FY 08/31/2020	29.16	28.33
FY 09/30/2020	28.75	27.50
FY 10/31/2020	28.33	26.66
FY 11/30/2020	27.91	25.83
CY 12/31/2020	27.50	25.00
FY 01/31/2021	27.08	24.16
FY 02/28/2021	26.66	23.33
FY 03/31/2021	26.25	22.50
FY 04/30/2021	25.83	21.66
FY 05/31/2021	25.41	20.83
FY 06/30/2021	25.00	20.00

Transitory Rates		
Annual Accounting Period	Minimum Corporate Income Tax Rates	Non-Profit Educational Institutions and Hospitals
	2% / 1%	10% / 1%
FY 07/31/2020	1.91	9.25
FY 08/31/2020	1.82	8.5
FY 09/30/2020	1.73	7.75
FY 10/31/2020	1.64	7.00
FY 11/30/2020	1.55	6.25
CY 12/31/2020	1.50	5.50
FY 01/31/2021	1.41	4.75
FY 02/28/2021	1.32	4.00
FY 03/31/2021	1.23	3.25
FY 04/30/2021	1.14	2.50
FY 05/31/2021	1.05	1.75
FY 06/30/2021	1.00	1.00

- Income taxes shall be paid through the following modes:
  1. Non-eFPS filers - Manual payment with Authorized Agent Banks (AABs) under the jurisdiction or, in areas with no AABs, with Revenue Collection Officers (RCOs) in the concerned Revenue District Office
  2. Non-eFPS filers - Online payment via:
    - a. GCash or PayMaya;

## Glossary

BIR – Bureau of Internal Revenue  
 eFPS – Electronic Filing and Payment System  
 RPT – Related-Party Transaction  
 RR – Revenue Regulations

- b. Land Bank of the Philippines (LBP) Link.biz Portal - for taxpayers who have ATM accounts with LBP and/or holders of BancNet ATM/Debit/Prepaid Card;
- c. Development Bank of the Philippines Pay Tax Online - for holders of Visa/Mastercard Credit Card and/or BancNet ATM/Debit Card;
- d. Union Bank Online Web and Mobile Payment Facility - for taxpayers who have accounts with Union Bank; or
- e. PESONet through LBP Link.BizPortal – for taxpayers who have accounts with RCBC, Robinsons Bank and Union Bank and Bank of the Philippine Islands.

3. eFPS filers shall pay online via eFPS facility where they should fill out and e-File BIR Form No. 0605 and then proceed to ePayment to pay and use the Tax Type Code “Income Tax” and the Alphanumeric Tax Code “MC 200 Miscellaneous Tax.”

(Revenue Memorandum Circular No. 50-2021, issued 8 April 2021)

## Need for speed

### Expediting the processing of permits and licenses during national emergencies

Republic Act No. (RA) 11517 or An Act Authorizing the President to Expedite the Processing and Issuance of National and Local Permits and Licenses and Certifications in Time of National Emergency has been enacted. It governs all agencies of the Executive Branch of Government which include the BIR.

During times of emergency, RA No. 11517 authorizes the President to:

1. accelerate and streamline regulatory processes for new and pending applications and renewals of permits, licenses, clearances, certifications or authorizations;
2. suspend or waive the requirements for securing permits, licenses, clearances, certifications or authorizations; and
3. prescribe to be permanent the streamlined regulatory processes and procedures, and the suspension or waiver of the requirements.

However, the above authority cannot be used to undermine existing procedures and processes meant to protect the environment. In this regard, the President

may suspend or remove any government official or employee performing acts contrary to this prohibition.

(Revenue Memorandum Circular No. 49-2021, issued 8 April 2021)

## Tentative AITRs

### Reiterating the 15 April 2021 deadline of 2020 AITRs and other reminders

The Commissioner of Internal Revenue clarified that the 15 April 2021 deadline for filing AITR for taxable year ending 31 December 2020 was not extended.

However, if a 2020 AITR that was filed on or before 15 April 2020 was subsequently amended on or before 15 May 2021, any deficiency income tax due will not be subject to penalties. On the other hand, if the amendment resulted in an income tax overpayment, such overpayment can be carried over to the succeeding period as an income tax credit.

Pursuant to the Electronic Commerce Act of 2000, an electronic signature shall be deemed an equivalent of a wet signature which may be affixed to AITRs. Moreover, the eAFS facility remains an available option for submitting the hard copies of the electronically filed AITRs and attachments under Revenue Memorandum Circular No. 49-2020.

(Revenue Memorandum Circular No. 46-2021, issued 6 April 2021)

## Out-of-district

### Where to file returns and pay taxes falling due from 22 March to 30 April

In order to provide relief, taxpayers are allowed to file their tax returns and pay taxes falling due within the period 22 March to 30 April with any Revenue District Office.

Nevertheless, those who are not required to use the Electronic Filing and Payment System (eFPS) and Electronic Bureau of Internal Revenue Forms (eBIRForms) are encouraged to file returns through the eBIRForms facility and pay taxes via any ePayment channels.

(Revenue Memorandum Circular No. 41-2021, issued 29 March 2021)

## Glossary

AITR – Annual Income Tax Returns

BIR – Bureau of Internal Revenue

## Walking deadlines

Extending statutory due dates for filing position papers, protests and other letters

Considering the Enhanced Community Quarantine (ECQ) imposed in NCR Plus which includes Metro Manila, Laguna, Cavite, Bulacan and Rizal, the filing deadlines for letters and documents which fall on 5 April 2021 and during the ECQ period have been extended as follows:

Correspondence	Extended Deadline Counted from Lifting of the ECQ
Position paper and supporting documents in response to Notice of Discrepancy	30 days
Reply and supporting documents in response to Preliminary Assessment Notice	15 days
Protest letter in response to Final Assessment Notice / Formal Letter of Demand	30 days
Transmittal letter and supporting documents in relation to request for reinvestigation	30 days
Request for reconsideration to the Commissioner of Internal Revenue on Final Decision on Disputed Assessment	30 days
Submission of documents in response to subpoena duces tecum	15 days
Submission of documents in response to First, Second or Final Notice	10 days
Other similar letters and correspondences	30 days
Filing of VAT refund with VCAD falling due on 12 April 2021	30 days

The extensions apply not only to taxpayers registered with Revenue District Offices within NCR Plus but also those registered outside NCR Plus who have transactions with any BIR office within NCR Plus.

(Revenue Memorandum Circular No. 45-2021, issued 5 April 2021)

### Glossary

BIR – Bureau of Internal Revenue

ITR – Income Tax Return

NCR – National Capital Region

RPT – Related-Party Transaction

VAT – Value-added Tax

VCAD – VAT Credit Audit Division

## RPT Forms

Guidelines for submitting BIR Form No. 1709 through the eAFS System

Concerned taxpayers may file their BIR Form No. 1709 (RPT Form) either manually with the Large Taxpayers (LT) Division or Revenue District Office (RDO) where they are registered or electronically through the Electronic Audited Financial Statements (eAFS) System.

The following guidelines should be observed:

- Manual taxpayers who will submit RPT Forms manually must file the same together with the Annual Income Tax Returns (AITRs) and other required attachments within 15 days from the filing deadline of the AITR or from the date of electronic filing of the AITR, whichever comes later.
- Electronic filers who submit RPT Forms manually must file hard copies thereof with the concerned LT Division/RDO within 15 days from the filing deadline of the AITR or from the date of electronic filing of the AITR, whichever comes later.
- For manual and electronic filers who opt to submit electronically through the eAFS System, the email confirmation with a system-generated Transaction Reference Number shall serve as proof of submission. Submission should be made within 15 days from the filing deadline of the AITR or from the date of electronic filing of the AITR, whichever comes later.

(Revenue Memorandum Circular No. 44-2021, issued 31 March 2021)

## Resuming upload

Revised guidelines regarding the use of the eAFS System

The Commissioner of Internal Revenue amended Revenue Memorandum Circular Nos. 82-2020 and 49-2020 regarding the guidelines on the use of the Electronic Audited Financial Statements (eAFS) System.

When submitting the attachments to the income tax return (ITR), the following file naming conventions should be observed:

File 1 – ITR: EAFS[TIN]ITRTYMMYYYY

File 2 – Audited financial statements:  
EAFS[TIN]AFSTYMMYYYY

File 3 – BIR Form No. 1709: EAFS[TIN]RPTTYMMYYYY

File 4 – Tax credits: EAFS[TIN]TCRTYMMYYYY-01

File 5 – Other attachments: EAFS[TIN]OTHTYMMYYYY

The following documents should be scanned and classified under the corresponding file naming conventions:

Document group and file name	Manually filed	Electronically filed
File 1 EAFS[TIN]ITRTY MMYYYY	ITR Proof of payment	ITR FRN / Email confirmation Proof of payment / Acknowledgment receipt
File 2 EAFS[TIN]AFSTY MMYY	AFS composed of the following: Certificate of Independent CPA, if applicable Account Information Form and Financial Statements Statement of Management's Responsibility for ITR	
File 3 EAFS[TIN]RPTTY MMYY	BIR Form No. 1709	
File 4 EAFS[TIN]TCRTY MMYY-01	BIR Form No. 2307 BIR Form No. 2306 BIR Form No. 2316 BIR Form No. 1606	
In case of additional file:	Proof of foreign tax credits, if applicable	
File 4 EAFS[TIN]TCRTY MMYY-02	Proof of other tax credits, if applicable	
File 5 EAFS[TIN]OTHTY MMYYYY	BIR Form No. 2304 Tax debit memo, if applicable Proof of prior year's excess credits, if applicable For amended ITR, proof of tax payment and previous ITR Electronically submitted SAWT, if applicable Proof of other tax payments / credit, if applicable Others	

(Revenue Memorandum Circular No. 43-2021, dated 31 March 2021)

## Glossary

AFS – Audited Financial Statements

BIR – Bureau of Internal Revenue

CPA – Certified Public Accountant

VAT – Value-added Tax

## Tolling prescription

Suspending the running of the statute of limitations during the ECQ

In light of the declaration of an Enhanced Community Quarantine (ECQ) in Metro Manila, Bulacan, Cavite, Laguna and Rizal (NCR Plus) from 29 March 2021 to 11 April 2021, the running of the statute of limitations for the assessment and collection of taxes is suspended in NCR Plus and for 60 days after its lifting. The suspension covers the issuance and service of assessment notices and warrants of distress, levy or garnishment, and the enforcement of tax collections.

The suspension also applies to other jurisdictions outside NCR Plus that were placed under ECQ.

(Revenue Memorandum Circular No. 52-2021, issued 14 April 2021)

## New deadline

Extension of VAT refund applications under Section 112 of the Tax Code

Considering the closure of the VAT Credit Audit Division (VCAD) until 28 March 2021, VAT refund claims wherein the two-year period for filing such claims falls on 31 March 2021 can be filed on or before 12 April 2021.

Furthermore, the 90-day processing period for all VAT refund claims pending with the VCAD during the temporary closure is suspended pursuant to Revenue Regulations No. 27-2020.

(Revenue Memorandum Circular No. 39-2021, issued 22 March 2021)

## Final changes

Implementing the creditable nature of withholding VAT on sales to government

Section 114 of the Tax Code, as amended by Section 37 of the TRAIN Law, provides that starting 1 January 2021, the VAT withheld by Government or any of its political subdivisions, instrumentalities or agencies, including government-owned and -controlled corporations (GOCCs) shall already be creditable in nature.

In this regard, the following changes and guidelines should be noted:

1. In accomplishing BIR Form No. 2550M and BIR Form No. 2550Q, the income recipient should observe the following:

- a. These should not be filled out:
  - i. Line 20B and Schedule 4 of BIR Form No. 2550M
  - ii. Line 23B and Schedule 4 of BIR Form No. 2550Q
- b. The creditable VAT withheld and its details should be reflected on:
  - i. Line 23C and Schedule 8 of BIR Form No. 2550M
  - ii. Line 26D and Schedule 8 of BIR Form No. 2550Q

2. Government instrumentalities or agencies and GOCCs required to withhold the creditable VAT should use BIR Form No. 1600-VT. However, eFPS taxpayers should still use BIR Form No. 1600 due to the unavailability of BIR Form No. 1600-VT in the eFPS.

3. Government instrumentalities or agencies and GOCCs should issue BIR Form No. 2307 using the Alphanumeric Tax Codes WV010 for purchase of goods and WV020 for purchase of services. Accordingly, BIR Form No. 2306 should no longer be issued.

In case the creditable VAT in BIR Form No. 2307 is erroneously claimed as a tax credit in the income tax return (ITR), said credit will not only be disallowed in the ITR but will also be forfeited in favor of the Government.

(Revenue Memorandum Circular No. 36-2021, issued 5 March 2021)

## Change in forms

### Revision of BIR Form Nos. 1601-FQ, 2200-A and 2200-T

The Bureau of Internal Revenue revised BIR Form No. 1601-FQ (Quarterly Remittance Return of Final Income Taxes Withheld) to include the countries of Mexico, Qatar, Sri Lanka and Turkey having recently concluded tax treaties with the Philippines. It also revised BIR Form Nos. 2200-A (Excise Tax Return for Alcohol Products) and 2200-T (Excise Tax Return for Tobacco, Heated Tobacco and Vapor Products)

#### Glossary

BIR – Bureau of Internal Revenue

RDO – Revenue District Office

VAT – Value-added Tax

The revised manual returns are already available in [www.bir.gov.ph](http://www.bir.gov.ph). However, they are not yet available in the Electronic Filing and Payment System (eFPS) and in the Electronic BIR Forms (eBIRForms). Accordingly, for BIR Form No. 1601-FQ, eFPS filers should use the 2018 version of BIR Form No. 1601-FQ while eBIRForms filers should use the manual return.

On the other hand, for BIR Form Nos. 2200-A and 2200-T, eFPS filers should continue using the current eFPS versions while eBIRForms filers shall use the version in eBIRForms Package v.7.8.

Manual filers should download the Portable Document Format (PDF) version and pay taxes through any of the following:

1. Manual payment
  - a. Authorized agent bank (AAB) of the Large Taxpayers Service or concerned Revenue District Office; or
  - b. If there are no AABs, Revenue Collection Officer of the concerned RDO;
2. Online payment
  - a. Mobile payment (GCash/PayMaya);
  - b. Land Bank of the Philippines (LBP) Link.biz Portal (for taxpayers who have ATM accounts with LBP and/or holders of BancNet ATM/Debit/Prepaid Card);
  - c. Development Bank of the Philippines Pay Tax Online (for holders of Visa/Mastercard Credit Card and/or BancNet ATM/Debit Card);
  - d. Union Bank Online Web and Mobile Payment Facility (for taxpayers who have accounts with Union Bank of the Philippines); or
  - e. PesoNet through LBP Link.Biz Portal (for taxpayers who have accounts with RCBC and Robinsons Bank).

(Revenue Memorandum Circular Nos. 35-2021 and 34-2021, issued 3 March 2021)

## Updated eBIRForms

### Availability of Offline eBIRForms Package Version 7.8

Offline eBIRForms Package Version 7.8 is already available and may be downloaded from [www.bir.gov.ph](http://www.bir.gov.ph) or [www.knowyourtaxes.ph](http://www.knowyourtaxes.ph). This package includes the January 2018 version of the following:

1. BIR Form No. 1800 – Donor's Tax Return
2. BIR Form No. 1801 – Estate Tax Return
3. BIR Form No. 2000-OT – DST Declaration/Return (One-Time Transaction)

(Revenue Memorandum Circular No. 33-2021, issued 3 March 2021)

## Signature campaign

### Allowing the use of electronic signatures on withholding tax certificates

Withholding agents or their duly authorized representatives can use Electronic Signatures (e-Signatures) when issuing the following BIR forms/certificates:

1. BIR Form No. 2304 (Certificate of Income Payment Not Subject to Withholding Tax)
2. BIR Form No. 2306 (Certificate of Final Tax Withheld at Source)
3. BIR Form No. 2307 (Certificate of Creditable Tax Withheld at Source)
4. BIR Form No. 2316 (Certificate of Compensation Payment/Tax Withheld)

Here are the policies and guidelines to be observed:

- BIR approval is no longer necessary for using an e-Signature.
- The BIR form/certificate used should be the exact copy of the latest version officially printed by the BIR.
- The e-Signature is the functional equivalent of the manual signature.
- The e-Signature gives rise to the following presumptions:
  - a. the e-Signature is that of the person to whom it correlates;
  - b. the e-Signature was affixed by that person with the intention of authenticating or approving the electronic document to which it is related or to indicate such person's consent to the transaction embodied therein; and

## Glossary

BIR – Bureau of Internal Revenue

CIR – Commissioner of Internal Revenue

DST – Documentary Stamp Tax

- c. the methods or processes utilized to affix or verify the e-Signature operated without error or fault.
- In case of falsity or misrepresentations in the BIR form/certificate, those responsible shall be held criminally, civilly and administratively liable.
- The withholding agent shall ensure that the form/certificate with e-Signature is issued only once. In case of re-issuance or request for another copy after giving the original, the re-issued form/certificate should contain a "RE-PRINT" watermark in Cambria font and 44 font size.

(Revenue Memorandum Circular No. 29-2021, issued 26 February 2021)

## Confirm or deny

### Filing of requests for confirmation and tax treaty relief applications

Following its interpretation of the Supreme Court decision in the case of Deutsche Bank AG Manila Branch vs. CIR (G.R. No. 188550), the Bureau of Internal Revenue issued the following guidelines and procedures in the availment of tax treaty benefits:

- The withholding agent or income payor may rely on the submitted BIR Form No. 0910, the Tax Residency Certificate duly issued by the foreign tax authority and the relevant tax treaty provision when applying a reduced withholding tax (WT) rate or WT exemption.
- After tax treaty WT rates are applied and remitted to the BIR, the withholding agent is required to file with the International Tax Affairs Division (ITAD) a request for confirmation on or before the last day of the fourth month following the close of the taxable year. If the request is denied, the withholding agent shall pay deficiency taxes plus penalties.
- If regular WT rates were applied, the nonresident income payee may file a Tax Treaty Relief Application (TTRA) with the ITAD any time upon receipt of income.
- One request for confirmation or TTRA shall be filed for each transaction except for long-term contracts.
- New TTAs shall be processed within four months from submission of complete documents or as soon as practicable.

- The original or certified true copy of the following shall be submitted to the ITAD:
  1. Letter-request;
  2. Application form duly signed by the nonresident income recipient or its authorized representative;
  3. Tax Residency Certificate for the relevant period;
  4. Bank documents evidencing payment of income;
  5. Withholding tax return with alphabetical list of payees;
  6. Proof of payment of withholding tax; and
  7. Notarized Special Power of Attorney issued by the nonresident income recipient to its authorized representative.

In addition to the above requirements, Revenue Memorandum Order (RMO) No. 14-2021 also provides additional requirements specific to the type of income, e.g., business profits, dividends, branch profit remittances, interest, royalties and capital gains.

- All documents executed in a foreign country must either be authenticated or apostilled, whichever is applicable.
- When granting requests for confirmation, the BIR shall issue a certification signed by the Assistant Commissioner, Legal Service. In case of denial, a BIR Ruling will be issued which shall contain the factual and legal basis for the denial.
- All adverse rulings are appealable to the Department of Finance within 30 days from receipt thereof.
- Taxpayers with pending TTRAs for income earned in 2020 and prior years, including those with Notices of Archiving, are given three months from receipt of a Final Notice to Submit Additional Documents or from effectivity of RMO No. 14-2021, whichever comes later, to submit the lacking documents. Failure to submit would result in the denial of the TTRA.
- A nonresident income recipient who was originally subjected to the regular WT rate may file a claim for refund if it believes it is entitled to the tax treaty rate.

## Glossary

**BIR** – Bureau of Internal Revenue

**TCC** – Tax Credit Certificate

**TTRA** – Tax Treaty Relief Application

**VAT** – Value-added Tax

Such claim may be filed independently or simultaneously with the TTRA.

- In processing requests for confirmation and TTRAs, the BIR may determine if the transaction is also subject to other taxes.
- For dividends, interest and royalties, the submission of Certificate of Residence for Tax Treaty Relief (CORTT) Forms shall be discontinued.

(Revenue Memorandum Order No. 14-2021, issued 31 March 2021)

## Designated tasks

### Defining the functions of the respective BIR Deputy Commissioners

The Commissioner of Internal Revenue (CIR) has defined the functions of the different Deputy Commissioners pursuant to the Rationalization Plan under Executive Order No. 366. The respective functions include the following:

1. Deputy Commissioner for Operations Group
  - Assists the CIR in the formulation and establishment of tax administration policies, work programs and standards of operations for the enforcement and administration of Tax Code provisions;
  - Exercises functional jurisdiction over all National and Regional offices involved in assessment, collection and taxpayer/client support functions;
  - Reviews, approves and signs reports & documents relating to the utilization of TCCs thru the issuance of Tax Debit Memos, Revalidated TCCs and Memoranda of Approval for TCC Cash Conversions; and
  - Reviews, approves and signs reports and documents relating to the grant of tax credit/refund evaluated by the Assessment Service thru the Tax Audit Review Division and VAT Credit Audit Division.
2. Deputy Commissioner for Legal Group
  - Assists the CIR in the interpretation of revenue laws, preparation of implementing regulations/issuances, decisions on administrative protests and refund claims, litigation and prosecution, tax treaties, international tax and other legal matters, and preliminary/fact finding investigation and prosecution;

- Reviews for the CIR's approval, all decisions, rulings and opinions on legal questions which are of first impression; and
- Acts on protest and/or appeals of taxpayers relative to tax assessments involving questions of law and/or fact on cases falling under its jurisdiction.

3. Deputy Commissioner for Information Systems Group

- Assists the CIR in the formulation of strategies, policies and programs relative to BIR Information and Communication Technology (ICT) Systems and in the supervision and control over all the staff services under the Information Systems Group including the Revenue Data Centers;
- Acts as the principal adviser to the CIR on the management and operation of all BIR Information Systems resources; and
- Provides technical support for all technology-enabled projects and programs of the BIR.

4. Deputy Commissioner for Resource Management Group

- Assists the CIR in the formulation of programs and standards concerning personnel administration, budgeting and accounting of disbursements, procurement, accountable forms, records and property management, building and facilities maintenance and other general services;
- Takes charge of the BIR's personnel administration, training, budgeting, accounting, property and records management, printing and reproduction, procurement, facilities management, logistical support and accountable forms;

(Revenue Administrative Order No. 1-2021, issued 1 March 2021)

## Bank days

### Acceptance of tax returns and payments and extension of banking hours

All Authorized Agent Banks are advised to open on 27 March 2021 and 10 April 2021 and to extend banking hours up to 5:00PM from 1 April to 15 April 2021 for purposes of accepting tax payments.

(Bank Bulletin No. 2-2021, issued 9 February 2021)

## Revised returns

### Bank acceptance of BIR Form Nos. 1600-VT and 1600-PT

In light of the availability of the following revised forms, all Authorized Agent Banks (AABs) are advised to accept the same and follow the procedures in Bank Bulletin No. 01-2018 for the updating of the BIR Form in the Forms Code under the Limited Bank Data Entry System or AAB payment system authorized by the BIR:

1. BIR Form No. 1600-VT (Monthly Remittance Return of Value-Added Tax Withheld); and
2. BIR Form No. 1600-PT (Monthly Remittance Return of Other Percentage Taxes Withheld).

(Bank Bulletin No. 6-2021, issued 22 March 2021)

## Payment plan

### Acceptance of over-the-counter filings/tax payments and check tax payments

During the Enhanced Community Quarantine, all Authorized Agent Banks (AABs) are advised to:

1. Accept over-the-counter filing and payment of returns by Electronic Filing and Payment System (eFPS) filers, with or without the printed copy of the pop-up message screenshot as proof of unsuccessful eFiling; and
2. Accept check payments from any taxpayer even without the name of the receiving AAB branch indicated in the check, provided that all such check payments shall be made payable to the Bureau of Internal Revenue.

(Bank Bulletin No. 4-2021, issued 2 March 2021)

## 2020 ITR

### Policies in the acceptance of annual income tax returns for 2020

Authorized Agent Banks are reminded of the following responsibilities, among others, in the acceptance of annual income tax returns (AITRs) and payments for calendar year 2020:

### Glossary

BIR – Bureau of Internal Revenue

CIR – Commissioner on Internal Revenue

1. To accept tax payments from taxpayers who use the following:
  - a. Bureau of Internal Revenue official printed forms, copies of system-generated Filing Reference Numbers;
  - b. Photocopies of returns/computer-generated or electronically filed tax returns;
  - c. New versions of BIR Form Nos. 1700, 1701, 1701A, 1702-RT, 1702-EX and 1702-MX; and
  - d. Downloaded AITRs originally filled out and signed by the taxpayer or his duly authorized representative as per Bank Bulletin No. 05-2018;
2. To receive the AITRs by stamping the official receiving seal on the space provided for in the three copies of the ITR;
3. To stamp "RECEIVED" on the attached financial statements but only on the page of the Audit Certificate, the Balance Sheet and the Income Statement;
4. To ensure that the pertinent portions of the ITRs and/or deposit slips are machine-validated and the details of tax payments are clearly imprinted in all copies thereof;
5. To accept payments made through checks and/or combination of cash and check/s in the payment for single tax liability, provided that the said checks are prepared in accordance with the provisions of Revenue Regulations No. 16-2002;
6. To comply with the following obligations:
  - a. To accept all tax payments during regular banking hours and to extend banking hours during tax deadlines;
  - b. To open bank operations two Saturdays immediately prior to April 15 of every year and extension of banking hours from 3:00PM to 5:00PM from April 1 to the income tax deadline;
  - c. To accept check payments even after check clearing time especially during tax deadlines;
  - d. To accept tax payments even after the prescribed due date;

## Glossary

BIR – Bureau of Internal Revenue

ITR – Income Tax Return

- e. To accept other banks' checks;
- f. To accept check/payments even from non-clients;
- g. To accept downloaded and photocopied tax returns but originally filled-up and signed by the taxpayer;
- h. To not impose any other additional fees on top of the tax payments;
- i. To not set-up limits as to the number of tax forms/returns and taxpayers to be serviced;
- j. To not designate any hour/day for the acceptance of tax payments during the regular and/or extended banking hours; and
- k. To not require the opening of deposit/accounts as a pre-requisite in accepting tax payments;

7. To accept tax payments from taxpayers who are already within the bank premises by the close of the said extended banking hours;
8. To accept manually filed and out-of-district returns, and corresponding tax payments from taxpayers enrolled in the eFPS in case of unavailability of the eFPS facility as announced by the BIR through an advisory posted in the BIR website; and
9. Not to impose penalties for any violations committed by the taxpayers in their tax filings and payments.

(Bank Bulletin No. 1-2021, issued 9 February 2021)

# Latest on regulatory landscape

## Automotive news

### Motor vehicle importations exempt from provisional safeguard duties

In compliance with the IRR of Republic Act No. 8800 and the WTO Agreement on Safeguards, Customs Memorandum Order No. 06-2021 has been amended to exclude from safeguard measures the importations of motor vehicles originating from developing countries with *de minimis* volume under:

1. AHTN Code 8703 (Passenger Cars); and
2. AHTN Codes 8704.21.19 and 8704.21.29 (Light Commercial Vehicles).

The relevant List of Developing Countries and Separate Customs Territories can be found in Annexes A and B of Department Administrative Order No. 01-2021

(Customs Memorandum Order No. 14-2021, dated 17 March 2021)

## Food guide

### Implementation of the Food Safety Act of 2013 in relation to imported foods

The Commissioner of Customs directed the strict implementation of the following provisions of Customs Memorandum Circular No. 15-2021 in relation to the Implementing Rules and Regulations of the Food Safety Act of 2013:

- Imported foods shall undergo cargo inspection and clearance procedures by the Department of Agriculture (DA) and the Department of Health (DOH) at the port of first entry. This inspection shall always take place prior to the assessment for tariff and other charges by the BOC. The BOC and the Association of International Shipping Lines shall provide the DA and the DOH documents such as the Inward Foreign Manifest of Arriving Vessels.

## Glossary

AHTN – ASEAN Harmonized Tariff Nomenclature

IRR – Implementing Rules and Regulations

SEC – Securities and Exchange Commission

WTO – World Trade Organization

- Exported foods shall always comply with national regulations and regulations of the importing country. Returned shipments shall undergo border inspection clearance.

(Customs Memorandum Circular No. 47-2021, approved 22 February 2021)

## Minority protection

### Right of minority stockholders to call for a Special Stockholders' Meeting

In order to promote good corporate governance and to protect minority investors of a Publicly Listed Company (PLC), the Securities and Exchange Commission issued the following rules:

1. Any number of shareholders (Qualifying Shareholders) holding at least 10% or more of the outstanding capital stock (Qualifying Shares) of a PLC shall have the right to call for a Special Stockholders' Meeting which may be done physically or through allowable means of remote communication.
2. The Qualifying Shareholders should have continuously held the Qualifying Shares for at least one year prior to receipt by the Corporate Secretary of a written Call for a Special Stockholders' Meeting (Call).
3. The Call shall be in writing, signed by all Qualifying Shareholders, addressed to the Board of Directors (BOD) and transmitted through the Corporate Secretary at least 45 days prior to the proposed date of the meeting. The written Call must set forth the:
  - a. Names of the Qualifying Shareholders and their respective percentage of shareholdings, which must constitute at least 10% of the outstanding capital stock;
  - b. Purpose of the Call;
  - c. Proposed date and time; and
  - d. Proposed agenda of items to be discussed.
4. The BOD shall determine if the objectives and conditions for the Call are consistent with the requirements of SEC Memorandum Circular No. 7-2021.

5. If the BOD fails to respond to the Call within 20 days from receipt of the request, the Qualifying Shareholders may avail of the remedy provided in Section 49, paragraph 7 of the Revised Corporation Code (RCC).
6. Any officer or agent of the PLC who shall refuse to allow a Qualifying Shareholder to exercise his/her right to call a meeting shall be liable under Section 158 of the RCC.

(SEC Memorandum Circular No. 7-2021, dated 23 April 2021)

## Covered persons

### Amending the 2018 AML/CFT and MTTP Submission and Monitoring Guidelines

Section 1.2 of the Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Guidelines was amended to include Financing Companies and Lending Companies in the term “covered persons” who are regulated by the SEC under the SRC, The Investment Houses Law, the Investment Company Act, the Financing Company Act of 1998, the Lending Company Regulation Act of 2007, other laws and regulations implemented by the SEC, and the AMLA.

Hence, all financing companies and lending companies subject to SEC supervision must observe the following:

- They must now comply with Rule 4, Section 2 of the 2018 IRR of the Anti-Money Laundering Act (AMLA) and register with the Anti-Money Laundering Council (AMLC) online reporting system. Those who are not yet registered with the AMLC have two months from the effective date of SEC Memorandum Circular No. 4-2021 to submit proof of registration to the Anti-Money Laundering Division of the Enforcement and Investor Protection Department (AMLD-EIPD).
- They shall formulate and implement a comprehensive and risk-based Money Laundering and Terrorist Financing Prevention Program (MTTP) that is compliant with the AMLA and the TFPSCA. The MTTPs shall be submitted to the AMLD-EIPD within two months from the effectiveness of SEC MC No. 4-2021.
- They shall be subject to AML/CFT supervision of the SEC and shall adopt and implement a risk-based approach to AML/CFT.

(SEC Memorandum Circular No. 4-2021, dated 30 March 2021)

## Exempt securities

### Amendments to Securities Regulation Code Rules 9 and 10

On 20 April 2021, the SEC approved the proposed amendments to the following Rules of the Securities Regulation Code:

- Rule 9.1 – Exempt Securities
- Rule 9.2 – Other Exempt Securities
- Rule 10.1.3 – Offer or Sale of Securities to Qualified Buyers under Section 10.1(1) of the Code (Rule 10.1 Exempt Transactions)

(SEC Memorandum Circular No. 6-2021, dated 22 April 2021)

## Annual Reports

### Extending the deadline for submitting 2020 Annual Reports

In light of the imposition of an Enhanced Community Quarantine from 29 March 2021 to 11 April 2021, the SEC ordered the extension of the deadline for submission of 2020 Annual Reports for calendar year ended 31 December 2020 from 15 April 2021 to 17 May 2021.

The extended deadline is without prejudice to the schedule on the filing of Audited Financial Statements as may be required by the Bureau of Internal Revenue (BIR). Hence, should the BIR move its own deadline to a date later than 17 May 2021, the 2020 Annual Report deadline shall automatically be further extended to conform.

(SEC Memorandum Circular No. 5-2021, dated 8 April 2021 and PSE Memorandum CN No. 2021-27, dated 13 April 2021)

## Glossary

IRR – Implementing Rules and Regulations

SEC – Securities and Exchange Commission

SRC – Securities Regulation Code

TFPSA – Terrorism Financing Prevention and Suppression Act of 2012

# Annual SEC filings

## Filing of financial statements, general information sheet and other reports via the OST

The SEC issued guidelines for the 2021 filing of the following:

1. Audited Financial Statements (AFS)
2. General Information Sheet (GIS)
3. Sworn Statement for Foundation (SSF)
4. General Form for Financial Statements (GFFS)
5. Special Form for Financial Statements (SFFS)
6. Affidavit of Non-Operation (ANO)
7. Affidavit of Non-Holding of Annual Meeting (ANHAM)

Here are the guidelines:

- Submissions must be accomplished online using the Online Submission Tool (OST). Hence, submissions via electronic mail, mail, courier and chute box shall not be allowed or accepted.
- The submission of the GFFS and SFFS in diskette or compact disc is no longer required.
- All corporations must enroll in the OST in order to access and submit reports through the OST. The enrolment process started on 15 March 2021.
- OST enrollment procedure and requirements
  - a. Fill out the application form online through <https://cifss-ost.sec.gov.ph/>;
  - b. Attach the following documents:
    - i. Board resolution, as embodied in a Secretary's Certificate, authorizing the representative to file reports on behalf of the corporation, and
    - ii. MC28 Report under SEC Memorandum Circular No. 28-2020 or the Requirement for Corporations, Associations and Individuals to Create and/or Designate E-mail Account Address and Cellphone Number for Transactions with the Commission and/or GIS version 2020 or Notification Update Form for Foreign Corporations;
  - c. Upload the application form and attachments;

- d. Await email approval and access key (User ID and Password) to file reports through the OST; and
- e. The issued access key shall be used by the filer to access the OST and file reports.

- The OST will prompt the filer whether the report to be filed should be in Portable Document Format (PDF), Microsoft Excel format or other formats.

<b>GIS</b>	Accomplished unsigned form – Multi-Page PDF with Text Layer Document with Signatories and Notarization Pages – Multi-Page PDF High Resolution Scan (at least 100x100 dpi)
<b>AFS</b>	Document with Signatories and Notarization Pages – Multi-Page PDF High Resolution Scan (at least 100x100 dpi)
<b>SSF</b>	Document with Signatories and Notarization Pages – Multi-Page PDF High Resolution Scan (at least 100x100 dpi)
<b>GFFS</b>	MS Excel
<b>SFFS</b>	
<b>ANO</b>	
<b>ANHAM</b>	PDF

- Filers will receive an automatic reply for the initial acceptance of the submitted reports. If said reports pass quality assurance, a Quick Response (QR) Code will be issued.
- In case filers cannot enroll and submit through OST, SEC Kiosks shall be provided in SEC offices and other areas. SEC Kiosks will be available for nine months from 15 March 2021 to 15 December 2021.
- Filers who have successfully created an OST account should submit their reports online. However, the SEC Main Office, all SEC Extension Offices and Satellite Offices may accept reports filed over the counter if filers present the Notice from the OST that problems have been encountered during the enrollment process.
- For the initial implementation of the OST, stock corporations must enroll starting 15 March 2021 to 15 December 2021. Non-stock corporations have the option to submit either through the OST or by proceeding to SEC Kiosks.
- By 2022, all stock and non-stock corporations are required to enroll and submit reports through the OST.

## Glossary

SEC – Securities and Exchange Commission

- The OST shall be open twenty-four hours. However, submissions shall only be accepted from Mondays to Fridays.
- The reckoning date of receipt is the date that the report was initially submitted to the OST, provided, that the report is compliant with existing requirements. Hence, a reverted or rejected report will be considered not filed or received.

(SEC Memorandum Circular No. 3-2021, published 13 March 2021)

## ESPARC flying

### Implementing a new electronic system for registering corporations

The SEC will be implementing a new company registration system called the Electronic Simplified Processing of Application for Registration of Company (ESPARC).

Starting 19 April 2021, new applications for registration of One Person Corporations, Corporations with two to four Incorporators and Regular Domestic and Foreign-Owned Corporations must be submitted using the ESPARC. Applications for registration of partnerships and foreign corporations will continue to be accepted and processed under the Company Registration System (CRS).

Applications submitted in the CRS prior to 19 April 2021 will still be processed in the CRS unless the applicant is notified to resubmit using the ESPARC.

(SEC Notice, dated 5 April 2021)

## Limited independence

### Non-extension of term limitation for independent directors

The term limitation for independent directors is one of the institutionalized control measures that highlight accountabilities, strengthen checks and balances and protect the interest of customers and depositors.

In this regard, Section 132/132-Q of the Manual of Regulations for Banks/Manual of Regulations for Non-Bank Financial Institutions provides that an independent director of a BSP-Supervised Financial Institution (BSFI) may only serve as such for a maximum cumulative term of nine years. Thereafter, the independent director shall be perpetually barred from serving as such in the same BSFI although it may continue to serve as its regular director. The nine-year term shall be reckoned from 2012.

Accordingly, all BSFIs are hereby advised that the Bangko Sentral ng Pilipinas shall not approve requests for exemption from the term limit for independent directors.

(BSP Memorandum No. M-2021-25, dated 23 April 2021)

## Airing it out

### Guidelines on workplace and public transport ventilation

The Department of Labor and Employment (DOLE) issued the following guidelines to improve and maintain the quality of ventilation of workplaces and public transport for purposes of preventing and controlling the spread of the COVID-19 virus:

- The guidelines cover all commercial and industrial establishments, projects, sites and all other places where work is indoors. Healthcare facilities requiring special considerations are not covered.
- Non-airconditioned spaces
  - a. Maximize natural ventilation using doors, windows and other openings;
  - b. Ensure that natural air brought inside is free from contaminants;
  - c. If natural ventilation is not feasible or inadequate, fans and air-conditioning shall be used;
  - d. Dilution ventilation must be done through exhaust fans to achieve an air change rate of 6 to 12 Air Change per Hour while maximizing natural ventilation;
  - e. Exhaust fans should be kept continuously turned on as much as possible;
  - f. If the use of ventilating fans is unavoidable, increase outdoor air changes by opening windows and other openings; and
  - g. Weekly cleaning of windows, other openings and ventilating fans.
- Air-conditioned spaces
  - a. For Heating, Ventilation and Air Conditioning systems, outdoor air supply should conform to

## Glossary

SEC – Securities and Exchange Commission

- the recommended breathing zone ventilation rates;
- b. Run the ventilation system for at least thirty minutes before and after spaces are occupied;
- c. In case of local air conditioning units, dilution ventilation may be done through exhaust fans and filters MERV13 of higher, or through installation of applicable high-efficiency particulate air (HEPA) filter;
- d. If ventilation is greatly re-circulated or access to outside air is not feasible, use of HEPA filtration air purifiers with adequate capacity given the room size;
- e. Keep louvers of local air conditioning units in an upward position;
- f. Frequent opening of windows, doors and other openings to supplement mechanical ventilation systems and achieve dilution; and
- g. Establish a cleaning and maintenance program for mechanical systems.

- Local Exhaust Ventilation (LEV)
  - a. The LEV System shall conform to the existing local code.
  - b. Continuous operation of LEVs when workers are present to allow additional air change in the workplace.
- Restrooms and Water Closets
  - a. Ensure that exhaust fans are functional and operational at full capacity when the building is occupied;
  - b. Close the toilet bowl seat lid before flushing; and
  - c. Do not use hand blowers or jet dryers.
- Ventilation Concerns for Public Transport
  - a. Provide natural ventilation and access to open air;
  - b. Avoid using the recirculated air option during passenger transport;
  - c. Ensure adequate ventilation by opening windows by at least three inches while in transit;
  - d. Ensure regular and proper maintenance of air conditioning unit filters;

- e. For rail and road transport, impose minimum of fifteen seconds for the opening of doors for passengers' entry and exit; and
- f. Ensure compliance with the following:
  - Wear approved face masks and face shields always;
  - Strictly follow proper and frequent disinfection;
  - Implement one-seat-apart distance for passengers;
  - Do not allow passengers to sit beside each other except if plastic barriers are installed between them;
  - Post updated COVID-19 information;
  - Avoid talking (answering phone calls or having conversations);
  - Prohibit eating and drinking; and
  - Do not allow symptomatic passengers on board.
- The employer shall be responsible for maintaining an acceptable and safe indoor air quality by conducting qualitative and quantitative assessments.
- The Occupational Safety and Health (OSH) Committee and/or safety officer of the workplace shall include in its OSH program the monitoring and evaluation on the implementation of the above guidelines.

(DOLE Department Order No. 224-2021, dated 3 March 2021)

## Employee vaccination

### Guidelines for the administration of vaccines in the workplace

The Department of Labor and Employment issued the following guidelines for establishments and employers in the private sector that administer COVID-19 vaccines in the workplace:

- An appropriate vaccination policy consistent with DOH and IATF guidelines shall be adopted as part of their Occupational Safety and Health program.

### Glossary

DOH – Department of Health

IATF – Inter-Agency Task Force

- Covered establishments and employers may procure COVID-19 vaccines, supplies and other services.
- Employees shall be encouraged to get vaccinated. However, any employee who refuses or fails to be vaccinated shall not be discriminated against in terms of tenure, promotion, training, pay and other benefits or terminated from employment.
- A “no vaccine, no work” policy is not allowed.

(Labor Advisory No. 03-2021, dated 12 March 2021)

## Travel ban

### Temporary suspension of travel into the Philippines of foreigners

Pursuant to Memorandum Circular No. 5-2021 of the IATF, the entry of foreign nationals into the Philippines is suspended from 20 March until 10 April 2021.

Notwithstanding, the Philippine Economic Zone Authority (PEZA) will continue to receive and process applications/requests for Travel Ban Exemptions for Endorsement to the Department of Foreign Affairs – Office of Consular Affairs (DFA-OCA). In this regard, the following should be submitted:

1. Company's letter-request for PEZA Endorsement duly signed by the highest responsible official, stating completely the following:
  - a. Foreign national's name, nationality and position;
  - b. Foreign national's mobile number and valid email address;
  - c. Mobile number and valid email address of the Company's authorized representative;
  - d. Name and nationality of dependents, if applicable;
  - e. Detailed justification/reason for the request for travel ban exemption; and
  - f. Length of stay in the Philippines;

The letter-request should be addressed to:

BGen. Charito B. Plaza MNSA, PhD  
 Director General  
 Philippine Economic Zone Authority  
 10<sup>th</sup> Floor, Double Dragon Center West Building  
 DD Meridian Park, Macapagal Avenue, Pasay City

and emailed to [odgcbp@peza.gov.ph](mailto:odgcbp@peza.gov.ph) with the subject “REQUEST FOR TBE ENDORSEMENT / [COMPANY NAME].”

## 2. Attachments

- a. Clear copy of foreign national's passport's Biopage;
- b. Complete and duly accomplished DFA-OCA Excel Form stating the foreign national's information details; and
- c. Proof of employment.

Within 72 hours from entry into the Philippines of the foreign nationals and their dependents, if any, the concerned PEZA-registered entities must inform the PEZA Foreign Nationals Unit of such arrivals via email to [fnu@peza.gov.ph](mailto:fnu@peza.gov.ph).

(PEZA Memorandum Circular Nos. 2021-19 and 2021-17, dated 17 and 8 March 2021)

## Listing Rules

### Disseminating the Amended Listing Rules

On 4 February 2021, the Securities and Exchange Commission (SEC) approved the amendments to the Philippine Stock Exchange (PSE) Consolidated Listing and Disclosure Rules, particularly, to Article E, Parts D (Main Board Listing) and E (SME Board Listing). Moreover, Part E-1 (SME Board Listing Under Sponsor Model) was added.

The SEC likewise approved the grant of temporary relief to companies applying for initial listing in 2021 or 2022, whether in the Main or SME Board. Said temporary relief are as follows:

1. For 2021 and 2022 IPO applications, the PSE, on a case-to-case basis, may consider the profitability of the applicant for any two fiscal years in the three most recent fiscal years, excluding the year of the negative impact of the pandemic.
2. The applicant should fully disclose in the prospectus the adverse impact of the pandemic on its operations, expected duration of the business effects, recovery measures and business prospects in the next five years.

## Glossary

IATF – Inter-Agency Task Force

IPO – Initial Public Offering

SME – Small and Medium Enterprises

3. The PSE shall determine the suitability of the applicant with due consideration to the adverse effect of the pandemic and the applicant's recovery measures.

(PSE Memorandum No. 2021-21, dated 24 March 2021)

## Broker online

### Guidelines for the online submission of 2020 Audited Financial Statements

All insurance brokers, reinsurance brokers and both insurance and reinsurance brokers must submit their Audited Financial Statements (AFS) and attachments in electronic format via upload to the IC Online Uploading Portal at

<https://onuploading.insurance.gov.ph/templates/login/>.

The following downloadable forms are attached to IC Circular Letter No.2021-23:

- a. Form A – Revised List of Requirements
- b. Form B – Attestation Certificate
- c. Form C – Premium-related accounts Schedule
- d. Form D – Revised Statement of Business Operations

Broker-regulated entities are encouraged to follow the exact format and information under Forms C and D. All files should be encrypted and follow the filename format: Requirement No.\_Name\_Year.

The submission deadline is on or before 31 May of every year unless extended. Considering the imposition of the Enhanced Community Quarantine (ECQ) and Modified ECQ in NCR Plus, the 31 May 2021 deadline was extended to 15 June 2021 with 5:00PM as the cut-off time.

The submission shall be considered official once an electronic mail is received by the Insurance Commission Examiner-in-Charge (copy furnished the Brokers and Insurance Pools Division Manager and Supervisors) from the company's authorized representative, stating that the AFS and attachments are completely uploaded.

(IC Circular Letter Nos. 2021-33 and 2021-23, dated 14 April and 30 March 2021)

## Glossary

IC – Insurance Commission

SEC – Securities and Exchange Commission

## Insurance filings

### Extension of deadlines for non-life insurance and professional reinsurance companies

In light of the imposition of the Enhanced Community Quarantine (ECQ) and Modified ECQ in NCR Plus from 29 March 2021 to 30 April 2021, the following guidelines were issued regarding the submission of regulatory documentary requirements by all non-life insurance and professional reinsurance companies:

- The online submission of documents and schedules to support the ownership of assets was extended to 30 April 2021.
- The 2020 Annual Statement, Audited Financial Statements and the required attachments shall be submitted on or before 30 April 2021. However, submissions until 30 June 2021 shall be accepted without the imposition of penalty for late submission.

(IC Circular Letter No. 2021-30 dated 13 April 2021)

## Annual Statements

### Electronic submission of 2020 Annual Statements by IC-regulated entities

The following guidelines in the submission of 2020 Annual Statements should be observed:

#### A. Pre-need companies

1. An Annual Statement (AS) showing financial condition and a separate AS of the Trust Fund for each type of plan shall be submitted in electronic copy using the prescribed template and strictly observing the exact formats, columnar headings and footnote instructions in every page of the pro-forma AS. The Investments in Trust Fund, Pre-Need Reserve and Planholders' Benefit Payable accounts should be broken down into Old (SEC) and New (IC) Basket per types of plan.
2. The AS should include (1) a scanned copy of the notarized sworn statement duly signed by the responsible officers with documentary stamp and (2) supporting documents necessary to authenticate the contents of the AS.
3. All AS and attachments shall be uploaded to the IC Online Uploading Portal at <https://onuploading.insurance.gov.ph/templates/login/> only. Uploaded documents shall be encrypted, and the checksum of each file/folder

shall be certified and uploaded to ensure data integrity.

4. The deadline for online submission is 30 April 2021 until 4:00PM. However, submissions until 31 May 2021 shall be accepted without the imposition of penalty for late submission.
5. The submission shall be considered official once an electronic mail is received by the Insurance Commission Examiner-in-Charge (copy furnished the Division Manager and Supervisors) from the company's authorized representative, stating that the AS and attachments are completely uploaded.

B. Mutual Benefit Associations (MBAs), Life Insurance Companies and Life Units of Composite Insurance Companies

1. All AS and corresponding attachments should be electronically submitted online through <https://onuploading.insurance.gov.ph/templates/login>.
2. The attachments in Annex "A" of IC Circular Letter No. 2021-19 should be arranged numerically in sub-folders according to item numbers.
3. The following general requirements should be submitted:
  - a. Soft copy of AS using the revised template in Annex "B" of IC Circular Letter No. 2021-19;
  - b. Scanned copy of notarized sworn statement with attached documentary stamp worth PHP30.00;
  - c. All text in the AS must be in Times New Roman font, size 10;
  - d. The exact format, columnar headings and footnote instructions in every page of Annex "B" of IC Circular Letter No. 2021-19 must be strictly observed; and

- e. The AS shall not be accepted if it is not in accordance with the prescribed format, it has missing information or has incomplete attachments.
4. The deadline for submission of the AS is 30 April 2021 at 3:00PM.
5. The AS submission shall be considered official once the IC Examiner-in-Charge and the Division Manager and Supervisors receive an email from the Company's authorized representative stating that the AS with attachments have been completely uploaded.
6. After the uploaded documents are reviewed and found complete, the EIC will release an email notification (with an attached Order of Payment) to proceed with payment of the filing fee and penalty, if any.
7. On the other hand, if the uploaded documents are found incomplete, the EIC will send an email notification regarding the lacking requirements.
8. The payment of the filing fee and penalty, if any, should be made within the date indicated in the Order of Payment in the manner prescribed in Section 5.1 of IC Circular Letter No. 2021-19.
9. If payment mode is via cash/check, the representative shall proceed to the Life/MBAs/Trust Division to provide a copy of the IC Cashier-issued Official Receipt.
10. If payment mode is via online deposit, the representative shall send to the EIC via email a screen-captured image of the Land Bank Transaction or Acknowledgment Receipt.
11. Submission after the deadlines shall only be allowed in the Online Uploading Portal beginning 3 May 2021 from 9:00AM to 3:00PM every working day.

(IC Circular Letter Nos. 2021-29, 2021-19 and 2021-17, dated 13 April, 18 March and 16 March 2021)

## Glossary

BIR – Bureau of Internal Revenue
BSP – Bangko Sentral ng Pilipinas
DOF – Department of Finance
EIC – Examiner-in-Charge
IC – Insurance Commission
LRA – Land Registration Authority
SEC – Securities and Exchange Commission

## FIST raised

### Implementing the Financial Institutions Strategic Transfer (FIST) Act

The Joint Approving Body, composed of the BSP, SEC, DOF, BIR and LRA, approved the Implementing Rules and Regulations (IRR) of Republic Act No. 11523 or the FIST Act which aims to ensure the resiliency of the Philippine financial industry against the COVID-19 pandemic.

The IRR provides for the following:

- If a Financial Institutions Strategic Transfer Corporation (FISTC) will acquire land, at least 60% of the outstanding capital stock should be owned by Philippine nationals as defined under the Foreign Investments Act.
- FISTCs are classified as corporations vested with public interest. Hence, they must comply with the following, among others:
  - a. Presence of independent directors in the board under Section 22 of the Revised Corporation Code (RCC);
  - b. Appointment of a compliance officer under Section 24 of the RCC; and
  - c. Submission of compensation and performance reports under Section 177 of the RCC.
- An FISTC shall be incorporated primarily to invest in or acquire NPAs of FIs.
- FISTCs established on the 25<sup>th</sup> to 36<sup>th</sup> month from the effectivity of the FIST Act cannot avail of the tax incentives unless an amendatory law extending the privileges is enacted.
- Submission of FISTC Plan by an FISTC which shall issue IUIs
- Requirements for the issuance of IUIs
- Tax treatment of IUIs:
  - a. IUIs are not considered deposit substitutes. Hence, interest or any benefit therefrom is not subject to the 20% Final Withholding Tax under the Tax Code.
  - b. Instead, they are subject to the normal income tax and other applicable taxes such as DST.
- An FISTC shall not be authorized to acquire the IUIs of another FISTC.
- The parent, subsidiaries, affiliates or stockholders, directors, officers or any related interest of the

selling FI or the parent's subsidiaries, affiliates or stockholders, directors, officers or any related interest shall not acquire or hold the IUIs of the FISTC that acquired the NPAs of the FI.

- A transferor-FI cannot acquire the IUIs of the transferee-FISTC.
- Notice and manner of transfer of assets
- Only the following are exempt from taxes and entitled to fee privileges:
  - a. Transfer of an NPL by an FI to an FISTC
  - b. Transfer of ROPA by an FI to an FISTC
  - c. Dation in payment of an NPL by a borrower to an FI
  - d. Dation in payment of an NPL by a third party, on behalf of a borrower, to an FI
  - e. Transfer of an NPL by an FI to an individual
  - f. Transfer of a ROPA by an FI to an individual
  - g. Transfer of an NPL by an FISTC to a third party
  - h. Transfer of a ROPA by an FISTC to a third party
  - i. Dation in payment of an NPL by a borrower to an FISTC or an individual
  - j. Dation in payment of an NPL by a third party, on behalf of a borrower, to an FISTC or an individual
  - k. Transfer of an NPL by an individual to a third party
  - l. Transfer of a ROPA by an individual to a third party
- The above transactions shall be exempt from the following taxes:
  - a. DST on any document evidencing the transfer or dation in payment
  - b. Capital gains tax on the transfer of land and/or buildings treated as capital assets
  - c. Creditable withholding income taxes on the transfer of land and/or buildings treated as ordinary assets. However, this shall not include exemption from income tax. The transfer by an FI or FISTC of its NPA shall continue to be subject to regular or minimum corporate income tax.
  - d. VAT on the transfer of NPAs or gross receipts tax

## Glossary

DST – Documentary Stamp Tax

FI – Financial Institution

FISTC – FIST Corporation

IUI – Investment Unit Instruments

NPA – Non-Performing Asset

NPL – Non-Performing Loan

ROPA – Real and other properties acquired

VAT – Value-added Tax

- Requirements for the application of tax exemptions and fee privileges
- Manner of claiming tax exemptions
- Additional tax exemptions:
  - a. Income tax exemption of FISTC with net interest income arising from new loans in excess of existing loans extended to a borrower with NPL acquired from an FI on or before 18 February 2023
  - b. DST exemption of any document evidencing new loans
  - c. DST exemption of any document evidencing an FISTC's capital infusion to the borrower's business with an NPL acquired from an FI on or before 18 February 2023

(IRR of Republic Act No. 11523, approved 26 March 2021)

## Open mining

### Lifting the moratorium on mineral agreements

The President lifted the moratorium on mineral agreements under Section 4 of Executive Order (EO) No. 79, series of 2012. In this regard, said Section 4 was amended to authorize (1) the Government to enter into new mineral agreements, (2) the Department of Environment and Natural Resources (DENR) to formulate the terms and conditions of new mineral agreements that will maximize government revenues and share from production, and (3) the DENR and the Department of Finance to undertake measures to rationalize revenue sharing schemes and mechanisms.

The President also ordered the DENR to strictly implement mines safety and environmental policies and the recommended measures of the Mining Industry Coordinating Council involving mining operations.

(Executive Order No. 130, dated 14 April 2021)

## Glossary

DST – Documentary Stamp Tax

FI – Financial Institution

FISTC – FIST Corporation

GOCC – Government-Owned and -Controlled Corporation

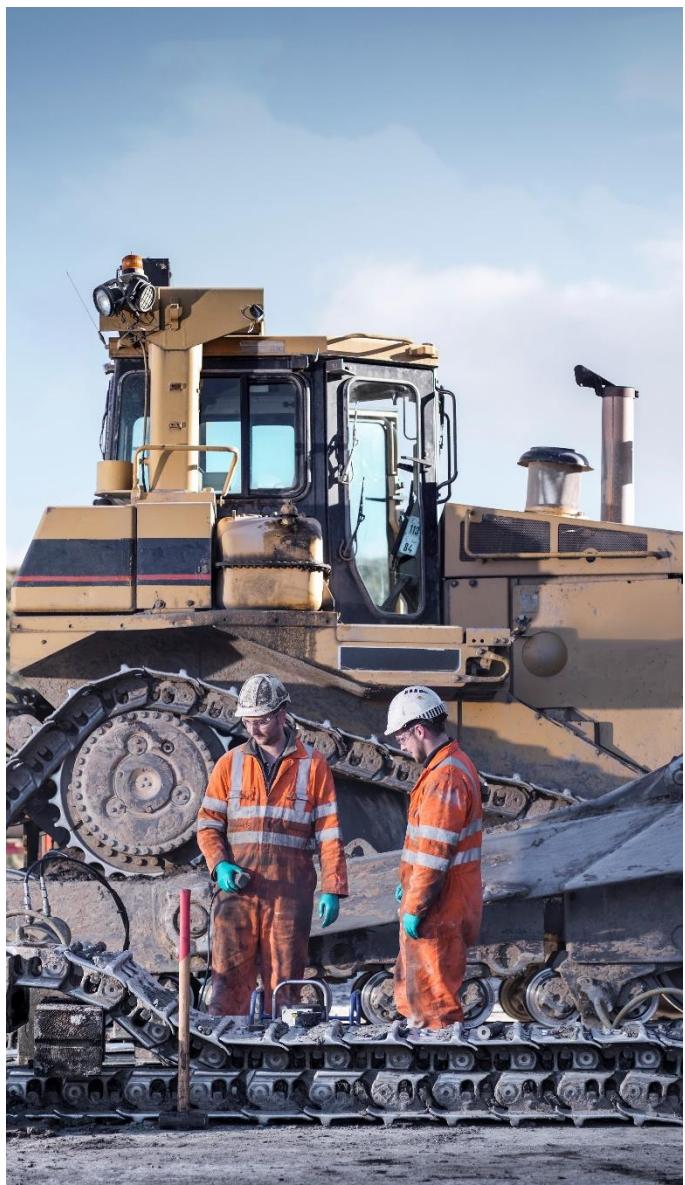
## RPT cutback

### Reduction of RPT and condonation of interest in relation to 2020 RPT of IPPs

All Real Property Tax (RPT) liabilities and special levies accruing to the Special Education Fund for calendar year 2020 assessed by local government units against independent power producers (IPPs) with respect to property, machinery, and equipment actually and directly used in the production of electricity under a Build-Operate-Transfer scheme or similar contracts with GOCCs are reduced to an amount equivalent to the tax due if computed based on an assessment level of 15% of fair market value depreciated at 2% per annum.

Any amounts previously paid by IPPs in excess of the reduced amount may be applied against future RPT liabilities. Interest on any deficiency RPT are condoned.

(Executive Order No. 126, dated 4 March 2021)



# Meet us

## PwC Philippines celebrates women in PICPA summit



PwC Philippines was a Gold Sponsor in the 2nd PICPA National and 1st Northern Mindanao Region's Women's Summit held on 10 March via Zoom.

The Philippine Institute of Certified Public Accountants (PICPA) Northern Mindanao Region (NMR) organized the whole-day event.

With the theme "Leaders in Heels: Inspiring and Empowered Women in the Digital Age", the event featured speakers such as Chair of the Senate Committee on Women, Family Relations and Gender Equality, Hon. Risa Hontiveros and certified image professional Abbygale Arenas-de Leon.



The summit was successfully held in celebration of International Women's Month. It is a focus project of PICPA's Women Member Empowerment Committee, chaired by Risk Assurance-Internal Audit Lead Partner Gett Apostol.

Shown during the event were videos that informed participants about PwC's Women in Work Index 2021 (a survey on the impact of COVID-19 on women in work) and Upskilling for shared prosperity (PwC and the World Economic Forum's call to action for employees to learn and minimize skills gaps).

## PwC Philippines welcomes its new tax partner



Alexander B. Cabrera, Chairman and Senior Partner of Isla Lipana & Co., the Philippine member firm of the global PwC network, is pleased to announce the admission of Tax Partner Brando C. Cabalsi to the partnership, with effect from 1 January 2021.

Brando has more than 18 years of experience in tax, regulatory and legal advisory on capital projects, infrastructure and public-private partnerships.

The new admission brings Isla Lipana & Co./PwC Philippines' total partners and principals to 31 men and women.

Click [here](#) for the full announcement.

# AM radio show interviews Rick Danao on accountant's role in society



PwC Philippines Vice Chairman and Assurance Managing Partner Rick Danao was a guest in Radyo CSR on DWIZ 882 KHz on AM radio, and streamed live on Facebook.

Hosts and corporate responsibility practitioners Ricky de Castro and Max Ventura talked with Rick about accountancy and its role in society.

To watch Rick's segment, click [here](#).

## Alex Cabrera talks about tax planning with select business owners



PwC Philippines Chairman and Senior Partner Alex Cabrera was the guest speaker at a roundtable discussion with select members of the Entrepreneurs' Organization on 19 March 2021 via Zoom.

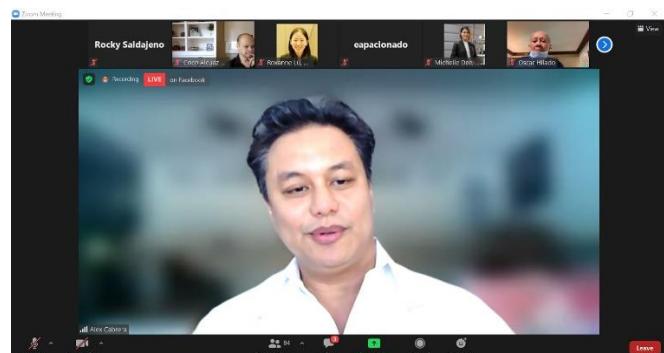
Alex shared the top ten tax planning points that are important in business operations, with investing in tax

compliance as the tenth point. Other points were incentives for domestic enterprises, transfer pricing documentation under Revenue Regulations 34-2020 and de minimis benefits, among others.

The Entrepreneurs' Organization (EO) is a global, peer-to-peer network of more than 14,000+ influential business owners with 198 chapters in 61 countries. Founded in 1987, EO is the catalyst that enables leading entrepreneurs to learn and grow, leading to greater success in business and beyond.

The entrepreneurs who attended the meeting come from diverse sectors such as power, food manufacturing, not for profit, industrial manufacturing and professional services.

## Alex Cabrera speaks on CREATE Law in today's MBC event



With the ink barely dry on the CREATE bill, PwC Philippines Chairman and Senior Partner Alex Cabrera discussed the new law in the event "A User's Guide to CREATE (Part 2)" on 29 March.

The event, held via Zoom and streamed live on Facebook, was organized by the Makati Business Club to help companies understand how this biggest business tax reform in decades will impact them.

Alex talked about the pertinent provisions of the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act or Republic Act 11534, signed by President Rodrigo Duterte on 26 March. Also highlighting his presentation were the nine vetoed items.

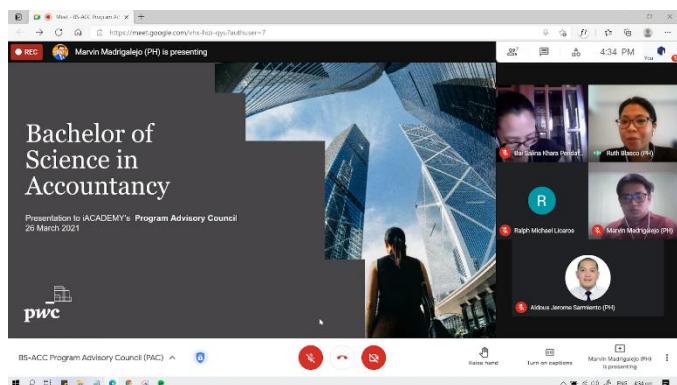
Despite the short notice, almost 200 attended the webinar, with many asking questions on tax filing, tax-free exchange and Special Corporate Income Tax (SCIT).

In case you missed it, you may watch the [recording](#) on MBC's Facebook page.

## PwC Philippines, iACADEMY convene for BSA program review

iACADEMY's Program Advisory Council (PAC) for BS Accountancy convened its first program review meeting on 26 March via Google Meet.

The Council, with key people from iACADEMY and PwC Philippines as members, is designed to provide a venue for both parties to ground and align their programs on industry needs.



PwC Philippines Assurance Partner Ruth Blasco, who led the discussion, presented the industry trends, outlook, and current needs; best practices for training under the academic setting; initial recommendations for curriculum enhancement; and ideas for industry-academe collaborations.



Client Accounting Services senior manager Marvin Madrigalejo and Assurance senior managers Jayson Rivera and Aldous Sarmiento, who are all currently part of the team-teaching approach of the BSA program, joined Ruth in the meeting.

PAC members from iACADEMY in attendance were Senior Manager of the Office of Student Experience and Advancement, Bai Salina Pendatun-Ilagan and the Chairperson for Accountancy Program, Ralph Michael Licaros.

iACADEMY's BSA program, of which PwC is the first industry-partner, is in its pilot school year with PwC managers as instructors.

## CPAs learn more on CREATE from Alex Cabrera



Members of the Philippine Institute of Certified Public Accountants (PICPA) had the opportunity to know more about the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act (Republic Act 11534) from PwC Philippines Chairman and Senior Partner Alex Cabrera in the webinar on Tax Updates on 30 March via Zoom.

Alex discussed the newly signed law's pertinent provisions, as well as those vetoed by the President.

The vetoed sections would have granted redundant incentives, automatic approval of applications for tax incentives after a certain number of days, and allowed registered companies to apply for new incentives they already enjoy.

Also rejected were provisions that would have increased the threshold for value-added taxes on sales of real property, 90-day period for the processing of general tax refunds, the definition of investment capital, and the list of industries up for incentives.



In the same forum, Tax Director Mary Jean Balboa presented the Transfer Pricing and Related Party Transactions under Revenue Regulations 19-20 and 34-20.

Around 200 members attended the successful event that was organized by PICPA Legislation and Taxation Committee. (Alex also chairs the said committee.)

## Malou Lim discusses CREATE bill's impact on companies with Cebu accountants



A day before the CREATE bill was set to lapse into law, PwC Philippines Tax Managing Partner Malou Lim spoke about CREATE's impact to companies during PICPA Cebu Chapter's 3rd Quarter Membership Meeting on 26 March via Zoom.

The chapter's Professional Development Committee organized the event that focused on the timely topic.



In signing the CREATE law on 27 March, President Rodrigo Duterte said it came at an opportune time as it would provide fiscal relief and help businesses recover from the effects of the COVID-19 pandemic.

PwC Philippines was a Gold Sponsor of the event.

## “Going Deep with Richard Mills” interviews Alex Cabrera



Get to know more about PwC Philippines Chairman and Senior Partner Alex Cabrera in an in-depth interview in the online show “Going Deep with Richard Mills”.

Asia CEO Events Chairman Richard Mills hosts the show.

Asia CEO Events, which produces the show, broadcast the episode on its official social media platforms on 9 April. It ran for nearly two hours and touched on Alex's many facets—from his roots and values, to his insights on business and life.

“Going Deep with Richard Mills” is a podcast interview series featuring many of the greatest leaders of the Asia

Pacific region. Catch the recorded podcast on Asia CEO Events' [Facebook page](#) and [YouTube channel](#).

## Alex Cabrera reacts on economic bills in BCCP webinar

PwC Philippines Chairman and Senior Partner Alex Cabrera gave his reaction to proposed economic reforms in the webinar entitled "Economic Watch: Boosting Resilience and Recovery" on 22 April via Zoom.



He was the co-panelist of Usec. Antonette Tionko of the Department of Finance in the event hosted by the British Chamber of Commerce Philippines (BCCP).

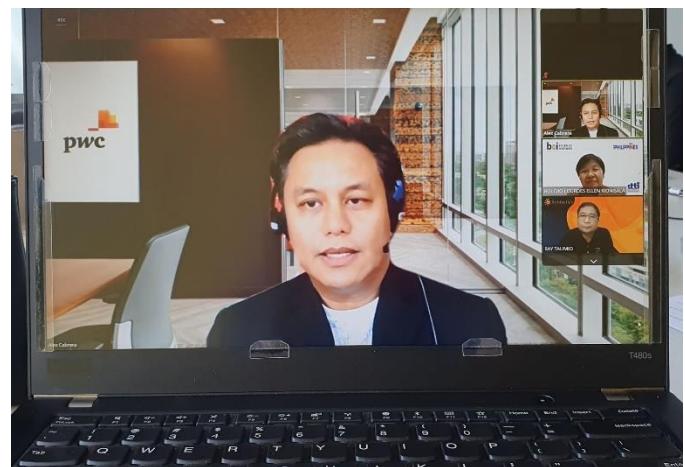
Alex and Usec. Tionko gave their insights on the bills amending the Public Service Act (PSA), Foreign Investments Act (FIA) and the Retail Trade Liberalization (RTL) Act. He touched on a wide range of topics, such as governance on e-commerce and trends on rental rates.

The bills, which were recently certified as urgent by the President, were presented to the audience by speakers from HSBC and Quisumbing Torres.

TradeAdvisors CEO Tony Abad moderated the discussion. In delivering his closing remarks, BCCP Chairman Chris Nelson noted that the Philippines, seen as a gateway to Southeast Asia, can combine its skills with passage of the bills on the ease of doing business and the opening up of the economy.

## Alex Cabrera discusses CREATE with CDO community

PwC Philippines Chairman and Senior Partner Alex Cabrera continued his briefings on the Corporate Recovery and Tax Incentives for Enterprises Act (CREATE Act) as one of the guest speakers in a three-hour forum sponsored by the Cagayan de Oro Chamber of Commerce on 27 April 2021 via Zoom.



Alex discussed the law's salient provisions in his segment entitled Updates of the CREATE Act while Board of Investments' Chief Investment Specialist Ms. Lourdes Ellen Kionisala took care of presenting the tax incentives portion of the law.

The speakers accommodated questions on exemptions, income tax filing, tax-free exchange ruling and incentives in the open forum.

Alex also shared our Reimagining VisMin business guides that feature six investment hotspots in Visayas and Mindanao, including Cagayan de Oro City.

The forum was attended by 90 participants composed of members, students and business professionals.

# PwC Philippines act as judge, arbiters in FEU JPIA-Manila contests

Team PwC Philippines participated in the 1st Nicanor Reyes Sr. Case Competition (17 April) and the 20th Nicanor Reyes Sr. Cup (25 April), where seven and 21 universities from across the country competed, respectively via Zoom.

Assurance Manager Jayson C. Rivera was one of the Case Judges during the Case Competition.



Tax Associate Frenz Angelie Hechanova and Assurance Associates, Nicole Ann Pascua and Marc Angelo Santos were Arbiters in the 20th Nicanor Reyes Sr. Cup.

The Far Eastern University - Junior Philippine Institute of Accountants Manila Chapter organized the events in commemoration of FEU founder Dr. Nicanor Reyes Sr.

PwC Philippines is a Platinum Sponsor.

## Talk to us

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

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#### **Request for copies**

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