

Revenue Regulations No. 19-2020 Briefer

July 2020



Section 1

Objective

Prescribes the use of the new BIR Form No. 1709 Information Return on Related Party Transactions

- Applies to both domestic and/or foreign related party transactions (“RPTs”)
- Implemented pursuant to Sections 244 and 6(H) in relation to Section 50 of the National Internal Revenue Code of 1997, as amended (“Tax Code”)
- BIR Form No. 1709 replaces BIR Form No. 1702(H) - Information Return on Transactions with Related Foreign Persons, series of 1992



Section 2

Background

Philippine Accounting Standards (PAS) 24

- Under PAS 24, an entity's financial statements shall contain the proper disclosures necessary to draw attention to the possibility that its financial position and profit or loss may have been affected by the existence of related party transactions.
- **Through an effective implementation of PAS 24, the following are ensured:**
 - **proper disclosures of RPTs** are made; and
 - RPTs are conducted at arm's length so as to **protect the tax base**
- To attain the objectives of PAS 24, RR No. 19-2020 was issued, which requires the **submission of BIR Form No. 1709** and its supporting documents as attachments to the Annual Income Tax Return ("ITR").

Submit
BIR Form
No. 1709

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Supporting
documents

*as integral parts of the Annual ITR, replacing
BIR Form No. 1702H*

Section 3

Definition of Terms

Associate

is an entity over which the investor has significant influence.

Close members of the family of a person

are those family members who may be expected to influence, or be influenced by, that person in their dealings with the entity and include:

1. that person's children and spouse or domestic partner;
2. children of that person's spouse or domestic partner; and
3. dependents of that person or that person's spouse or domestic partner.

Compensation

includes all employee benefits, i.e., all forms of consideration paid, payable or provided by the entity, or on behalf of the entity, in exchange for services rendered to the entity.

It also includes such consideration paid on behalf of a parent of the entity in respect of the entity.



Section 3

Definition of Terms



Control

The power to govern the financial and operating policies of an entity so as to obtain benefits from its activities.



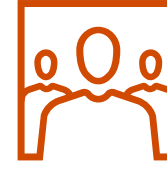
Joint Control

The contractually agreed sharing of control of an arrangement, which exists only when decisions about the relevant activities require the unanimous consent of the parties sharing control.



Joint Venture

A joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement.



Venturer

A party to a joint venture and has joint control over that joint venture.



Key Management Personnel

Persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity.

Section 3

Definition of Terms



Post-Employment Benefit Plans

Formal or informal arrangements under which an entity provides post-employment benefits for one or more employees, such as the following:

- a. retirement benefits (e.g. pensions and lump sum payments on retirement); and
- b. other post-employment benefits, such as post-employment life insurance and post-employment medical care.



Related Party

Person or entity that is related to the reporting entity, i.e., the entity that is preparing its financial statements.



Related Party Transaction

The transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged.

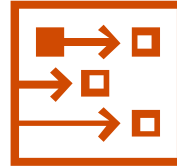
Section 3

Definition of Terms



Significant Influence

The power to participate in the financial and operating policy decisions of an entity, but is not control over those policies. It may be gained by share ownership, statute or agreement.



Subsidiary

is an entity that is controlled by another entity.

Section 4

Related Parties & Related Party Transactions

A person or a close member of that person's family is related to a reporting entity if that person has/is:

1

**Control or
Joint Control**

2

**Significant
Influence**

3

**A Key
Management
Personnel**

The list of family members hereof is not exhaustive and does not preclude other family members from being considered as close members of the family of a person.

Consequently, other family members, including parents or grandparents, could qualify as close members of the family depending on the assessment of specific facts and circumstances.



Section 4

Related Parties & Related Party Transactions*



- Purchases or sales of goods (finished or unfinished), property and other assets
- Rendering or receiving of services
- Leases
- Transfers of research and development, under license agreements, under finance arrangements
- Provision of guarantees or collateral
- Commitments to do something if a particular event occurs or does not occur in the future, including executory contracts
- Settlement of liabilities on behalf of the entity or by the entity on behalf of that related party

**This list is not exhaustive.*

In all cases, the **substance of relationships** between entities shall be taken into account and not merely the legal form.

Section 5

Related Party Disclosures

Required disclosures on transactions and outstanding balances of the taxpayer* shall be made separately for each of the following category:

- A.** The parent
- B.** Entities with joint control or significant influence over the entity
- C.** Subsidiaries
- D.** Associates
- E.** Joint ventures in which the entity is a joint venturer
- F.** Key management personnel of the entity or its parent
- G.** Other related parties

**The taxpayer may either be the reporting entity or the related party.*



Section 5

Related Party Disclosures

For each of said category, the following information shall be provided:

- **Amount of the transaction;**
- **Amount of outstanding balances**, including commitments, and their terms and conditions, including whether they are secured, and the nature of the consideration to be provided in settlement, and details of any guarantees given or received;
- **Provisions for doubtful debts** related to the amount of outstanding balances; and
- The **expense recognized** during the period in respect of bad or doubtful debts due from related parties.



Section 6

Procedures & Guidelines

Completely & truthfully accomplish BIR Form No. 1709

To be accomplished by the taxpayer or its authorized representatives and shall be attached to the ITR for the current taxable year and subsequent years, making it an integral part of the latter.

Attach the supporting documents to BIR Form No. 1709

- Certified true copy of relevant contracts or proof of transaction
- Withholding tax returns and proof of tax payment
- Proof of payment of foreign taxes or ruling
- Certified true copy of any APA
- Any TP documentation

No spaces left unanswered

If one/some portions are not applicable, such fact shall be so stated.



Section 6

Procedures & Guidelines

- 1** **Background information of the taxpayer**
Provides the covered year, RDO, TIN, taxpayer's name, address and contact details.
- 2** **Breakdown of transactions according to country of residence of the related party** *(Domestic & Foreign)*
(A-B)
- 3** **Breakdown of transactions according to category of the related party** *(Parent, Subsidiary, Associate, JV, Key Management, Others)*
(A-G)
- 4** **Other information**
Describes the business overview of the ultimate parent and the taxpayer, functional profile, as well as any changes in operations. It also discloses pending tax treaty relief applications and APAs.

Provides detailed information about the related party, the nature of the transaction, and the accounts affected.
Disclosures are made separately for each related party transaction

Section 7

Penalties

Any violation of the provisions of this regulations shall be subject to penalties provided in Section 250 and other pertinent provisions of the Tax Code.

Section 250

Failure to Make, File, or Submit Certain Information Returns
Failure to Supply Correct and Accurate Information Returns

**PHP1,000 for each failure, not exceeding
PHP25,000 per calendar year**

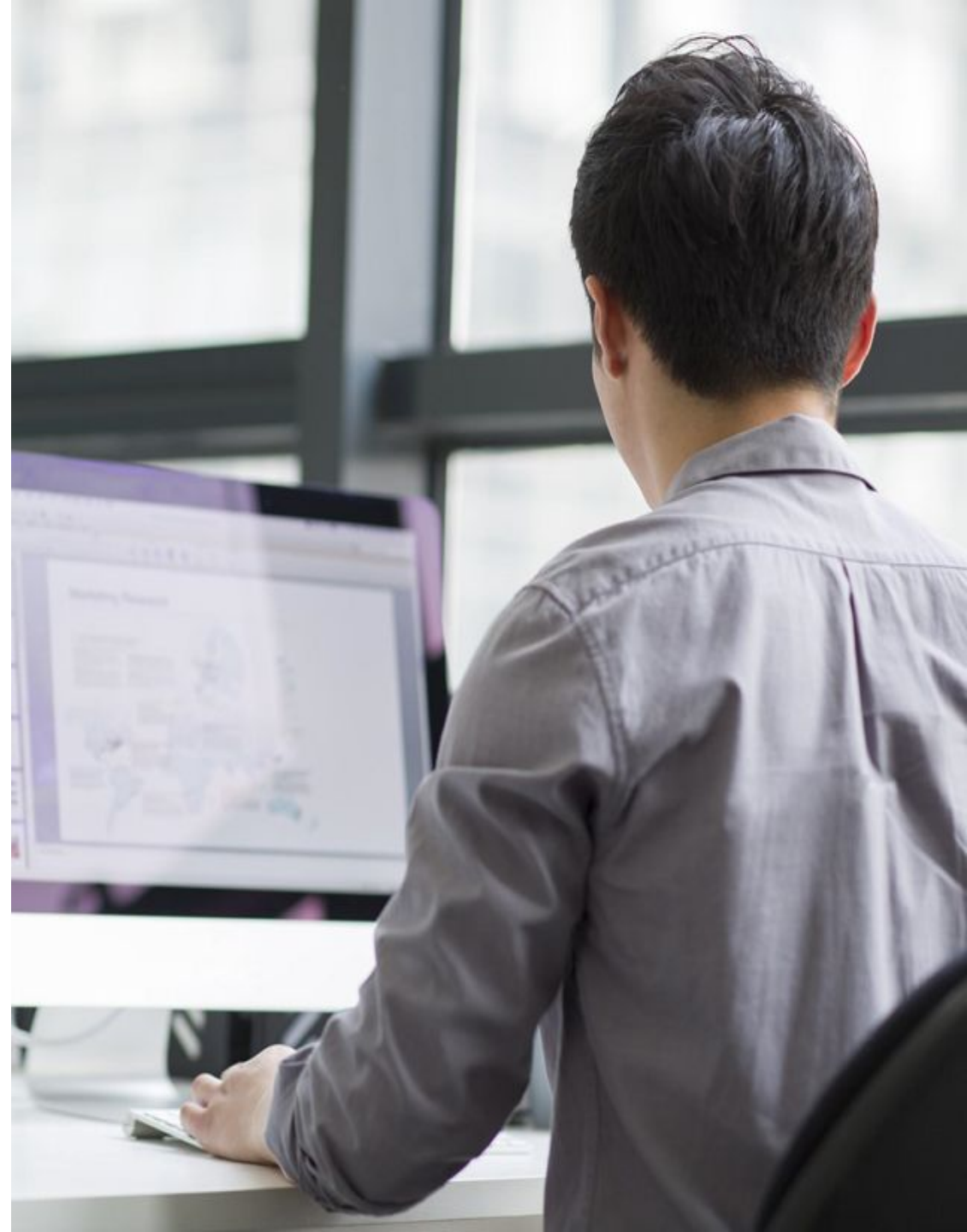
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Other pertinent provisions of NIRC, as amended.

Section 235

Failure to keep/preserve records required by law or regulations
**Minimum of PHP1,000 compromise penalty, not exceeding
PHP50,000**

(Revenue Memorandum Order No. 7-2015)



Due date

Submit within

15

days

from the statutory due date or actual filing date of the annual ITR, whichever is later.



Effectivity

Fifteen (15) days following its publication in a newspaper of general circulation **(i.e., 25 July 2020)**

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Thank you!

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