



Happy Holidays from
PwC Philippines

Client Advisory Letter

Prior claim ^{p3} | Computing prescription ^{p5}
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December 2020



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clarifications on selected topics

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Taxes, compliance matters, assessments, and refunds

Private rulings

Whether a taxpayer can invoke tax rulings obtained by other taxpayers

Revenue Memorandum Order No. 9-2014 provides that a BIR ruling is based on particular facts and circumstances presented by a taxpayer and are interpretations of law at a specific point in time. These cannot be cited as precedent by other taxpayers although they can provide useful information on how the BIR may treat similar positions.

In this light, the CTA held that a taxpayer, who was justifying a refund claim, cannot invoke BIR rulings that were issued to other persons since said rulings can be invoked only by the taxpayers who sought or requested the same.

(CTA EB No. 2087, promulgated 14 December 2020)

Prior claim

Consequence of filing both administrative and judicial refund claims on the same day

On 22 August 2016, a taxpayer filed with the BIR an administrative claim for refund of excise taxes. Subsequently, but on the same day, the judicial claim was filed with the CTA.

The CTA denied the judicial claim for failure of the taxpayer-claimant to comply with the requirement of prior filing of the administrative claim. According to the CTA, even if the administrative claim was filed before the filing of the judicial claim, both filings were done on the same day.

It was held that the filing of both administrative and judicial claims on the same day does not comply with the requirement of prior filing under Section 229 of the Tax Code and that such same-day filings are akin to the concurrent filing of the subject claims which fall short of

the primary purpose of giving the Commissioner of Internal Revenue an opportunity to act on the administrative claim.

Citing a Supreme Court decision,¹ the CTA explained that the primary purpose of requiring the prior filing of an administrative claim was to give notice or warning to the CIR that court action would follow unless the tax alleged to have been erroneously or illegally collected is refunded.

(CTA EB No. 2166, promulgated 11 December 2020)

Reasonable expectation

Effect of BIR's failure to state reasons for rejecting taxpayer explanations

Section 228 of the Tax Code requires that taxpayers shall be informed in writing of the law and the facts on which tax assessments are made. Otherwise, such assessments shall be void.

According to the CTA, as a corollary to the above requirement, the taxpayer must not be left unaware on how the CIR or his duly authorized representatives appreciated the explanations or defenses raised in connection with the assessment.

Hence, the CTA ruled that when the Formal Letter of Demand and Final Assessment Notices (FLD/FAN) merely reiterates the same findings as those stated in the Preliminary Assessment Notice (PAN) without giving any reason for rejecting the refutations and explanations made by the taxpayer in response to the PAN, the BIR is deemed not to have given the particular facts upon which the tax assessments in the FLD/FAN were based. This constitutes violation of the taxpayer's right to due process which renders the tax assessment void.

In support of its decision, the CTA cited a Supreme Court case wherein it was held that although the CIR is not obliged to accept the taxpayer's explanations, if such explanations are rejected, the CIR must give some reason for doing so. In this regard, the CIR must give the particular facts upon which his or her conclusion are based, and those facts must appear in the record.

(CTA Case No. 9758, promulgated 3 December 2020)

Glossary

BIR – Bureau of Internal Revenue

CIR – Commissioner of Internal Revenue

CTA – Court of Tax Appeals

¹ GR No. 216130, promulgated 3 August 2016.

Transfer pricing limit

Only specific taxpayers are now required to submit BIR Form No. 1709

Revenue Regulations (RR) No. 19-2020 and Revenue Memorandum Circular No. 76-2020 regarding the submission of BIR Form No. 1709 (the “RPT Form”) and transfer pricing documentation (TPD) have been amended as follows:

- A. Only the following are required to file the RPT Form together with the annual income tax return (ITR):
 - 1. Large Taxpayers;
 - 2. Taxpayers enjoying tax incentives, e.g., taxpayers registered with the Board of Investments and with economic zone authorities;
 - 3. Taxpayers reporting net operating losses for the current taxable year and the immediately preceding two consecutive taxable years; and
 - 4. Related parties, as defined by Section 3 of RR No. 19-2020, who have transactions with taxpayers in Subsections 1, 2 or 3 above.
 - 5. Key management personnel (KMP) shall no longer be required to file the RPT Form. Further, there shall be no requirement to report any transaction between KMP and the reporting entity/parent of KMP in the RPT Form.
- B. When short-period annual ITRs are required, the RPT Form shall still be accomplished in all cases. However, compliance therewith shall only be mandatory for short-period returns filed in 2021 and subsequent years.
- C. The preparation and submission of TPD under RR No. 2-2013 shall be mandatory for the above-enumerated taxpayers who meet the following materiality thresholds:
 - 1. Annual gross sales/revenue for the subject taxable period exceeding PH₱150m and total amount of related party transactions exceeds PH₱90m

In computing the threshold for related party transactions, the following shall be included:

- a. Amounts received and/or receivable from related parties, or amounts paid and/or payable to related parties but excluding compensation paid to KMP, dividends and branch profit remittances; and
 - b. Outstanding balances of loans and non-trade amounts due from/to all related parties.
- 2. Related party transactions meeting any of the following materiality thresholds:
 - a. If involving sale of tangible goods in an aggregate amount exceeding PH₱60m within the taxable year; or
 - b. If involving service transaction, payment of interest, utilization of intangible goods or other related party transaction in an aggregate amount exceeding PH₱15m within the taxable year.
- 3. If TPD was required to be prepared during the immediately preceding year for exceeding the materiality thresholds under Subsections 1 or 2 above.
- 4. The TPD and other supporting documents set out in Section 6 of RR No. 19-2020 shall no longer be attached to the RPT Form. However, the same shall be submitted within 30 calendar days upon request by the BIR pursuant to a Letter of Authority, subject to a non-extendible period of 30 calendar days based on meritorious grounds.
- D. In addition to the requirements under RR No. 21-2002, taxpayers who are not covered by Section A above are required to disclose in the Notes to the Financial Statements that they are not covered by the requirements and procedures for related party transactions under RR No. 34-2020.
- E. The simplified version of the RPT Form shall be used in lieu of the old form.

(Revenue Regulations No. 34-2020, published 23 December 2020)

Glossary

BIR – Bureau of Internal Revenue

VAPP extension

Amending the Voluntary Assessment and Payment Program regulations

Revenue Regulations (RR) No. 21-2020, which implements the Voluntary Assessment and Payment Program (VAPP) covering taxable year 2018, has been amended as follows:

- The period for availment of the VAPP has been extended to 30 June 2021.
- Taxpayers who availed of the VAPP on withholding taxes shall be allowed to deduct the corresponding income payments pursuant to RR No. 6-2018.
- Any Notice of Discrepancy previously issued shall be withdrawn and cancelled after a Certificate of Availment (CA) is issued.
- Despite the issuance of a CA, the taxpayer's availment shall be rendered invalid and shall be subject to audit when there is strong evidence or findings of under-declaration of sales, receipts or income, or overstatement of deductions by more than 30% based on a written report of the appropriate revenue official stating the facts with supporting documents such as Discrepancy Notice and other third party information documents.
- The denial of the VAPP application or the invalidation of a previously issued CA shall be valid only if the taxpayer is formally notified by the Division Chief (Large Taxpayers Office) or by the Revenue District Officer where the taxpayer is registered, stating the factual reasons therefor.

The above denial or invalidation may be appealed to the Assistant Commissioner – Large Taxpayers Service or to the Regional Director within 30 days from receipt of the notice.

(Revenue Regulations No. 33-2020, published 22 December 2020)

Amnesty extension

New deadline for availing the tax amnesty on delinquencies to 30 June 2021

The deadline for availing the tax amnesty on delinquencies for taxable year 2017 and prior years under Republic Act No. 11213 has been moved to 30 June 2021.

(Revenue Regulations No. 32-2020, published 22 December 2020)

Glossary

BIR – Bureau of Internal Revenue

Computing prescription

Clarifying the determination of the new prescriptive dates

In Revenue Regulations No. 11-2020, the BIR suspended the running of the prescriptive periods of the right to assess and collect taxes starting from 16 March 2020 until sixty (60) days after the lifting of the quarantine. Accordingly, the three-year and five-year prescriptive periods shall exclude a total of one hundred thirty-seven (137) days.

To clarify how to determine the new prescriptive dates, the BIR has provided the following illustration:

	Original Prescriptive Date	New Prescriptive Date
Case 1	15 March 2020	15 March 2020
Case 2	16 March 2020	31 July 2020
Case 3	15 April 2020	30 August 2020
Case 4	15 June 2020	30 October 2020
Case 5	15 July 2020	29 November 2020
Case 6	15 April 2021	30 August 2021

(Revenue Memorandum Circular No. 136-2020, issued 17 December 2020)

Climate change

Paying taxes in case of unavailability of the eFPS during the typhoons

Due to the inaccessibility of the Electronic Filing and Payment System (eFPS) between 10 to 14 November 2020 due to Typhoons Rolly and Ulysess, the filing of withholding tax returns (BIR Form Nos. 1600, 1601-C, 0619-E and 0619-F) and corresponding remittance of withholding taxes by eFPS taxpayers for the month of October 2020 are allowed until the close of banking hours on 20 November 2020, without the imposition of penalties for late payment. This extension of payment is applicable only to eFPS taxpayers with activated epayment accounts with Authorized Agent Banks (AABs).

In case the eFPS facility is not yet accessible, eFPS filers are temporarily allowed to manually file their tax returns and pay taxes through the following:

- 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, and taxpayers utilizing PesoNet facility (depositors of RCBC, Robinsons Bank and Union Bank)

- Development Bank of the Philippines Pay Tax Online - for holders of Visa/Mastercard Credit Card and/or BancNet ATM/Debit Card
- Union Bank Online Web and Mobile Payment Facility - for taxpayers who have accounts with Union Bank
- Mobile payment (GCash/PayMaya)

eFPS and eBIRForms filers affected by Typhoons Rolly and Ulysses who are registered under the following areas where power supply or telecommunications connectivity have been disconnected are temporarily allowed to file their tax returns and pay taxes without imposition of penalties for late payment:

1. Bicol Region
2. CALABARZON
3. MIMAROPA
4. Cagayan Province, including Tuguegarao City
5. Isabela Province
6. Aurora Province
7. Marikina City

Concerned taxpayers are given a 15-day extension on deadlines falling between 15 and 30 November 2020. Filing and payment may be made with AABs or with Revenue Collection Officers, in areas with no AABs. Taxes may also be paid through GCash or PayMaya.

(Revenue Memorandum Circular No. 133-2020, issued 11 December 2020)

Form of beauty

Prescribing the new excise tax return for cosmetic procedures

The new BIR Form No. 2200-C (Excise Tax Return for Cosmetic Procedures) is already available in the BIR website under the BIR Forms - Excise Tax Section. However, it is not yet available in the Electronic Filing and Payment System (eFPS) and Electronic BIR Forms (eBIRForms). Hence, eFPS and eBIRForms filers shall continue to use BIR Form No. 0605 in filing and paying the excise tax due.

Glossary

AAB – Authorized Agent Bank

BIR – Bureau of Internal Revenue

The deadline for filing and paying the excise tax is within ten days after the close of the month. If no invasive cosmetic procedure was performed which does not give rise to excise tax, BIR Form No. 2200-C should still be filed.

In light of the foregoing, all AABs are advised to accept said BIR Form No. 2200C and follow the procedures in Bank Bulletin No. 2018-01 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.

(Revenue Memorandum Circular No. 132-2020, issued 11 December 2020 and Bank Bulletin No. 17-2020, issued 24 November 2020)

Virtual meeting

Guidance for online meetings between the BIR and taxpayers

BIR officers/employees and taxpayers may use digital or online media as alternative options to hold meetings. In order to ensure the order, uniformity and integrity of information during the conduct of such online meetings, the following guidelines and policies should be observed:

1. Online meetings with taxpayers or taxpayers' representatives shall be hosted by the BIR.
2. BIR officials/employees shall only use prescribed BIR email addresses when sending invitations for online meetings.
3. All online meetings must be pre-approved in writing by the concerned Division Chief for the National Office, Regional Director for Regional Offices and Revenue District Officer for Revenue District Offices.
4. A taxpayer's representative shall have a duly notarized Special Power of Attorney from the taxpayer, those already with BIR Certificate of Accreditations.
5. Online meetings shall be conducted only if the taxpayer or taxpayer's representative requested a virtual meeting schedule via the BIR eAppointment System and clicked "Agree" to the BIR eAPPOINTMENT USER AGREEMENT, or submitted a duly accomplished BIR VIRTUAL MEETING AGREEMENT, for BIR offices with no BIR eAppointment System facility.
6. Proceedings during online meetings shall be strictly confidential. Hence, recording is strictly prohibited.

(Revenue Memorandum Circular No. 130-2020, issued 10 December 2020)

Vaping rules

Joint implementing rules and regulations for heated tobacco and vapor products

The Department of Health (DOH), Department of Finance (DOF), Department of Budget and Management, Bureau of Internal Revenue (BIR) and Philippine Health Insurance Corporation issued Joint Memorandum Circular No. 3-2020 containing the implementing rules and regulations (IRR) of heated tobacco products and vapor products as prescribed by RA Nos. 11346 and 11467.

The tax features of the IRR include the following:

- The BIR shall mandate the proper affixture of internal revenue tax stamps and ensure that stamp taxes are not affixed on Non-Compliant Packages.
- The BIR shall ensure that packaging approved per the Tax Code are compliant with the Graphic Health Warnings Law.
- The DOF, upon BIR recommendation, shall issue the necessary regulations and guidelines prescribing the floor price or minimum price of Vapor Products and Heated Tobacco Products, considering the sum of the excise tax and VAT as provided in RA No. 11467.

(Revenue Memorandum Circular No. 128-2020, issued 7 December 2020)

Holiday break

Suspension of all audit and field operations of the Bureau of Internal Revenue

The Commissioner of Internal Revenue (CIR) suspended all BIR audit and field operations from 15 December 2020 to 7 January 2021. Hence, the BIR shall not conduct field audit, field operations or any business visitations pursuant to Letters of Authority/Audit Notices or Mission Orders.

Further, no written orders to audit shall be served except in the following cases:

1. Investigation of cases prescribing on or before 15 April 2021;

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BIR – Bureau of Internal Revenue

RA – Republic Act

VAT – Value-added Tax

2. Tax evasion cases;
3. Processing and verification of estate tax returns, donor's tax returns, capital gains tax returns and withholding tax returns on the sale of real properties or shares of stocks together with related documentary stamp tax returns;
4. Examination and/or verification of taxes of taxpayers retiring from business;
5. Monitoring of privilege stores (*tiangge*); and
6. Other matters where deadlines have been imposed or under the orders of the CIR.

To ensure maximum revenue collection, Notices to Avail the Tax Amnesty on Delinquencies, Estate Tax Amnesty and the Voluntary Assessment and Payment Program should still be served.

(Revenue Memorandum Circular No. 127-2020, issued 4 December 2020)

Withholding from compensation

Availability of BIR Form No. 1601-C in the Electronic Filing and Payment System

BIR Form No. 1601-C (Monthly Remittance Return of Income Taxes Withheld on Compensation) is already available in the Electronic Filing and Payment System (eFPS). This shall be used by withholding agents/payors who are eFPS filers in remitting withholding taxes on compensation in accordance with their business industry grouping.

(Revenue Memorandum Circular No. 125-2020, issued 27 November 2020)

Offshore income

Revised requirements and procedures for Tax Residency Certificate applications

The Commissioner of Internal Revenue amended Revenue Memorandum Order (RMO) No. 51-2019, revising the documentary requirements for Tax Residency Certificate (TRC) applications as follows:

- A. For individuals
 1. Duly accomplished BIR Form No. 0902;
 2. Certified true copy of the following:
 - a. Contract duly signed by both parties or any competent proof of transaction;

- b. BIR-registered invoice/receipt issued by the taxpayer to the income payor and relevant Authority to Print or Permit to Use Computerized Accounting System/Loose-Leaf Receipts/Invoices; and
 - c. Proof or remittance if income was already received;
3. Photocopy of passport booklet of Residency Certificate issued by the Barangay Chairman if the applicant never left the Philippines;
 4. Annual income tax return for the immediately preceding year; and
 5. Notarized Special Power of Attorney (SPA) or authorization letter in favor of an authorized representative expressly stating the authority to sign BIR Form No. 0902 and to file the TRC application.

A. For non-individuals

1. Duly accomplished BIR Form No. 0902
2. Proof of establishment in the Philippines;
3. Certified true copy of the following:
 - a. Contract duly signed by both parties or any competent proof of transaction;
 - b. BIR-registered invoice/receipt issued by the taxpayer to the income payor and relevant Authority to Print or Permit to Use Computerized Accounting System/Loose-Leaf Receipts/Invoices; and
 - c. Proof or remittance if income was already received.
4. List of partners if the applicant is a general professional partnership;
5. Annual income tax return for the immediately preceding year; and
6. Notarized SPA or authorization letter in favor of an authorized representative expressly stating the authority to sign BIR Form No. 0902 and to file the TRC application.

The following should also be noted:

- The duly accomplished BIR Form No. 1902 submitted shall be in lieu of the previously required letter-request.
- The assigned case officer shall inform the applicant of any deficiency in the requirements within three working days via registered mail or email.
- All TRC applications shall be acted upon within fourteen working days from the submission of complete documentary requirements.
- The BIR shall continue to issue its own TRC Form which shall be signed by the Assistant Commissioner for Legal Service.
- When a taxpayer fails to secure a TRC and pays income taxes in a foreign country, such foreign income taxes paid may be credited against Philippine income taxes.

However, RMO No. 46-2021 provides that in such case, the tax auditor shall not allow as foreign tax credit the taxes paid in the foreign country but shall instead advise the taxpayer to secure a TRC and file a claim for tax refund in the foreign country.

(Revenue Memorandum Order No. 43-2020, issued 1 December 2020)

Embassy privilege

VAT refund claims of resident foreign missions and qualified personnel

The Commissioner of Internal Revenue clarified the policies and procedures for VAT refund claims of the following:

- a. Resident foreign missions (RFMs), their qualified personnel including the personnel's qualified dependents whose VAT privileges were transitioned from point-of-sale VAT exemption into VAT refund; and
- b. RFMs, their qualified personnel including the personnel's qualified dependents who were granted point-of-sale VAT exemption but were not accorded such privilege by the transacting business establishments.

The policies and procedures include the following:

- a. All business establishments are directed to honor and recognize the VAT Certificate or VAT Identification Card issued by the BIR to the RFMs, their qualified personnel and the personnel's

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BIR – Bureau of Internal Revenue
VAT – Value-added Tax

dependents when presented at the point of sale, irrespective of whether the purchase was made online.

b. Invoicing for VAT refund purposes

- Since RFMs, their qualified personnel and the personnel's dependents are not VAT-registered taxpayers, the VAT invoice/official receipt that must be presented when claiming VAT refunds need not contain the name, address and TIN of the purchaser.
- Tape receipts/invoices issued by business establishments reflecting the claimant's name using membership/loyalty cards would be considered as sufficient evidence.
- For credit transactions, tape receipts/invoices generated from BIR-registered Cash Register Machines/Point-of-Sale Machines (CRM/POS Machines) incapable of encoding the purchaser's information would suffice, provided the transaction is supported by a credit card slip and statement of account.
- For cash transactions where the CRM/POS Machines are incapable of encoding the purchaser's information, business establishments shall issue a manual receipt bearing the purchaser's information.
- For online transactions, the claimant must likewise secure the same receipts as discussed above. The claimant is hereby advised not to transact with business establishments that cannot issue BIR-registered receipts/invoices.

c. Documentary requirements for VAT refund applications

- d. The usual procedures for the processing of VAT refund claims of VAT-registered taxpayers shall not apply to the RFMs, their qualified personnel and the personnel's dependents because of their unique situation. The applicable procedures are provided under Revenue Memorandum Order No. 41-2020.

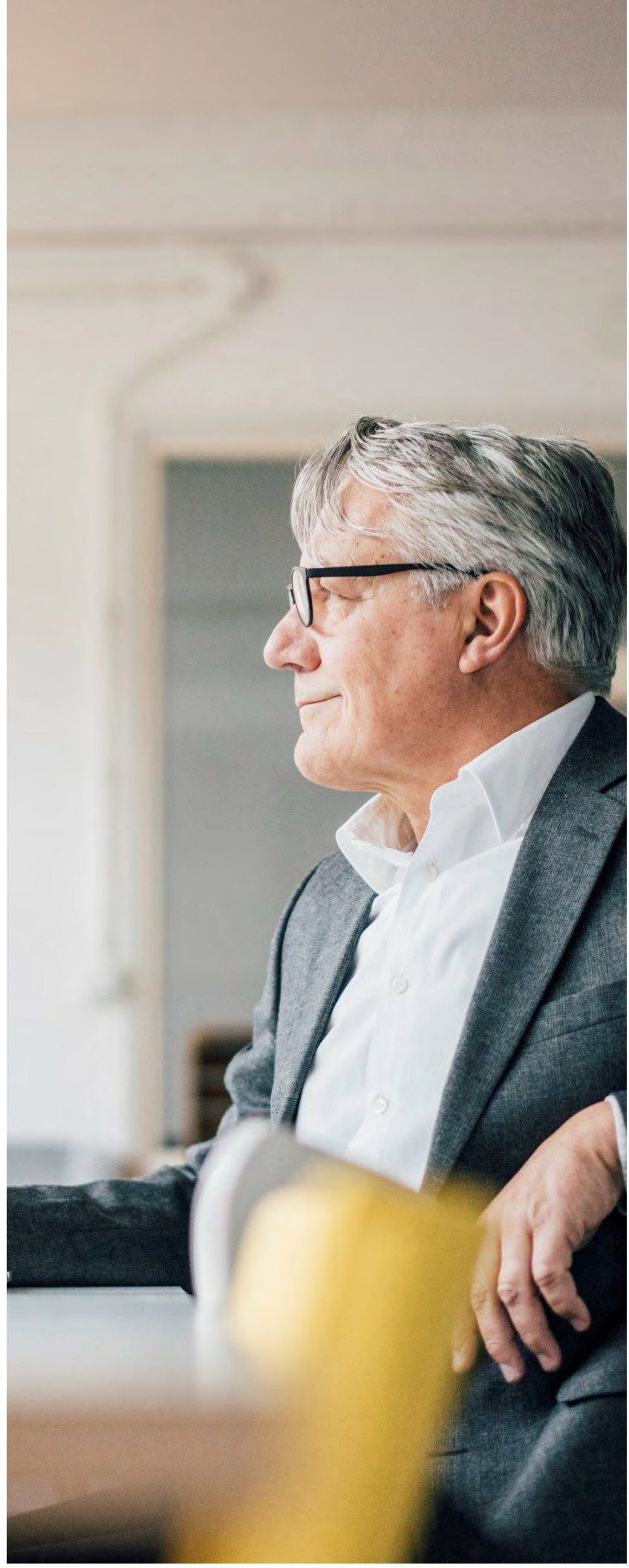
(Revenue Memorandum Order No. 41-2020, issued 1 December 2020)

Glossary

BIR – Bureau of Internal Revenue

TIN – Taxpayer Identification Number

VAT – Value-added Tax



Latest on regulatory landscape

Building material

Collection of general safeguard duty on imported cement

All cement classified under AHTN Headings 2523.29.90 and 2523.90.00 imported within the period 22 October 2020 to 21 October 2021, regardless of origin, shall be subject to a definitive safeguard duty of ~~PHP~~245.00 per metric ton or ~~PHP~~9.80 per 40-kilogram bag. This is pursuant to DTI Administrative Order No. 8-2020 issued on 26 October 2020.

(Customs Memorandum Order No. 29-2020, dated 7 December 2020)

Investment rules

Amendments to the implementing rules and regulations of the Investment Company Act

The SEC amended the implementing rules and regulations (IRR) of the Investment Company Act. Said amendments affect the following Rules:

- Rule 1 – Definitions of the terms 'Collective Investment Scheme (CIS)' and 'Custodian', 'Independent Oversight Committee (IOE)' and 'Investment Company Assets' under
- Rule 3.3 – Definition of the term 'Feeder Fund', 'Fund-of-funds' and 'Multi-asset/Asset Allocation Fund'
- Rule 3.4 – Minimum Requirements
- Rules 5.1.1 and 5.1.2 – Qualifications and Responsibilities of a Fund Manager
- Rule 5.1.9 – Procedures for withdrawal of license as Fund Manager
- Rule 5.1.10 – Failure to hire a new Fund Manager
- Rules 5.3.2 and 5.3.3 – Qualifications and Responsibilities of an Independent Custodian

- Rule 5.9 – Independent Oversight Entity requirement, composition, and roles and responsibilities
- Rule 6.8 – Prohibited purchases or sales
- Rule 6.9 – Additional Rules on Money Market Funds
- Rule 6.10 – Liquidity Requirements
- Rule 6.11.1 – Disclosure of computation and expense ratio
- Rule 7.2 – Dissemination of offering materials
- Rule 7.9 – Investment of funds of the feeder fund, fund-of-funds or co-managed funds
- Rule 8.2 – Daily Computation and Publication of the NAVps/NAVpu
- Rule 8.6 – Valuation Error or Incorrect Price
- Rule 10.4 – Suspension of Redemption of Shares or Units
- Rule 10.5 – Period for the Suspension of Redemption of Shares or Units
- Rule 11.3 – Separate booking and recording for shares and units
- Rule 13.1.2 – Procedures for the Suspension or Revocation of Registration of Securities and License of the fund manager
- Rule 13.1.8 – Residual Obligation of the Investment Company with a Revoked Registration Statement
- Rule 13 – Suspension, Revocation or Liquidation

(SEC Memorandum Circular No. 33-2020, Published 5 December 2020)

Security removal

Amendments to the Philippine Stock Exchange Voluntary Delisting Rules

The Voluntary Delisting Rules have been amended as follows:

1. Required Approvals

The delisting must be approved by:

- a. At least 2/3 of the entire membership of the Board, including the majority, but not less than two, of all its independent directors; and

Glossary

AHTN - ASEAN Harmonized Tariff
Nomenclature

DTI – Department of Trade and Industry

SEC – Securities and Exchange Commission

- b. Stockholders owning at least 2/3 of the total outstanding and listed shares.

The number of votes cast against the delisting proposal should not be more than 10% of the total outstanding and listed shares.

2. Tender Offer Price

The minimum tender offer price shall be the higher of:

- a. The highest valuation based on the fairness opinion or valuation report prepared by an independent valuation provider; or
- b. Volume weighted average price of the listed security for one year immediately preceding the date of posting of the disclosure of the approval by the Board of Directors of the company delisting.

(PSE Memorandum No. 2020-0104, dated 21 December 2020)

Digital platform

Guidelines for the establishment of digital banks

The Monetary Board has included digital banks as a distinct classification of banks and has approved the following guidelines for their establishment:

- A digital bank offers products and services that are processed end-to-end through a digital platform and/or electronic channels with no physical branch/sub-branch or branch-lite unit offering financial products and services.
- The minimum capitalization of a digital bank is PHP1m.
- They are subject to BSP prudential requirements including corporate governance and risk management, particularly on information technology and cyber security, outsourcing, consumer protection and anti-money laundering and combating the financing of terrorism.
- They are required to maintain a principal/head office in the Philippines to serve as the main point of contact of stakeholders, including the BSP and other regulators. This office shall house the offices of management and other support operations and may also serve as the central hub for receiving and resolving customer complaints.

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BSP – Bangko Sentral ng Pilipinas

- They may offer financial products and services through cash agents other qualified service providers subject to guidelines.
- The establishment of a digital bank is subject to an application fee of PHP250,000 and a license fee of PHP12.5m.
- Digital banks may perform the following services:
 - a. Grant loans;
 - b. Accept savings and time deposits;
 - c. Accept foreign currency deposits;
 - d. Invest in readily marketable bonds and other debt securities, commercial papers and accounts receivable, drafts, bills of exchange, acceptances or notes arising from commercial transactions;
 - e. Act as correspondent for other financial institutions;
 - f. Act as collection agent for non-government entities;
 - g. Issue electronic money products;
 - h. Issue credit cards;
 - i. Buy and sell foreign exchange; and
 - j. Present, market, sell and service microinsurance products.
- Any foreign individual or non-bank corporation may each own or control up to 40% only of the voting stock of a digital bank.
- Any Filipino individual or domestic non-bank corporation may each own up to 40% only of the voting stock of a digital bank.
- An individual and a corporation or corporations which are wholly owned, or a majority of the voting stock of which is owned, by him, may only own up to a combined 40% of the voting stock of a digital bank.
- Two or more corporation owned or controlled by the same family or same group of persons may each own up to 40% of the voting stock in a digital bank.
- The equity investment of a digital bank in a single financial allied undertaking shall be within the following ratios in relation to total subscribed capital stock and total voting stock.

Universal Bank	100
Commercial Bank	49
Thrift Bank	49
Rural Bank	49
Cooperative Bank	49

(BSP Circular No. 1105-2020, dated 2 December 2020)

Free pass

Extension of temporary relief measure on PhilPaSS transactions until end of 2021

For purposes of fostering an environment wherein BSP-supervised entities can extend improved financial intermediation services and encourage the use of digital payments, the temporary waiver of fees of fund transfer transaction made through the Philippine Payment and Settlement System (PhilPaSS) is extended until the last business day of 2021.

In this regard, PhilPaSS participants are enjoined to actively disseminate the available automated clearing houses (InstaPay and PESONet) and PhilPaSS as facilities for electronic fund transfers to target recipient - accounts maintained with other banks participating in PhilPaSS.

(BSP Memorandum No. 2020-95, dated 16 December 2020)

EPFS compliance

Electronic submission of the EPFS monthly report template

All BSP Supervised Financial Institutions with Electronic Payment and Financial Services (EPFS) licenses shall observe the following revised process and deadline for the submission of the EPFS monthly report template covering 2018, 2019 and 2020:

1. The new deadline for 2018, 2019 and 2020 is 29 January 2021. There shall be a total of fourteen email submissions.
2. Only one report each covering 2018 and 2019, respectively, shall be submitted. These submissions shall be considered as a December submission

covering the cumulative transactions for that particular year.

3. The reports for 2018 and 2019 shall be submitted in separate emails along with the corresponding Control Prooflist and following the prescribed file names.
4. Monthly reports beginning January 2020 shall cover each particular month and shall be submitted as one month per email for a total of twelve email submissions all due on or before 29 January 2021.

All other provisions of BSP Memorandum No. 2020-80 concerning the submission process and deadlines for 31 January and onwards shall remain in effect.

(BSP Memorandum No. 2020-93, dated 16 December 2020)

Credit activity

Guidelines on the electronic submission of the Credit Card Business Activity Report

All BSP-Supervised Financial Institutions (BSFIs) with credit card operations and their subsidiary/affiliate credit card companies shall observe the guidelines and take note of the reminders in BSP Memorandum No. 2020-91 regarding the submission of the Credit Card Business Activity Report beginning with the 31 October 2020 month-end report.

(BSP Memorandum No. 2020-91, dated 12 December 2020)

Extended list

Additional beneficiaries under DOLE-DOT Joint Memorandum Circular No. 2020-1

The following may apply for the financial assistance provided by DOLE-DOT Joint Memorandum Circular (JMC) No. 2020-1 to the tourism sector:

1. Beneficiaries of the Social Amelioration Program (SAP) and COVID-19 Adjustment Measures Program (CAMP) under the Bayanihan to Heal as One Act;
2. Employees of affected establishments which implemented Flexible Work Arrangements (FWAs) or Alternative Work Schemes (AWS) resulting in a decrease or less of regular wages for the duration of the community quarantine; and
3. Employees of Secondary Tourism Enterprises which implemented permanent closure, or retrenchment, temporary closure or FWAs/AWS.

Glossary

BSP – Bangko Sentral ng Pilipinas

DOLE – Department of Labor and Employment

DOT – Department of Tourism

The relevant training required under Section 10 of DOLE-DOT JMC No. 2020-1 is no longer a condition precedent for qualified tour guides to receive the grant.

(DOLE-DTI Joint Advisory No. 1-2020, dated 7 December 2020)

Extra pay

Computation of wages for December 2020 special days and regular holidays

Pursuant to Proclamation No. 845, the following rules for pay on special (non-working) days and regular days shall apply:

1. Special (non-working) days on 8, 24 and 31 December 2020
 - a. If the employee did not work, the “no work, no pay” principle shall apply unless there is a favorable company policy or collective bargaining agreement granting payment on a special day.
 - b. For work done during the special day, additional pay shall be 30% of basic wage in the first eight (8) hours of work $[(\text{basic wage} \times 130\%) + \text{COLA}]$.
 - c. For work done in excess of 8 hours, additional pay shall be 30% of his/her hourly rate on said day $[\text{hourly rate of basic wage} \times 130\% \times 130\% \times \text{number of hours worked}]$.
 - d. For work done during a special day that also falls on a rest day, additional pay shall be 50% of his/her basic wage on the first 8 hours of work $[(\text{basic wage} \times 150\%) + \text{COLA}]$.
 - e. For work done in excess of 8 hours under item “d”, additional pay shall be 30% of his/her hourly rate on said day $[\text{hourly rate of basic wage} \times 150\% \times 130\% \times \text{number of hours worked}]$.
2. Regular holidays on 25 and 30 December 2020
 - a. If the employee did not work, he/she shall be paid 100% of his/her wage for that day $[(\text{basic wage} + \text{COLA}) \times 100\%]$.
 - b. For work done during the regular holiday, the employee shall be paid 200% of his/her basic wage for that day for the first 8 hours $[(\text{basic wage} + \text{COLA}) \times 200\%]$.

- c. For work done in excess of 8 hours, additional pay shall be 30% of his/her hourly rate on said day $[\text{hourly rate of basic wage} \times 200\% \times 130\% \times \text{number of hours worked}]$.
 - d. For work done during the regular holiday that also falls on a rest day, additional pay shall be 30% of his/her basic wage basic wage of 200% $[(\text{basic wage} + \text{COLA}) \times 200\%] + [30\% \times (\text{basic wage} \times 200\%)]$.
 - e. For work done in excess of 8 hours under item “d”, additional pay shall be 30% of his/her hourly rate on said day $[\text{hourly rate of basic wage} \times 200\% \times 130\% \times 130\% \times \text{number of hours worked}]$.
3. Establishments that have totally closed or ceased operations during the community quarantine period are exempted from payment of the holiday pay on 25 and 30 December 2020.

(DOLE Labor Advisory No. 32-2020, dated 7 December 2020)

Spreading aid

Expanded coverage of the CAMP under the Bayanihan to Recover as One Act

The DOLE has expanded the COVID-19 Adjustment Measures Program (CAMP) coverage under the Bayanihan to Recover as One Act to include the following:

1. Affected workers of establishments which implemented Flexible Work Arrangements or Alternative Work Schemes after 15 April 2020;
2. Freelance workers or workers engaged to work on their own account and responsibility and whose employment were severed or suspended due to the COVID-19 pandemic; and
3. CAMP beneficiaries under DOLE Department Order No. 209-2020 implemented under the Bayanihan to Heal as One Act.

(DOLE Labor Advisory No. 30A-2020, dated 3 December 2020)

Glossary

BSP – Bangko Sentral ng Pilipinas

COLA - Cost-of-Living Adjustment

DOLE – Department of Labor and Employment

Meet us

UP-Diliman clinches back-to-back win at PwC M&A Challenge



Emerging as the grand prize winner for two consecutive years of the country's pioneer Mergers & Acquisitions (M&A) Challenge was the University of the Philippines (UP)-Diliman during the final round held on 11 December 2020. Other teams from UP-Diliman won in 2017 and 2019.

Team Mr. JP, composed of Anjeli Protacio Panis, Jose Luis B. Razon, Catrina Patricia Santiago Magsadia, and Gabriel Antonino Jaraula Juan, with Diogenes C. Dy as their coach, went home with a trophy, a cash prize of PHP100,000, plus PHP25,000 for UP-Diliman. The students also earned an internship opportunity with PwC Philippines' Deals and Corporate Finance Department in 2021.

In recognizing the finalists after the grueling simulated M&A process experience, Atty. Alexander Cabrera, Chairman and Senior Partner of PwC Philippines, said: "The difficulty of studying in this pandemic situation is hard enough but that did not dull your spirit and enthusiasm in joining our M&A competition – and it's all for a good reason. The cases were designed to tackle M&A in this pandemic environment."

Jade Divinagracia, PwC Philippines Deals and Corporate Finance Managing Partner, notes: "Part of the challenge this year is to incorporate the uncertainties brought about by the pandemic. How are these businesses impacted? How long is the recovery period? What changes will happen in the market? These

questions will be answered by the different teams in their presentations."

The judges were Philippine Stock Exchange, Inc. (PSE) President & Chief Executive Officer Ramon Monzon; Philippine Competition Commission (PCC) Director (IV) of the Economics Office, Benjamin Radoc, Jr.; Atty. Alexander Cabrera, Jade Divinagracia, and PwC Philippines Vice Chairman and Assurance Managing Partner Roderick Danao.

Named first runner-up was Team TRAI Co. from De La Salle University - Dasmariñas. The team was led by Mary May Eulogio (coach) with Trisha Ysabelle M. Navarro, Royette B. Miranda, Adrienne Dennise P. Estrella, and Maria Isabela R. Bernabe as members. They won PHP50,000, a trophy, and PHP15,000 for the university.

Second runner-up was Team Aegis from Ateneo de Manila University, winning PHP25,000, a trophy, and PHP10,000 for the university. Led by their coach Enrique Jaime S. Soriano, the team is composed of John Michel Chua Lee, Tiffany Diane Pek Golangco, Hazel Anne Louise Lee Si, and Beatriz Ysabel Castro Reyes.

The other three finalist teams were Team Equiteam from Miriam College, Team BAE from University of the East-Manila, and Team Clutch from University of the Philippines-Visayas Tacloban College.

Despite the challenges posed by the pandemic, PwC pushed through with the competition, which is now in its fifth year. It ran from October to December 2020, with 78 teams participating from 35 universities. It is the Philippines' pioneer merger & acquisition focused case study competition involving the top colleges and universities nationwide.

The competition offers an opportunity for undergraduate students taking business-related studies at the university/college level to test their analytical abilities and gain realistic and hands-on experience as a corporate finance advisor.

PwC Philippines does the Green Challenge

PwC is committed to [Net Zero by 2030](#) – a worldwide science-based commitment to reach net zero greenhouse gas emissions by 2030. In support of this, we at PwC Philippines are doing the Green Challenge, which is made up of ten fun, interactive sustainability challenges to let us learn about sustainability and how our choices impact the environment, as well as to develop eco-friendly habits.

We highlight our 4R stars (Repurpose, Reuse, Recycle and Repair Stars) – the green thumb edition. Here are two wins for the planet that we hope will inspire others.

Repurposing while planting

"We asked for plastic bottles left idle by our neighbors. My aunt decided to plant veggies in front of our small store to avoid going to the market. After a few weeks, we started harvesting our veggies."



Dianne Grace Icotanin
Associate
PriceWaterhouseCoopers
Business Services
Philippines Co., Ltd.



Repurposing while planting

"I used an old cabinet drawer as a bed to germinate my seeds. Instead of throwing it away or buying a seedling tray, I decided to reuse it and yeah, it definitely did wonders!"



Reggie Brazil
Assurance Senior
Associate
Isla Lipana & Co./
PwC Philippines



Foxmont Capital with PwC Philippines release VC report



The Philippine Venture Capital Report 2020 was published by Foxmont Capital Partners in partnership with PwC Philippines, QBO Philippines Innovation Hub, UBX Philippines, Manila Angel Investors Network, and Esquire Philippines.

The newly released report covers the first half of 2020 records of US\$51.8m in early-stage funding, higher than full-year 2019 of US\$37.9m, with fintech, IT and software, and transport and logistics as leading sectors; the impact of COVID-19 accelerating growth in fintech, with transaction values forecasted to increase by 24% at the end of 2020, and more. Download the report now.

PwC specialists update PH banking community on end of LIBOR

PwC Philippines successfully conducted the “LIBOR - End of an old reference rate era: How does this affect you?” webinar for more than 100 bankers on 9 December. Specialists from PwC Japan, PwC Singapore and PwC Philippines gave attendees an update on the current state of reference rate reform and what it means for banks in the Philippines.

The global transition from LIBOR to alternative reference rates by 2021 is well underway. In the Philippines, banks are at various stages of the transition, and the BSP in its Memorandum No. M-2020-083 has reiterated the need for banks to implement and monitor their transition plans—including the reporting requirements for LIBOR-related exposures.



From PwC Philippines were Consulting Leader Robby Bassig who welcomed the participants, and Financial Services Partner & Philippines LIBOR co-lead Zaldy Aguirre who gave insights and updates on local impacts of the change from LIBOR. Risk Consulting Director & Philippines LIBOR co-lead Alvin Dave Pusing spoke on local regulatory deadlines and was the event host.

Sergey Volkov (Partner, Asia Pacific LIBOR and Reference Rate Reform Lead, PwC Japan) and Irene Liu (Partner, Southeast Asia Consulting Risk & Regulatory Leader, PwC Singapore), with Zaldy and Alvin, gave an overview of the global reference rate reform, regional and local regulator and bank developments, impact areas and key considerations, and kickstarting your reference rate transition journey.

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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