



PwC Philippines is the event partner of the Institute of Internal Auditors Philippines' (IIAP) 2nd General Membership Meeting

Client Advisory Letter

Back to school ^{p5} | The unforgiven ^{p5}

Delinquency status ^{p8} | Redeeming qualities ^{p10}

May 2019



At a glance

Updates, reiterations, and clarifications on selected topics

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PFRS 3- Business Combinations' new definition of business – Impact to the real estate industry

At a glance

The IASB's new guidance changes the definition of a business and will likely result in more transactions being recorded as asset acquisitions. The new definition of a business could have a significant impact in the real estate (RE) industry.

What is the issue?

New guidance

PFRS 3, 'Business Combinations', has been amended to update the definition of a business. The new model introduces an optional concentration test that, if met, eliminates the need for further assessment. To be considered a business, an acquisition would have to include an input and a substantive process that together significantly contribute to the ability to create outputs. The new guidance provides a framework to evaluate when an input and a substantive process are present.

The concentration test

Under the concentration test, companies consider whether substantially all of the fair value of the gross assets acquired is concentrated in a single asset (or a group of similar assets). If so, the assets acquired would not represent a business and no further analysis is required. Gross assets acquired exclude cash, deferred tax assets and any goodwill that results from the effects of deferred tax liabilities. The fair value of the gross assets acquired can usually be determined based on the

consideration transferred (plus the fair value of any non-controlling interest and previously held interest, if any) plus the fair value of any liabilities assumed, other than deferred tax liabilities. In order to compare like with like, any items excluded from the “gross assets acquired” would also be excluded from the fair value of gross assets acquired calculation.

The optional concentration test includes the concept of aggregating ‘similar’ assets. In the RE industry, it is common for acquisitions to include several properties. Companies should carefully consider the specific facts and circumstances, including class of property and location when concluding whether assets purchased in a transaction are similar. A group of properties are not similar if they have significantly different risk characteristics. [\[PFRS 3 para B7B\(f\)\(vi\)\]](#).

Acquisition of a residential real estate portfolio

Property Co purchases a portfolio of 10 residential homes. Each home is considered to be a separate investment property for accounting purposes. All homes are leased out to separate tenants and comprise land and buildings. Each home has a different design and layout but all homes are located in the same geographical area and the risk profile of the real estate market across that area is similar. No employees, other assets or other activities are transferred.

Is the arrangement the acquisition of a business?

Analysis

No. Property Co elects to apply the optional concentration test and would conclude that this is an asset acquisition, because substantially all of the fair value is concentrated in a group of similar assets. Property Co would treat this as an asset acquisition, assuming that it opted to use the concentration test.

A transaction is not automatically a business combination if the optional concentration test does not result in an asset classification. An entity would then need to assess the transaction under the full framework in PFRS 3.

Framework in PFRS 3

PFRS 3 requires a business to include, as a minimum, an input and a substantive process that together significantly contribute to the ability to create output. The new guidance provides a framework to evaluate when

an input and a substantive process are present, differentiating between transactions with outputs and those with no outputs. Outputs are defined as *“the results of inputs and processes applied to those inputs that provide goods or services to customers, generate investment income (such as dividends or interest) or generate other income from ordinary activities”*. [\[PFRS 3 para B7\]](#).

- Without outputs

An acquired process is considered substantive where:

1. the process is critical in converting an acquired input to an output;
2. the inputs acquired include an organized workforce that has the necessary skills, knowledge and experience to perform that process; and
3. other inputs are acquired that can be developed or converted into outputs by the organized workforce, for example, intellectual property, other economic resources that could be developed to create outputs, or rights to obtain materials or that enable future output to be created.

- With outputs

An acquired process is considered substantive where, either:

1. the process is critical in continuing to produce outputs, and the input includes an organized workforce with the necessary skills, knowledge or experience to perform that process; **or**
2. the process significantly contributes to the ability to continue to produce outputs and is unique or scarce or cannot be replaced without significant cost.

- Contracted workforce

An acquired contract could give access to an organized workforce (for example, outsourced property management services). The entity needs to assess whether the organized workforce provides a substantive process that it controls. Factors to consider include: the service is not ancillary or minor; it would be difficult to replace the workforce; and the duration of the contract and renewal terms.

Acquisition of a residential and office real estate portfolio

Property Co purchases a portfolio of 10 residential homes (the nature of these homes being as outlined in the example above) as well as an office park containing 5 fully let office buildings. In addition, an outsourcing contract for maintenance services for the office park is also acquired. The maintenance services are considered ancillary or minor in the context of generating rental income at the office park. No employees, other assets or other activities are transferred.

Is the arrangement the acquisition of a business?

Analysis

No, Property Co would conclude that this is an asset acquisition.

The concentration test is not passed, since all of the fair value is not concentrated in a single identifiable asset or a group of similar identifiable assets; this is because two dissimilar classes of real estate with different risk profiles are acquired.

Since there are leases in place for both the residential homes and office park buildings, Property Co would then analyse the transaction, referring to the framework with outputs and considering whether the acquired processes are substantive. No organized workforce is acquired and the maintenance services are considered ancillary or minor in the context of generating rental income. Further, the maintenance services do not significantly contribute to the ability to generate rental income and also could be replaced without significant cost.

Would the answer be different if there were no in-place lease contracts and, therefore, no outputs?

Analysis

No, Property Co would still conclude this is an asset acquisition.

In order for the definition of a business to be met when there are no outputs, an organized workforce with the necessary skills critical to the ability to develop and convert the inputs into outputs would need to be present. As no such organized workforce is acquired, the definition of a business is not met.

Acquisition of a residential and office real estate portfolio

Property Co acquires a portfolio of residential and office assets (the nature of these assets being as outlined in the example above) and also acquires employees that are responsible for operational management of the assets as well as all tenant management and leasing activity

Is the arrangement the acquisition of a business?

Analysis

Yes. Property Co would conclude that this is a business combination.

The concentration test is not applied, because the fair value of the assets acquired is not concentrated in a single asset or a group of similar identifiable assets. Further analysis is required, following the framework with outputs, to assess whether a process is acquired and whether the process is substantive. A business is acquired, because the organized workforce is a substantive process with the necessary skills that is critical to the ability to develop and convert the inputs (land, buildings and in-place leases) into outputs.

What is the impact of more asset acquisitions?

The changes to the definition of a business will likely result in more acquisitions being accounted for as asset acquisitions. There are a number of accounting differences between business combinations and asset acquisitions; these include the recognition of goodwill and the divergent treatment of deferred taxes, contingent consideration and transaction costs, amongst others.

Application of the changes will also affect the accounting for disposal transactions, since the requirements of PFRS 10 apply to the recognition of proceeds from the sale of a business, whereas the requirements of PFRS 15 apply to the recognition of proceeds from the sale of an asset. PFRS 10 requires the consideration received to be recognised at fair value; PFRS 15 constrains variable consideration where it is highly probable to reverse.

When does it apply?

Entities are required to apply the amendments to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after 1 January 2020.

Taxes, compliance matters, assessments, and refunds

Back to school

Tax exemption of certain educational institutions

An educational institution shall be entitled to tax exemption if:

1. It falls under the classification of non-stock, non-profit educational institutions, and
2. The income it seeks to be exempted is used actually, directly and exclusively for educational purposes.

It will not be considered profit-driven simply because it generates profit. In this relation, the Constitution does not require that exempt revenues must be earned from educational activities or activities related to the purposes of an educational institution. All revenues shall be exempt as long as they are used actually, directly and exclusively for educational purposes.

(G.R. No. 202792, promulgated 27 February 2019)

The unforgiven

The BIR cannot create additional exceptions from the tax amnesty coverage

In 2007, RA No. 9480 was enacted granting a tax amnesty for unpaid taxes during taxable year 2005 and prior years. Section 8 thereof specifies the persons and cases which are not covered by the tax amnesty.

However, RMC No. 19-2008¹ included “Delinquent Accounts / Accounts Receivable considered as assets of the BIR/Government, including self-assessed tax” as additional exceptions from the coverage.

Glossary

BIR – Bureau of Internal Revenue
CIR – Commissioner of Internal Revenue
EWT – Expanded Withholding Tax
RA – Republic Act
RMC – Revenue Memorandum Circular
RR – Revenue Regulations
VAT – Value-Added Tax

The Supreme Court held that the CIR cannot insert such exceptions where there are none under the law.

Although a tax amnesty is interpreted strictly against the taxpayer, the rule-making powers of the BIR cannot be extended to expand the requirements under the law or include matters not encompassed by the law.

(G.R. No. 211449, promulgated 16 January 2019)

No choice

EWT overpaid in a prior period cannot be offset against current EWT liabilities

If EWT was erroneously remitted to the BIR, the withholding agent may opt to file a claim for refund or issuance of tax credit certificate. The withholding agent does not have the option to treat such over-remittance as an advance payment to be credited against succeeding EWT liabilities.

PwC Note: However, the current Quarterly Remittance Return of Creditable Income Taxes Withheld (Expanded) (BIR Form No. 1601-EQ) prescribed starting 2018 already provides for an option to carry-over overpaid EWT to the next quarter but only within the same calendar year.

(CTA EB No. 1758, promulgated 15 April 2019)

No-ruling area

Requirements for tax-free exchange status

In order to qualify as a tax-free exchange under Section 40(C)(2) of the Tax Code, the following conditions must be satisfied:

1. There is a legal merger/consolidation, or a transfer of all or substantially all assets of a corporation in exchange for stock of another corporation, and
2. Such restructuring or reorganization is for a *bona fide* business purpose.

Prior BIR confirmation of tax-free status, mentioned in RR No. 18-2001, is not required because:

- the BIR cannot impose additional requirements that were not contemplated by the lawmakers, and

¹ A Basic Guide on the Tax Amnesty Act of 2007.

- RR No. 18-2001 itself does not mandate that a BIR certification or confirmatory ruling is a prerequisite for enjoying tax-free status under Section 40(C)(2).

(CTA EB No. 1755, promulgated 22 April 2019)

Generational sin

A generation company claiming input VAT refund should present its COC

Under the EPIRA Law², sales of generated power by generation companies are subject to the VAT zero rate. In a judicial claim for refund/credit of input VAT attributable to such VAT zero-rated sales, the generation company must present the Certificate of Compliance (COC) issued by the ERC to prove that it is, in fact, a generation company under the EPIRA Law. Otherwise, its sales will not qualify as VAT zero-rated sales and consequently, the claim for refund/credit of attributable input VAT will be denied.

(CTA EB No. 1751, promulgated 29 April 2019)

Cashing out

Granting of cash refund in consideration of dissolution during judicial proceedings

During the pendency of the judicial claim for refund or issuance of tax credit certificate for unutilized input VAT, the closure and dissolution of the taxpayer was approved by the BIR and the SEC. Citing the BIR-approved closure, the CTA ordered a cash refund based on legal and equitable grounds.

(CTA Case No. 7180 & 7279, promulgated 16 May 2019)

Glossary

| |
|--|
| BIR – Bureau of Internal Revenue |
| CIR – Commissioner of Internal Revenue |
| CTA – Court of Tax Appeals |
| eCAR – Electronic Certificate Authorizing Registration |
| EPIRA - Electric Power Industry Reform Act |
| ERC – Energy Regulatory Commission |
| SEC – Securities and Exchange Commission |
| RR – Revenue Regulations |
| VAT – Value-Added Tax |

² Republic Act No. 9136.

³ Republic Act No. 11213.

Ground control

Continuous heavy losses are not grounds for abatement

The CIR may abate a tax liability only when the tax appears to be unjustly or excessively assessed, or when the costs of administration and collection do not justify the collection of the tax due. In this light, the CTA ruled that continuous heavy losses are not grounds for abatement.

Accordingly, Section 2.3.6 of RR No. 13-2001, which includes "continuous heavy losses for the last two (2) years" as grounds for abatement, is inconsistent with the Tax Code and cannot be relied upon by the taxpayer.

(CTA EB No. 1720, promulgated 3 May 2019)

Forgive but not forget

Issuing the implementing rules and regulations of the estate tax amnesty

The BIR issued rules and regulations implementing the estate tax amnesty under the Tax Amnesty Act³. Said regulations touch on the following:

- Coverage
- Amnesty rate
- Composition and valuation of gross estate
- Deductions from gross estate
- Deadline for availment
- Estate tax amnesty return
- Place of filing
- Estate with properties subject to taxable donations and/or sales
- Issuance of certificate of availment and eCAR

(Revenue Regulations No. 6-2019, published 31 May 2019)

Internal concerns

BIR policies, guidelines and procedures in processing applications for tax amnesty

The CIR issued detailed policies, guidelines and procedures to be observed by various concerned BIR offices in processing applications for tax amnesty on delinquencies.

(Revenue Memorandum Order No. 23-2019, issued 9 May 2019)

Tight deadline

Implementing the ninety (90)-day period to process VAT refund/credit claims

The BIR issued policies and procedures to implement the 90-day period to process and grant claims for VAT refund/credit pursuant to Section 112 of the Tax Code. The policies and procedures refer to the following:

- Receipt of claims for VAT refund/credit
- Processing and verification of claims
- Processing of payment for approved refund claims
- Penalty for non-observance of the prescribed time frame

(Revenue Memorandum Order No. 25-2019, issued 16 May 2019)

Breaking codes

Modification of ATCs pursuant to TRAIN Law and Tax Amnesty Act

To facilitate the proper identification and monitoring of tax collection, the BIR created/modified the following Alphanumeric Tax Codes:

- Business Income and Income from Profession

| ATC | Description | BIR Form No. |
|-------|--|------------------|
| II012 | Business Income – Graduated Rates | 1701/1701A/1701Q |
| II014 | Income from Profession - Graduated Rates | |
| II015 | Business Income 8% Rate | |
| II017 | Income from Profession - 8% Rate | |

- Percentage taxes

| ATC | Description | Tax Rate | BIR Form No. |
|-------|---|----------|--------------|
| PT010 | Persons exempt from value-added tax (VAT) under Sec. 109(BB) (Sec. 116) | 3% | 2551M/2551Q |

Glossary

ATC – Alphanumeric Tax Codes

BIR – Bureau of Internal Revenue

TRAIN – Tax Reform for Acceleration and Inclusion

VAT – Value-Added Tax

| ATC | Description | Tax Rate | BIR Form No. |
|-------|--|----------|-----------------|
| PT040 | Domestic carriers and keepers of garages (Sec. 117) | 3% | |
| PT041 | International carriers (Sec. 118) | 3% | |
| PT060 | Franchises on gas and water utilities (Sec. 119) | 2% | |
| PT070 | Franchises on radio/television broadcasting companies whose annual gross receipts do not exceed PHP10m (Sec. 119) | 3% | |
| | Tax on banks and non-bank financial intermediaries performing quasi-banking functions | | 2551M/ 2551Q |
| PT105 | 1. On interest, commissions and discounts from lending activities as well as income from financial leasing, on the basis of remaining maturities of instruments from which such receipts are derived a. Maturity period is five (5) years or less | 5% | |
| PT101 | b. Maturity period is more than five (5) years | 1% | |
| PT102 | 2. On dividends and equity shares and net income of subsidiaries | 0% | |
| PT103 | 3. On royalties, rentals of property, real or personal, profits from exchange and all other gross income | 7% | |
| PT104 | 4. On net trading gains within the taxable year on foreign currency, debt securities, derivatives and other financial instruments | 7% | |
| | Tax on other bank financial intermediaries not performing quasi-banking functions | | |
| | 1. On interest, commissions and discounts from lending activities as well as income from financial leasing, on the basis of remaining maturities of instruments from which such receipts are derived | | |
| PT113 | a. Maturity period is five (5) years or less | 5% | |
| PT114 | b. Maturity period is more than five (5) years | 1% | |

| ATC | Description | Tax Rate | BIR Form No. |
|-------|--|----------|-----------------|
| PT115 | 2. From all other items treated as gross income under the code | 5% | 2551M/ 2551Q |
| PT120 | Life insurance premium | 5% | |
| PT130 | Agents of foreign insurance companies | 10% | |
| PT132 | 1. Insurance agents 2. Owners of property obtaining insurance directly with foreign insurance companies | 5% | |

• Tax Amnesty Act

| ATC | Description | BIR Form No. |
|-------|------------------------------|--------------------|
| MC320 | Estate Tax Amnesty | 0621-EA 2118-EA |
| MC330 | Tax Amnesty on Delinquencies | 0621-DA 2118-DA |

(Revenue Memorandum Order Nos. 22-2019 dated 10 April 2019; 20-2019, dated 1 April 2019; and 19-2019, dated 3 April 2019)

Delinquency status

Clarifying the cut-off date and other issues regarding the tax amnesty on delinquencies

The BIR addressed frequently-asked questions regarding the tax amnesty on delinquencies as implemented by RR No. 4-2019. Among others, the following were clarified:

- All persons with delinquent internal revenue tax liabilities covering taxable year 2017 and prior years on or before 24 April 2019 may avail the amnesty.

Glossary

ATC – Alphanumeric Tax Codes
BIR – Bureau of Internal Revenue
CIR – Commissioner of Internal Revenue
FAN – Final Assessment Notice
FDDA – Final Decision on Disputed Assessment
NEB – National Evaluation Board
REB – Regional Evaluation Board
RR – Revenue Regulations
VAT – Value-Added Tax

- Taxpayers may avail the amnesty with respect to:
 - assessment notices pertaining to penalties only (i.e., without basic taxes assessed) as long as said assessment notices became final and executory on or before 24 April 2019;
 - tax liabilities which became final and executory on or before 24 April 2019 and are covered by compromise settlement applications that are denied by the NEB or REB during the one-year avilment period of the tax amnesty;
 - penalties of delinquent tax liabilities as of 24 April 2019 that were applied for abatement but denied by the CIR;
 - delinquent accounts subject of on-going collection enforcement proceedings such as warrants of garnishment, notices of tax lien (NTL) or notices of tax levy (NOL), etc.;
 - tax liabilities under a FAN that was protested but the taxpayer was not able to submit the required documents within sixty (60) days from the date of filing of the protest; and
 - tax liabilities under a FAN that was protested but the taxpayer withdrew said protest on or before 24 April 2019.
- The following cases are not covered by the tax amnesty:
 - Any tax liabilities under on-going tax investigations are not yet delinquent accounts, hence, are not covered by the tax amnesty.
 - The tax amnesty cannot be availed with respect to pending criminal charges as of 24 April 2019 pertaining to “failure to obey summons”, if the legal complaint has no assessment of basic tax.
 - Open stop-filer cases
 - If the FAN was protested and the FDDA was issued on or before 24 April 2019 but such FDDA was received after 24 April 2019, the deficiency tax assessments are not considered delinquent accounts.
- Tax liabilities that were not included in the Certificate of Delinquencies / Tax Liabilities issued by the BIR will remain outstanding tax liabilities until fully settled.
- A registered NTL or NOL shall be lifted or cancelled based on the tax amnesty availed and upon issuance of a Lifting Order.
- The 100% amnesty tax rate applies to a final and executory judgment by the court pertaining to unremitted withholding taxes.
- The tax amnesty may be availed of at once, or per taxable year or tax type.
- The amnesty tax cannot be paid on installment.

- In order to lift a notice of levy or a warrant, there should be a Notice of Issuance of Authority to Cancel Assessment and a Lifting Order.
- A pending criminal case is not automatically terminated upon availment of the tax amnesty. A motion to terminate or dismiss should be filed citing the tax amnesty availment as basis.
- If a final and executory FAN relates to a pending criminal case, the amnesty tax rate shall be sixty percent (60%).
- RR No. 4-2019 provides that the PAN, NIC or equivalent document shall be sufficient to support the amount of unremitted withholding taxes. Such 'equivalent document' refers to the following documents issued on or before 24 April 2019:
 - Letter to the withholding agent demanding remittance of (1) the unremitted amount based on withholding tax returns filed, or (2) the tax withheld based on COA reports, or
 - PCL demanding payment of tax withheld per returns filed.
- Estate tax liabilities may qualify for tax amnesty on delinquencies if they are:
 - Delinquent accounts
 - Subject of criminal cases with the DOJ
 - Subject of court judgments that have become final and executory on or before 24 April 2019

- Availment of tax amnesty is fully complied with upon completion of the enumerated steps which includes the filing/submission of the Tax Amnesty Return.
- A delinquent taxpayer whose property has been auctioned and sold may still redeem the auctioned property within one (1) year from the date of registration of the Certificate of Sale with the Registry of Deeds.

(Revenue Memorandum Circular No. 57-2019, issued 31 May 2019)

The dust settles

Reckoning date for deadline of DST on original issuance of shares

New corporations are required to file the DST due on their original issue of shares within five (5) days after the close of the month of the date of SEC registration as reflected in the Certificate of Incorporation / Certificate of Recording / License to Do Business in the Philippines.

(Revenue Memorandum Circular No. 56-2019, issued 29 May 2019)

Going in style

Clarifying what "Business Style" refers for purposes of invoicing requirements

For purposes of complying with the requirements for official receipts and invoices, "Business Style" refers to the business name registered with the concerned regulatory body (e.g., SEC or DTI) used by the taxpayer other than its registered name or company name.

(Revenue Memorandum Circular No. 55-2019, issued 22 May 2019)

Taking new form

Revised donor's tax and estate tax returns

The BIR issued the revised donor's tax return (BIR Form No. 1800) and estate tax return (BIR Form No. 1801). Although the manual returns are already available at www.bir.gov.ph under BIR Forms – Transfer Tax Return, they are not yet available in the eBIRForms. Accordingly, manual and eBIRForms filers should download the PDF version of the form, print and then complete the same.

Manual payment may be made with an AAB or with the concerned RCO. On the other hand, online payment may be made through GCash Mobile Payment, LBP Linkbiz Portal or DBP Tax Online. "No payment" returns shall be filed with the appropriate RDO.

(Revenue Memorandum Circular No. 54-2019, issued 21 May 2019)

Glossary

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|---|
| AAB – Authorized Agent Bank |
| ATC – Alphanumeric Tax Codes |
| BIR – Bureau of Internal Revenue |
| COA – Commission on Audit |
| DBP – Development Bank of the Philippines |
| DOJ – Department of Justice |
| DST – Documentary Stamp Tax |
| DTI – Department of Trade and Industry |
| FAN – Final Assessment Notice |
| LBP – Landbank of the Philippines |
| NIC – Notice of Informal Conference |
| PAN – Preliminary Assessment Notice |
| PCL – Preliminary Collection Letter |
| PDF – Portable Document Format |
| RCO – Revenue Collection Officer |
| RDO – Revenue District Office |
| RR – Revenue Regulations |
| SEC – Securities and Exchange Commission |

Latest on regulatory landscape

Solo flight

SEC guidelines for the establishment of One Person Corporations

The SEC issued Guidelines on the Establishment of a One Person Corporation (OPC) which provide for the registration requirements, templates and the following:

- Definitions
- Term of Existence
- Corporate Name
- Nominee and Alternate Nominee
- Articles of Incorporation
- Officers
- Bond Requirement
- Incapacity or Death of the Stockholder
- Reportorial Requirements
- Who are allowed and not allowed to form OPCs

The above Guidelines may be downloaded from the SEC website.

The SEC started accepting applications for registration of OPCs last 6 May 2019. These applications shall be filed manually with the CRMD, Ground Floor, Secretariat Building, PICC, Roxas Boulevard, Pasay City.

(SEC Memorandum Circular No. 7-2019, dated 25 April 2019; and SEC Notice)

Redeeming qualities

Effect of retirement of certain treasury shares

Redeemable shares may be redeemed regardless of the existence of unrestricted retained earnings if, after such redemption, the corporation has sufficient assets to cover debts and liabilities inclusive of capital stock.

Glossary

CRMD – Company Registration and Monitoring Department

PICC - Philippine International Convention Center

RTC – Regional Trial Court

SEC – Securities and Exchange Commission

Redeemable shares that are redeemed are considered treasury shares. If the Articles of Incorporation are silent regarding their re-issuable nature, these treasury shares shall be considered retired and no longer issuable. Such retirement has the effect of decreasing the capital stock of the corporation.

(SEC-OGC Opinion No. 19-20, dated 27 May 2019)

Short-swing profit

When profits should be returned without proving insider trading

Any profit made by a director, an officer, or a ten percent (10%) beneficial owner of a reporting company in the purchase and sale, or sale and purchase of an equity security of such company within any period of less than six (6) months, belongs to such company, as the issuer. In this case, it is not necessary to prove insider trading, or actual abuse of inside information or actual intent to profit based on such information.

(SEC-OGC Opinion No. 19-19, dated 23 May 2019)

Aftershock

Term of existence of condominium corporations

After a condominium project was heavily destroyed by an earthquake, the condominium unit owners resolved not to repair the damage, to terminate the condominium project, to sell the assets of the condominium corporation, and to distribute the proceeds amongst themselves. Subsequently, the condominium owners filed an action for partition (Petition) with the RTC which granted the same.

According to the SEC, condominium project was terminated when the RTC decision granting the Petition became final. Consequently, the condominium corporation was dissolved.

The SEC further opined that since the Condominium Act⁴ already provides for the modes of dissolution of a condominium corporation, the provisions on dissolution of the Revised Corporation Code (RCC) are not applicable. However, the RCC provision on corporate liquidation applies suppletorily.

(SEC-OGC Opinion No. 19-18, dated 8 May 2019)

⁴ Republic Act No. 4726.

On radar

ITRs and TINs of foreign nationals

For purposes of monitoring the income tax payment of foreign nationals working in the Philippines, all economic zone locator enterprises employing foreign nationals are required to submit the following to the PEZA Foreign National Unit on or before 24 May 2019:

1. TIN of all foreign nationals employed; and
2. ITR for calendar year 2018 of all foreign nationals employed.

(PEZA Memorandum Circular No. 2019-16, dated 14 May 2019)

License and registration, please

Procedures and requirements for BOC accreditation and renewal of accreditation

The CoC issued an Order which aims to simplify:

1. the accreditation procedures of importers/exporters accredited by other government agencies such as the CAB, MARINA, BOI, PEZA, etc.; and
2. the renewal of accreditation of customs brokers.

The Order specifies the documentary requirements to be submitted by the above persons, and the procedures for renewal of accreditation. It also provides the requirement for activation of the Client Profile Registration System of importers/exporters accredited by other government agencies.

(Customs Memorandum Order No. 19-2019, dated 16 April 2019)

Glossary

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|---|
| AMO - Accounts Management Office |
| BOC – Bureau of Customs |
| BOI – Board of Investments |
| CAB – Civil Aeronautics Board |
| CMO – Customs Memorandum Order |
| CoC – Commissioner of Customs |
| EO – Executive Order |
| ITR – Income Tax Return |
| MARINA – Maritime Industry Authority |
| PEZA – Philippine Economic Zone Authority |
| TIN – Taxpayer Identification Number |

Refund policy

Guidelines on duty drawback, refund of overpayment, and abatement

The CoC issued guidelines for the application, processing, approval and payment of duty drawbacks, refunds of overpayments, and abatement of duties and taxes. The guidelines provide for the following:

- Instances when an importer may apply for duty drawback, refund and abatement
- Prescriptive period for filing applications therefor
- Required supporting documents for the applications

(Customs Administrative Order No. 4-2019, approved 8 April 2019)

Preferential codes

Implementing the Philippine Tariff Commitments under EO No. 61, s. 2018

The Systems Development Division – Management Information System and Technology Group of the BOC updated the electronic-to-mobile (e2m) system to include the following preferential codes:

| Preferential Codes | Originating Countries |
|--------------------|---------------------------|
| EFTA | Iceland |
| EFTANO | Norway |
| EFTACL | Switzerland/Liechtenstein |

(Customs Memorandum Circular No. 126-2019, dated 15 May 2019)

Non-discrimination

Where Once-A-Year Importers should apply for accreditation

The CoC revoked CMO No. 44-2009 dated 2 October 2009. Accordingly, all importers, including Once-A-Year Importers, are required to apply for accreditation directly with the Accounts Management Office (AMO), strictly complying with existing CMOs and other accreditation rules and regulations.

The following guidelines must also be complied with:

1. The AMO shall set the accreditation procedure, amount of fees payable and documentary requirements.
2. The AMO shall create and maintain a Compliance Monitoring Database of accredited persons and their shipments.

3. All shipments must contain the description of goods and shall be subjected to one hundred percent (100%) physical examination.
4. The AMO is required to submit a monthly report to the CoC with respect to the operations of accredited imported covered by CMO No. 20-2019.

(Customs Memorandum Order No. 20-2019, dated 25 April 2019)

Closing statements

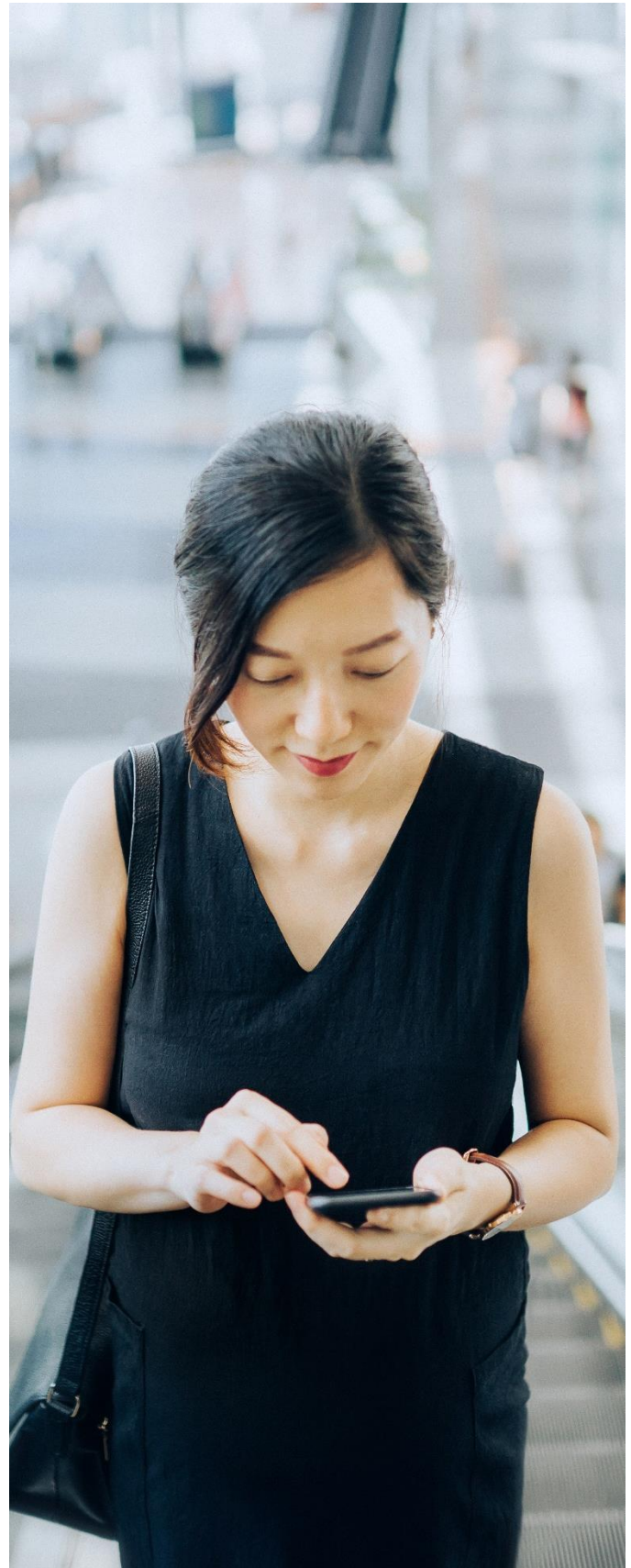
Guidelines for the electronic submissions by pawnshops

The Office of the Deputy Governor - Financial Supervision Sector of the BSP issued several guidelines for the electronic submission by pawnshops of the annual Consolidated Statement of Condition and Consolidated Statement of Income and Expenses starting the reporting period ended 31 December 2018.

(Bangko Sentral ng Pilipinas Memorandum No. M-2019-013, dated 25 April 2019)

Glossary

| |
|-----------------------------------|
| AMO - Accounts Management Office |
| BSP – Bangko Sentral ng Pilipinas |
| CMO – Customs Memorandum Order |
| CoC – Commissioner of Customs |



Meet us

PwC PH is finally live on Google



PwC Philippines joined nearly 220,000 people across the PwC network who are already on Google on 13 May 2019.

Partners and staff have been transitioning into using G Suite. Since April 2019, our Google Business Process Transformation Committee has been hard at work. With better client service delivery in mind, the committee has been developing a number of tools and templates using G Suite to improve the way we work at PwC.



PwC PH is event partner of internal auditors' meet



PwC Philippines is the event partner of the Institute of Internal Auditors Philippines' (IIAP) 2nd General Membership Meeting on 16 May 2019.



PwC Philippines Risk Assurance Leader Geraldine Apostol, who is IIAP's Technical Standard and Research Committee Chairman, presented the "State of Internal Audit Profession in the Philippines" study.



PwC Philippines Risk Assurance Partner Rosell Gomez gave a presentation entitled "Innovation - Disruptors in Philippine Setting".



PwC Philippines Risk Assurance Director Ray Jan Roque moderated the panel on "Expectation of a High Performing Audit Committee and Board in relation to disruptions of technology advancement and some new regulations".

PwC Philippines' Risk Assurance (RA), in coordination with the Markets team, manned the firm's booth that featured data analytics (DA) through brochures, videos on VR goggles, and demos by the RA's DA team.

The meeting theme, "Moving Together Beyond Awareness", reflects the need for internal auditors to keep pace with ever-changing landscapes of business disruption and continuously be innovative to maintain or increase value.

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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