



Alex Cabrera presents the country's economic rebound at the Asia CEO Forum Economic Briefing 2021

Client Advisory Letter

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January 2021



At a glance

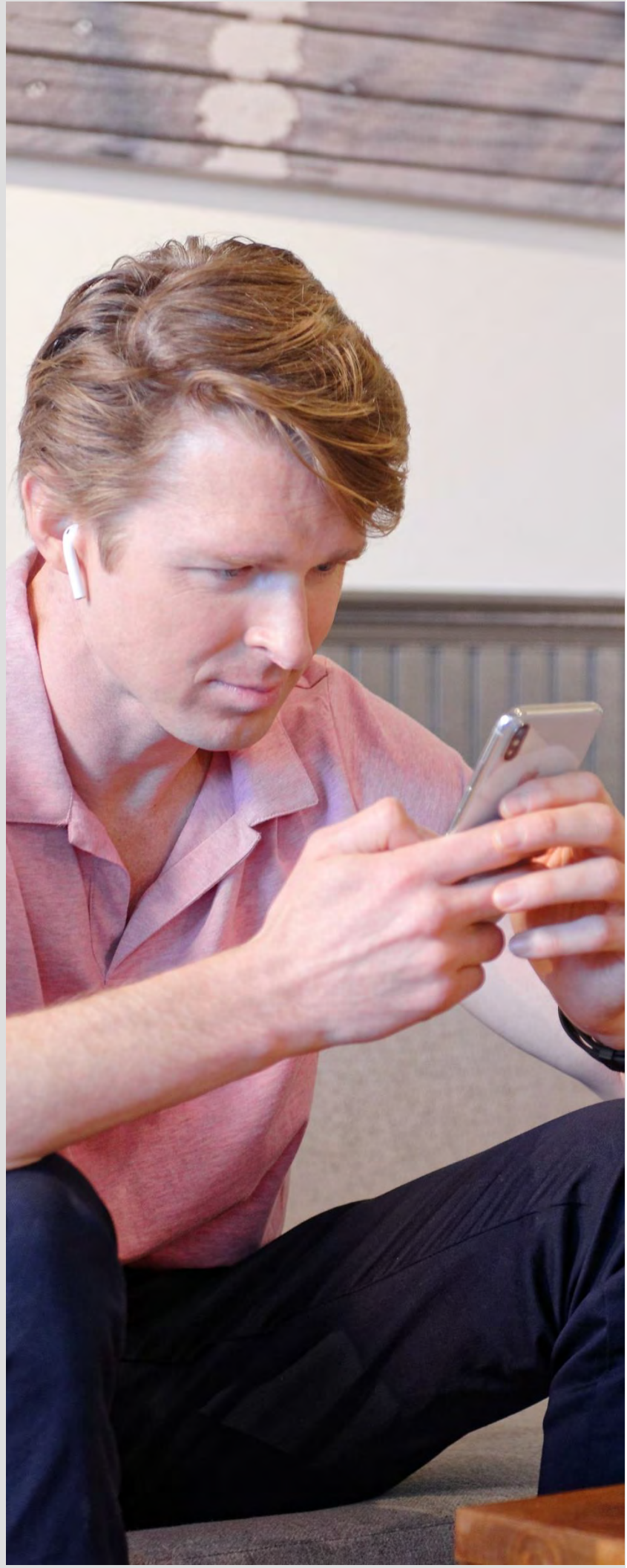
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Taxes, compliance matters, assessments, and refunds

Starting point

Prescriptive period of refunds for taxes paid in installments

When deficiency tax assessments paid in installments are subsequently sought for refund, the two-year prescriptive period for filing the administrative and judicial claims should be counted from the date of the last installment payment. This basic rule proceeds from the theory that there is no payment until the whole or entire tax liability is completely paid. Hence, a partial payment cannot operate to start the commencement of the statute of limitations.

(CTA EB No. 2194, promulgated 5 January 2021)

Discovery plus

When the five-year prescriptive period for Tax Code violations starts to run

Under Section 281 of the Tax Code, all Tax Code violations prescribe after five years. The prescriptive period begins to run from the day that the violation was committed or, if the violation is not yet known at the time, from the discovery of the violation **and** the institution of judicial proceedings for its investigation and punishment.

Hence, if the period from the institution of proceedings for a tax fraud investigation up to the filing of the Information in court already exceeded five years, the government's right to file a criminal action has prescribed. In this regard, the CTA held that the prescriptive period began to run on the date when the BIR filed its Joint Complaint-Affidavit with the Department of Justice for preliminary investigation.

(CTA EB Crim No. 69, promulgated 6 January 2021)

Glossary

BIR – Bureau of Internal Revenue

CTA – Court of Tax Appeals

VAT – Value-added Tax

Hard evidence

Requirements for input VAT refund claims of contractors of RE developers

A taxpayer sought a refund of input VAT attributable to its VAT zero-rated sales to renewable energy (RE) developers. According to the CTA, for the latter sales to qualify for VAT zero-rating as contemplated under Republic Act No. 9513, the taxpayer must be able to present the following documents of the RE developer:

1. Department of Energy (DOE) Certificate of Registration;
2. Registration with the Board of Investments; and
3. DOE Certificate of Endorsement.

(CTA Case No. 9670, promulgated 11 January 2021)

Tobacco warning

Amendments to Tax Code provisions on excise taxes and VAT

The Commissioner of Internal Revenue circularized Republic Act No. 11467 which amended or introduced the following Tax Code provisions:

- Excise tax imposition and administration with respect to distilled spirits, wines, fermented liquors, tobacco products, heated tobacco products and vapor products
- Definition of “vapor products”
- Fines on the unlawful possession or removal of articles subject to excise tax without payment thereof, selling of heated tobacco products and vapor products at a lower price than the combined excise tax and VAT, and offenses relating to stamps
- Disposition of revenues from excise taxes on sugar-sweetened beverages, alcohol, and heated tobacco products and vapor products
- Creation of a Joint Congressional Oversight Committee on Illicit Trade on Excisable Products
- VAT-exempt sale or importation of certain prescription drugs and medicines

Note: RMC No. 113-2020 clarified that RA No. 11467 took effect on 23 January 2020, the date of publication in the Official Gazette website.

(Revenue Memorandum Circular No. 8-2021, issued 11 January 2021)

Cutting the tape

Hastening the removal of excessive regulation within the BIR

The Commissioner of Internal Revenue disseminated Administrative Order No. 23 issued by President Rodrigo Duterte for purposes of eliminating overregulation at all levels of government in order to promote efficiency. In this regard, the following are mandated in all national government agencies:

- Retention of only the necessary steps, procedures and requirements to fulfill the legal mandate and policy objectives of the agency
- Removal of redundant or burdensome processes
- Scrutiny of entire processes, including the most established and longstanding ones
- Compliance monitoring by the Anti-Red Tape Authority, in coordination with the Anti-Red Tape Unit in each covered agency
- Submission of a Compliance Report by all national government agencies to the President
- Filing of administrative cases in case of non-compliance

(Revenue Memorandum Circular No. 9-2021, issued 11 January 2021)

Module upgrade

Release of updated Alphalist Data Entry and Validation Module

The updated Alphalist Data Entry and Validation Module Version 7.0 is already available and can be downloaded from www.bir.gov.ph. It now includes the alphalists for BIR Form Nos. 1600-PT, 1600-VT, 1604-C, 1604-F, 1604-E and 1621. Furthermore, the generation process of the annual alphalists for BIR Form Nos. 1604-E and 1604-F has been simplified under the Quarterly

Alphalists of Payees, dispensing the need of manually re-encoding the information.

With respect to the following alphalists, all concerned taxpayers using their own extract program should strictly observe the revised file structures and standard file naming convention prescribed under Annexes “A”, “B” and “C” of RMC No. 7-2021:

1. Monthly Alphalist of Payees under BIR Form Nos. 1600-VT and 1600-PT;
2. Quarterly Alphalist of Payees under BIR Form Nos. 1601-FQ, 1601-EQ and 1621; and
3. Annual Alphalist of Payees under BIR Form Nos. 1604C, 1604E and 1604F.

(Revenue Memorandum Circular No. 7-2021, issued 8 January 2021)

Mineral return

Availability of the newly revised BIR Form No. 2200-M

The Bureau of Internal Revenue issued the newly revised BIR Form No. 2200-M (Excise Tax Return for Mineral Products). This may be downloaded by manual filers from www.bir.gov.ph under the BIR Forms-Excise Tax Return 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 the BIR Form No. 2200-M version in the eFPS and the offline eBIRForms Package Version 7.7.

(Revenue Memorandum Circular No. 6-2021, issued 8 January 2021)

CAS made easy

Removing the requirement to secure Permit to Use CAS, CBA and/or its Components

The Bureau of Internal Revenue issued simplified policies for the Application for Registration of Computerized Accounting System (CAS), Computerized Books of Accounts (CBA) and/or its Components, including the Electronic Storage System (ESS), Middleware and Other Similar Systems (the “Systems”).

All taxpayers intending to use the Systems are no longer required to secure a Permit to Use (PTU). Instead, they will be registered subject to the following policies:

1. The Systems should be registered by submitting the requirements under the Checklist of Documentary

Glossary

Alphalist – Alphabetical list

BIR – Bureau of Internal Revenue

RMC – Revenue Memorandum Circular

Requirements (Annex “A” of RMC No. 5-2021). BIR Form No. 1900 is no longer required to be submitted.

2. The Systems should comply with the standards under Annex “B” of RMC No. 5-2021.
3. Upon submission of the complete documentary requirements, an Acknowledgment Certificate shall be issued by the concerned Revenue District Office (RDO) within three working days.
4. System demonstration or pre-evaluation shall not be required prior to the use of the System. However, post-evaluation shall be conducted by the concerned RDO.
5. Taxpayers with existing PTU CAS, CBA and/or its Components shall not be required to apply for registration. Approved PTUs previously issued shall remain valid except:
 - a. When the PTU was revoked due to non-compliance with existing revenue issuances during audit, Tax Compliance Verification Drive or post-evaluation; or
 - b. When there is a major system enhancement or upgrade which will require the filing of a new application for registration of the System.
6. A new application for registration is required in instances such as the following in cases where they have a direct effect on the financial aspect of the system:
 - a. Change in the functionalities of the system;
 - b. Addition or removal of modules or submodules;
 - c. Change in the system/software Version of Release Number; or
 - d. All other enhancements that will be deemed as major system enhancement based on the recommendation of the technical evaluators.
7. In case of minor system enhancements such as user interface modification, bug fixes or performance improvements, the taxpayer must formally notify the concerned Revenue District Office / Large Taxpayers office.

(Revenue Memorandum Circular No. 5-2021, issued 8 January 2021)

Glossary

ATM – Automated Teller Machine
BIR – Bureau of Internal Revenue
ONETT – One-Time Transaction

Tax filing reminders

Guidelines in the filing of tax returns and payment of taxes

The following guidelines must be observed in the filing of tax returns and their attachments, and in the payment of taxes:

1. Electronic filing and payment
 - a. Electronic Bureau of Internal Revenue Forms (eBIRForms)

eBIRForms filers shall pay taxes through any of the following facilities:

 - 1) With Authorized Agent Banks (AABs) under the jurisdiction of the concerned Revenue District Office (RDO)
 - 2) In areas with no AABs, with Revenue Collection Officers (RCOs) in the concerned RDO
 - 3) Electronic payment
 - 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 for 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)

The following are required to use eBIRForms:

- 1) Top withholding agents
- 2) Accredited tax agents/practitioners and all their client-taxpayers
- 3) Accredited printers of principal and supplementary receipts/invoices
- 4) ONETT taxpayers classified as real estate dealers/developers, taxpayers habitually engaged in the sale of real property using

BIR Form No. 1606, and regular taxpayers already covered by eBIRForms

- 5) Taxpayers filing a “No-Payment Return”
- 6) Government- Owned and -Controlled Corporations
- 7) Local government units except barangays
- 8) Cooperatives registered with the National Electrification Administration and Local Water Utilities Administration

b. Electronic Filing and Payment System (eFPS) filers shall file their returns electronically and pay taxes through the eFPS-AABs where they are enrolled. The following are required to use the eFPS:

- 1) Taxpayer Account Management Program (TAMP) taxpayers
- 2) Accredited importers and prospective importers
- 3) National government agencies
- 4) Licensed local contractors
- 5) Taxpayers enjoying fiscal incentives
- 6) Top 5,000 individual taxpayers
- 7) Corporations with authorized capital stock of at least PHP10m
- 8) Corporations with complete Computerized Accounting Systems
- 9) Government corporations insofar as remittance of withholding VAT is concerned
- 10) Government bidders
- 11) Insurance companies and stockbrokers
- 12) Large Taxpayers
- 13) Top 20,000 private corporations

The above taxpayers who are not yet enrolled in the eFPS and have not yet enrolled in any eFPS-AAB shall use eBIRForms for electronic filing and shall pay taxes through the available payment facilities.

Newly-created tax returns available in eBIRForms but not yet available in the eFPS facility shall be used by eFPS filers who shall pay through the payment facilities for eBIRForms.

2. Manual filing and payment

- a. Taxpayers who are not required to or who opted not to file electronically (either through eBIRForms or eFPS) shall use the electronic or computer-generated returns or photocopied returns in their original format and in Folio/Legal size bond paper.
- b. The corresponding taxes shall be paid through the following facilities:
 - 1) With AABs under the jurisdiction of the concerned RDO
 - 2) In areas with no AABs, with RCOs in the concerned RDO

Cash payments should not exceed PHP20,000 while check payments have no limit. In the accomplishment of checks, the “PAY TO THE ORDER OF” space should reflect the presenting/collecting bank or the bank where the payment is to be coursed, and “FAO Bureau of Internal Revenue” as payee.

For Manager’s or Cashier’s Checks, the issuing bank should indicate in the “PAY TO THE ORDER OF” space the presenting/collecting bank or the bank where the payment is to be coursed, and “FAO Bureau of Internal Revenue” as payee, and under the “Account Name” the taxpayer’s name and its Taxpayer Identification Number.

3. Submission of attachments

- a. Taxpayers who electronically filed and/or paid tax returns using eBIRForms or eFPS where no attachment is required are not required to submit printed copies of electronically filed tax returns.
- b. On the other hand, taxpayers who electronically filed and/or paid tax returns with required attachments such as the Summary Alphalist of Withholding Agents of Income Payments Subjected to Withholding Tax (SAWT), Quarterly Alphalist of Payees (QAP), Monthly Alphalist of Payees (MAP) or Summary List of Sales (SLS) or Summary List of Purchases (SLP) should submit the same through esubmission@bir.gov.ph.

Glossary

VAT – Value-added Tax

- c. For attachments to the annual and quarterly ITRs duly filed electronically, taxpayers who are not required to submit the claimed tax credits via SAWT may opt to submit the claimed tax credit certificates via the Electronic Audited Financial Statements (eAFS) system in lieu of attaching the physical copy of their tax credit certificates.

4. Filing of “No Payment Returns”

- a. The filing of “No Payment Returns” by non-eFPS filers shall be made electronically through the eBIRForms facility.
- b. Taxpayers who filed “No Payment Returns” electronically are already required to file their subsequent tax returns electronically, regardless of whether there are tax payments.
- c. Notwithstanding, the following can manually file their own “No Payment Returns” with the concerned RDO using the electronic or computer-generated returns or photocopied returns in their original format and in Legal/Folio size bond paper:

- 1) Senior Citizens or Persons with Disabilities;
- 2) Employees deriving purely compensation income from two or more employers, concurrently or successively at any time during the taxable year, or from a single employer, although the income of which has been correctly subjected to withholding tax, but whose spouse is not entitled to substituted filing; and
- 3) Employees qualified for substituted filing but opted to file ITRs and are filing for purposes of promotion, loans, scholarships, foreign travel requirements, etc.

5. Unavailability of electronic filing/payment facility

The manual filing of returns and/or payment of taxes by a taxpayer required to file electronically is tantamount to a Wrong Venue filing pursuant to Section 248(A)(2) of the Tax Code. However, in case of unavailability of the eFPS covered by a duly released advisory, taxpayers shall electronically file through the eBIRForms facility and pay the

corresponding tax due thereon through the payment facilities provided for eBIRForms.

In case of unavailability of both eFPS and eBIRForms facilities through a duly released advisory, taxpayers shall observe the procedures in manual filing and payment of taxes as provided above.

(Revenue Memorandum Circular No. 4-2021, issued 11 January 2021)

Wait list

Enlisting and delisting of Large Taxpayers

In connection with the postponement of the effectivity of the enlisted and delisted taxpayers of the Large Taxpayers Service (LTS) to 1 January 2021, the BIR issued the following clarifications:

- All transactions of affected enlisted taxpayers, effectivity of which was postponed to 1 January 2021, shall continue and remain to be handled by the Revenue District Offices (RDOs) where they are registered prior to 1 July 2020.
- Transactions of delisted taxpayers may likewise now be accommodated and handled by the RDO having jurisdiction over the said taxpayers.

(Revenue Memorandum Circular No. 2-2021, issued 8 January 2021)

PERA rules

Guidelines on the utilization of the 5% tax credit under the PERA Act of 2008

The Commissioner of Internal Revenue prescribed the following guidelines regarding the utilization of the 5% tax credit under the incentive provisions of the Personal Equity and Retirement Account (PERA) Act of 2008:

- The PERA Tax Credit Certificate (TCC) constitutes evidence of the 5% tax credit.
- Only the following may request the issuance of a PERA TCC:
 1. Qualified contributors; and
 2. Qualified employees, in case of employers who contribute a share to the accounts of said qualified employees.
- The PERA TCC shall be applied against internal revenue taxes. The tax returns to be accomplished will depend on the source of income from which the savings or contributions were derived from.

Glossary

BIR – Bureau of Internal Revenue

ITR – Income Tax Return

RDO – Revenue District Office

- The amount of the PERA TCC should be indicated in the tax return as a tax deduction. The phrase “5% PERA TCC” and corresponding amount should also be indicated. If the PERA TCC amount is more than the tax due, net of creditable taxes, the excess shall not be considered for refund. However, it shall be eligible for issuance of PERA TCC.
- The tax return should be filed using the eBIRForms facility. The duly received hard copies of the return, together with copies of the PERA TCC and other required attachments, should be submitted to the concerned RDO.
- The PERA TCC should be submitted by the employee to the employer who shall apply the same against the withholding tax on compensation. The employer should keep the PERA TCC and present to the BIR upon request.
- The Annual Alphabetical List of Employees and BIR Form No. 2316 should include the applicable details of the PERA TCC.
- The employer’s share in its employee’s PERA contributions qualifies as a deductible expense for income tax purposes. For uniformity, the account name to be used should be “Share in Qualified Employee’s PERA Contribution.”
- Qualified contributors who use spurious PERA TCCs shall be liable to pay the amount utilized, a 50% penalty and 12% interest per annum, and shall be subject to criminal prosecution.

(Revenue Memorandum Circular No. 139-2020, issued 18 December 2020)

Covered years

Clarifying the taxable years 2020 and 2021 for NOLCO

Under the Bayanihan to Recover as One Act, businesses suffering net operating losses for taxable years 2020 and 2021 can carry-over the same as deductions from gross income for the next five consecutive taxable years immediately following the year of loss.

Glossary

BIR – Bureau of Internal Revenue
NOLCO – Net Operating Loss Carry Over
RDO – Revenue District Office
VAT – Value-added Tax

Revenue Regulations No. 25-2020 define the term “taxable year” as the calendar year or fiscal year (FY) ending during such calendar year, upon which basis net income is computed. In this regard, taxable years 2020 and 2021, as contemplated by the Bayanihan to Recover as One Act, shall include FYs ending on or before 30 June 2021 and on or before 30 June 2022.

Accordingly, the following fiscal years fall under taxable years 2020 and 2021:

Taxable Year 2020		Taxable Year 2021	
FY ending 31 July 2020	FY ending 31 January 2021	FY ending 31 July 2021	FY ending 31 January 2022
FY ending 31 August 2020	FY ending 28 February 2021	FY ending 31 August 2021	FY ending 28 February 2022
FY ending 30 September 2020	FY ending 31 March 2021	FY ending 30 September 2021	FY ending 31 March 2022
FY ending 31 October 2020	FY ending 30 April 2021	FY ending 31 October 2021	FY ending 30 April 2022
FY ending 30 November 2020	FY ending 31 May 2021	FY ending 30 November 2021	FY ending 31 May 2022
	FY ending 30 June 2021		FY ending 30 June 2022

Hence, NOLCO incurred by corporations with FYs ending before 31 July 2020 and FYs ending after 30 June 2022 can be carried over only for the next three consecutive taxable years.

(Revenue Memorandum Circular No. 138-2020, issued 23 December 2020)

Refund procedures

Consolidated and updated guidelines for VAT credit/refund claims

The Commissioner of Internal Revenue consolidated and amended existing BIR issuances on the processing of VAT credit/refund claims under Sections 112 and 229 of the Tax Code. The uniform and standard policies are as follows:

1. All offices shall prioritize the processing of input VAT credit/ refund claims filed under Section 112 over other claims not requiring the immediate issuance of refund checks/Tax Credit Certificates (TCCs).

2. The processing offices authorized to receive the Application for Tax Credits/Refunds (BIR Form No. 1914) are the:
 - a. VAT Credit Audit Division – for claims of direct exporters under Section 112
 - b. Revenue District Office / Large Taxpayers Audit Division (RDO/LTAD) – for VAT zero-rated taxpayers (other than direct exporters) under Section 112
 - c. RDO/LTAD – for claims of taxpayers whose VAT registration has been cancelled and for claims for recovery of erroneously or illegally assessed or collected VAT under Sections 112(B) and 229.
3. The BIR shall receive only those applications with complete documentary requirements as enumerated in the Checklist of Requirements (see Annexes of RMO No. 47-2020).
4. The application shall not be accepted if the Delinquency Verification Certificate (DVC) shows delinquent accounts other than VAT.
5. Tax Verification Notices shall be issued to authorize the verification of VAT credit/refund claims filed under Sections 112 and 229
6. The 90-day period to grant input VAT refund claims is counted from the actual filing of the application with complete supporting documents duly received by the BIR processing office.
7. The processing of a claim shall not be construed as an audit. Hence, the BIR may subsequently issue an electronic Letter of Authority for purposes of verifying the claim
8. The reports of verification shall be forwarded by the processing offices to the following for review prior to approval by the approving official:

Reviewing office	Approving official
Tax Audit Review Division	ACIR, Assessment Service – PHP50m or less
	DCIR, Operations Group – More than PHP50m up to PHP150m
	CIR – More than PHP150m
Regional Assessment Division	Regional Director
Head Revenue Executive Assistant of the Large Taxpayers Service	ACIR, Large Taxpayers Service

9. The result of the verification shall be communicated to the taxpayer claimant.
10. Manually issued TCCs shall be converted to the Tax Credit Refund System until any subsequent development upon the roll-out of the Internal Revenue Integrated System.

The RMO also prescribes the checklists, procedures for verifying claims under Sections 112(A), 112(B) and 229 of the Tax Code, review of reports and dockets, and processing and issuance of TCCs/refund checks.

(Revenue Memorandum Order No. 47-2020, issued 23 December 2020)

Tax-sparing rules

Taxation of intercorporate dividends of nonresident foreign corporations

Under the Tax Code, intercorporate dividends paid by a domestic corporation to a nonresident foreign corporation (NRFC) are subject to the reduced 15% income tax if the NRFC's country of residence shall allow a credit against its tax due taxes deemed to have been paid in the Philippines equivalent to 15%, which rate represents the difference between the 30% regular corporate income tax and the reduced 15% income tax on dividends.

In this light, the BIR issued the following guidelines and requirements for NRFCs intending to avail of said 15% reduced income tax:

1. The reduced 15% income tax rate may be applied to cash and/or property dividends declared by corporations, irrespective of their income tax regimes;
2. The domestic corporation paying the dividends may remit the dividends to the NRFC and apply the reduced 15% income tax rate without first securing a

Glossary

ACIR – Assistant CIR
BIR – Bureau of Internal Revenue
CIR – Commissioner of Internal Revenue
DCIR – Deputy CIR
LTAD – Large Taxpayers Assistance Division
RDO – Revenue District Office
RMO – Revenue Memorandum Order
VAT – Value-added Tax

BIR ruling. However, it must determine whether the existing law of the country of domicile allows the NRFC a “deemed paid” tax credit equivalent to the 15% waived by the Philippines or exempts from tax the dividends paid.

3. Foreign law can be established by complying with the mandate of Sections 24 and 25 of Rule 132 of the Revised Rules of Court. If the country of domicile of the NRFC is a member of the Apostille Convention, foreign law can also be established by submitting an apostilled copy thereof.
4. Within ninety days from the remittance of the dividends or from the determination by the foreign tax authority of the deemed paid tax credit/non-imposition of tax due to the exemption, whichever is later, the NRFC or its authorized representative shall file a request for confirmatory ruling from the BIR.

Revenue Memorandum Order No. 46-2020 enumerates the general and special documentary requirements for the first and subsequent applications.

5. Holders of Philippine Depositary Receipts may also be entitled to the reduced rate subject to the certain conditions.
6. The Bureau of Internal Revenue (BIR) shall issue a certification signed by the Assistant Commissioner for Legal Service in lieu of a BIR ruling. In case of denial, a BIR ruling shall be issued containing the factual and legal bases therefor. Such denial is appealable to the Department of Finance within thirty days from receipt.
7. The NRFC may opt to avail of the 15% income tax rate under the Tax Code regardless of whether an applicable tax treaty exists. If the taxpayer is not entitled to the 15% Tax Code rate, the tax treaty shall automatically apply provided that the NRFC is able to prove entitlement to tax treaty benefits.

(Revenue Memorandum Order No. 46-2020, issued 23 December 2020)

Check, please!

Guidelines for AABs in their acceptance of checks as tax payments

All Authorized Agent Banks (AABs) are advised as follows:

Glossary

CC – Cashier’s Check
 FAO – For the account of
 MC – Manager’s Check

1. Manager’s checks (MCs) and cashier’s checks (CCs) are acceptable modes of tax payments under Revenue Regulations No. 16-200. The MC/CC issuing bank shall indicate on the space for “PAY TO THE ORDER OF” the following:
 - a. Presenting/collecting bank where the payment is to be coursed;
 - b. “FAO Bureau of Internal Revenue” as payee; and
 - c. Under the “Account Name”, the taxpayer’s name and its Taxpayer Identification Number (TIN).

An MC/CC with no taxpayer’s name and TIN shall not be accepted.

2. Checks that are not in accordance with the requirements of the Check Image Clearing System of the Philippine Clearing House Corporation are not acceptable.
3. When the taxpayer’s name and TIN are not pre-printed on the face of the check, the AAB shall require them to be typewritten or written legibly on the face/back of the check.
4. The following shall not be considered accommodation checks for the purpose of and should be accepted in payment of taxes:
 - a. Checks drawn against a joint or multiple account for paying taxes of any of the account holders thereof;
 - b. Checks drawn against the personal account of the owner of a single proprietorship in payment of the taxes of his/her business;
 - c. Checks drawn against the account of a single proprietorship in payment of the taxes of the owner; or
 - d. Checks issued by either of the spouses to pay their income tax liabilities.
5. Personal/company/partnership checks issued by tax/business agents/practitioners in payment of their clients’ tax liabilities are accommodation checks and are not acceptable.
6. One check shall be drawn for the payment of a single tax type. However, two or more checks and/or a combination of cash and check may be accepted in payment of a single tax type.

(Bank Bulletin No. 19-2020, issued 9 December 2020)

Latest on regulatory landscape

Surety bonds

Automated Bonds Management System for General Transport Bonds

The Commissioner of Customs issued guidelines to implement the Automated Bonds Management System (ABMS) for General Transport Surety Bonds (GTSB) in all customs ports and to provide instructions to all concerned regarding customs processes to be observed.

The ABMS is a bureau-wide system for processing bond transactions established pursuant to CMO No. 14-2012. It monitors and ages bond balances and flags those that have matured.

The guidelines apply to all Transit Bond Accounts opened under the Electronic to Mobile (E2M) Customs System and provide for the following:

- All surety companies must be registered in the Client Profile Registration System of the E2M Customs System.
- Transit bond policies filed shall be approved at the Bonds Division of the port.
- Approved bond policies filed in the current year at the port of discharge expire on 31 January of the following year.
- Surety companies shall apply for GTSB in the port of discharge where the GTSB shall only be used.
- An approved transit bond policy can be applied to multiple electronically lodged goods declaration of the importer if the policy bond has enough funds or available amount.
- Only the approved bond policy can be used on the Terms of Payment upon filing of the Transit Single Administrative Document (TSAD) in the E2M system and Bond Credit as payment instrument shall be used.
- All transit shipments transferred to Free Zones from the port of discharge must be Tagged Arrived in the E2M Transit System within the following periods:

- a. Single containers – Within twenty-four hours from arrival
- b. Multiple containers – Within twenty-four hours from arrival of the last container

- Once the TSAD is Tagged Arrived, the ABMS shall automatically revert the amount charged to the original bond balance.
- The failure of the importer to cause the timely arrival of the GTSB-secured containers without a valid reason constitutes ground for bond forfeiture.

(Customs Memorandum Order No. 30-2020, dated 16 December 2020)

Flour exercise

Extending the anti-dumping duty on wheat flour imports from Turkey

Pursuant to Department of Agriculture Order No. 10-2020 and the Department of Finance letter dated 6 October 2020, the Commissioner of Customs announced the extension of the imposition of the anti-dumping duty on wheat flour imports from Turkey for a period of three years, *i.e.*, from 2020 to 2023.

If the provisional anti-dumping duty in the form of a cash bond is more than the anti-dumping duty assessed, the excess shall be immediately returned to the importer.

(Customs Memorandum Order No. 27-2020, dated 28 October 2020)

Governance issue

Submission of 2020 Compliance Officer's Certification by PCs and RIs

In lieu of the Annual Corporate Governance Report, Public Companies (PCs) and Registered Issuers (RIs) must submit a Compliance Officer's Certification to the effect that all the recommendations under the Corporate Governance Code for PCs and RIs have been substantially adopted in their Manual on Corporate Governance.

The Compliance Officer's Certification shall be signed under oath by the company's Compliance Officer and countersigned by the President or Chief Executive Officer. Three copies of a duly accomplished, signed and notarized CG Form-2020 covering all relevant

Glossary

CG – Corporate Governance

CMO – Customs Memorandum Order

information for 2020 shall be submitted to the SEC on or before 29 January 2021.

Non-submission, late submission, incomplete disclosures, misrepresentations and incomplete or incorrect signatories shall be subject to penalties.

PCs and RIs listed in the Philippine Stock Exchange are excluded from the above requirement. However, they shall continue to submit Integrated Annual Corporate Governance Reports in accordance with SEC Memorandum Circular No. 15-2017.

(SEC Memorandum Circular No. 36-2020, dated 22 December 2020)

Email notification

Compliance of MSRD entities with SEC Memorandum Circular No. 28-2020

SEC Memorandum Circular No. 28-2020 requires the submission of forms/notices for the creation and/or designation of official electronic mail (email) accounts and cellular phone numbers for SEC transactions. In this regard, the Markets and Securities Regulation Department (MSRD) of the SEC issued a notice confirming that this requirement applies to corporations under its regulation and supervision and must be complied with.

The Philippine Stock Exchange reiterated the above MSRD notice requiring all MSRD-regulated and -supervised entities to comply with SEC Memorandum Circular No. 28-2020.

The deadline for submission, without penalty, was extended to 22 February 2021. The forms/notices shall be submitted online to MC28_S2020@sec.gov.ph. On the other hand, the optional submission of hard copies may be accomplished via courier, PhilPost or submission to the Electronic Records Management Division at the SEC Main Office.

(SEC MSRD Notice, dated 18 January 2021 and PSE Memorandum No. 2021-0004, dated 20 January 2021)

Glossary

MSRD – Markets and Securities Regulations Department

SEC – Securities and Exchange Commission

Full term

Requiring the submission of Notice to Retain Specific Corporate Term

Existing corporations registered prior to 23 February 2019 which intend to retain their specific corporate terms are reminded to electronically file their Notice to Retain Specific Corporate Term with attached Director's Certificate on or before 23 February 2021 to MC22_S2020@sec.gov.ph.

Hard copies must be formally filed through the Company Registration and Monitoring Department for the issuance of a Certificate of Filing Notice to Retain Specific Corporate Term, subject to the payment of certification fees.

(SEC Reminder, dated 13 January 2021)

Contact details

Submission of forms/notices pursuant to MC No. 28-2020

The deadline for corporations, associations, partnerships and individuals under SEC jurisdiction to submit the required forms/notices under SEC Memorandum Circular No. 28-2020 for the creation and/or designation of official email accounts and cellular phone numbers for SEC transactions has been extended to 22 February 2021.

The forms/notices shall be submitted online to MC28_S2020@sec.gov.ph. On the other hand, the optional submission of hard copies may be accomplished via courier, PhilPost or submission to the Electronic Records Management Division at the SEC Main Office.

Those with certificates of registration issued after 23 January 2021 have thirty (30) days from the issuance of their certificates of registration to comply with SEC Memorandum Circular No. 28-2020, without penalty.

(SEC Notice, dated 28 December 2020)

Insurance dividends

Revised guidelines on dividend declaration and/or distribution

The Insurance Commission (IC) issued the following revised guidelines regarding the declaration and/or distribution of cash, property and stock dividends by regulated entities:

1. The following regulatory measures should always be met which shall be attested by the President and

Treasurer of the company, before the declaration and/or distribution of dividends:

- a. For insurance and professional reinsurance companies
 - 1) Unimpaired paid-up capital stock;
 - 2) The net worth requirements as prescribed by CL (Circular Letter) No. 2015-02-A and Section 194 of the Insurance Code;
 - 3) The solvency requirements defined by Section 200 of the Insurance Code;
 - 4) In the case of life insurance companies, the legal reserve fund required by Section 217;
 - 5) In the case of corporations other than life, the legal reserve fund required by Section 219; and
 - 6) A sum sufficient to pay all net losses reported, or in the course of settlement, and all liabilities for expenses and taxes
- b. For pre-need companies
 - 1) Unimpaired paid-up capital stock;
 - 2) Unimpaired trust fund;
 - 3) The reserve liability and liquidity reserve requirements required by Sections 35 and 37, respectively, of the Pre-Need Code; and
 - 4) A sum sufficient to pay all net losses reported, or in the course of settlement, and all liabilities for expenses and taxes.
- c. For health maintenance organizations
 - 1) The minimum paid-up capital, risk-based capitalization and net worth requirements as prescribed by CL No. 2016-41;
 - 2) The liquidity requirement as prescribed by CL No. 2016-41; and
 - 3) A sum sufficient to pay all net losses reported, or in the course of settlement, and all liabilities for expenses and taxes.
- d. For brokers
 - 1) The minimum paid-up capital and net worth requirements as prescribed by CL No. 2018-52; and
 - 2) A sum sufficient to pay all net losses reported, or in the course of settlement, and all liabilities for expenses and taxes.

2. The declaration of dividends does not require prior approval or clearance from the IC.
3. The declaration or distribution of dividends must be reported by the insurance company to the IC within thirty days after such declaration or distribution. Said report shall be accompanied by certain requirements.

(IC Circular Letter No. 2021-02, dated 7 January 2021)

Foreign workers

Revised rules for the issuance of employment permits to foreigners

The Department of Labor and Employment (DOLE) issued rules governing the employment of foreign nationals. These rules provide for the following:

- All foreign nationals who intend to engage in gainful employment in the Philippines shall apply for an Alien Employment Permit (AEP).

Gainful employment refers to a state or condition that creates an employer-employee relationship where the employer has the power to hire or dismiss the foreigner, pays the salaries of the foreigner and has authority to control the performance of the latter's tasks and duties.

- All AEP applications shall be filed at the concerned DOLE Regional office within ten working days from the date of signing of the contract or prior to the commencement of employment.

Employers intending to hire foreign nationals should secure all relevant permits and authority before applying for AEPs.

- Documentary requirements

Applications with incomplete requirements shall not be accepted or received by the DOLE.
- Application, renewal and replacement fees
- The employer must cause the publication, in a newspaper of general circulation, of the job vacancy being applied for by a foreign national at least fifteen days before the AEP application.
- New AEP applications shall be processed and issued within five working days after publication. Renewal applications shall be processed and issued within five working days after receipt of complete requirements and payment of fees/finances.
- Only one AEP shall be issued to a foreign national. The AEP shall be valid for the position and company

for which it was issued for a period of one year, unless granted a longer period vis-à-vis the employment duration. However, it cannot exceed three years.

- The AEP remains valid in case the foreign national has been transferred or assigned to related companies in another region. However, publication and notice to the DOLE is required.
- A new AEP application is required in case of change in the position or employer of the foreign national with an existing AEP.
- Renewal applications may be filed as early as sixty days before expiration.
- Grounds for denial of AEP applications
- The employer of a foreign national whose employment has been terminated may request the DOLE-RO (Regional Office) to issue an Order for Cancellation of the AEP.
- The DOLE-RO may, unilaterally or upon complaint, order the revocation of an AEP after observing due process and based on certain grounds.
- Procedure and appeals in the denial of AEP applications
- Penalty for fraudulent AEP applications
- Subject to certain conditions, the following categories of foreign nationals are exempted from securing an AEP:
 - Dependent spouse of a member of the Diplomatic Corps;
 - Accredited officials and personnel of certain International Organizations;
 - Foreign nationals who are officers, staff and employees working in the embassy;
 - Foreign nationals who are officers and staff of Peacekeeping or International Organizations;
 - Foreign nationals who come to teach, present and/or conduct research studies in universities and colleges;
 - Permanent resident foreign nationals and probationary or temporary resident visa holders;
 - Refugees and Stateless Persons recognized by the Department of Justice; and
 - All foreign nationals granted exemption by law.

- Requirements and processing of Certificate of Exemption
- Requirements and processing of Certificate of Exclusion

(DOLE Department Order No. 221-2021, dated 6 January 2021)

Appropriated bayanihan

Extending the availability of appropriations under Bayanihan to Recover as One Act

The President approved a law extending the availability for release and disbursement of, among others, automatic appropriations for new programs, projects and activities until 30 June 2021. The same law also provides that appropriations sourced from reprogrammed, reallocated or realigned savings in the 2020 General Appropriations Act (GAA) for COVID-19 programs and projects shall be valid for release and disbursement in accordance with the 2020 GAA. Similarly, fund releases to local government units and government financial institutions shall be valid for release and disbursement until 30 June 2021.

However, the President's power under the Bayanihan to Recover as One Act to reprogram, reallocate and realign savings in the appropriations of the Executive Department in the 2020 GAA can only be exercised until 19 December 2020.

(Republic Act No. 11519, approved 29 December 2020)

Presidential prerogative

Enacting a law to expedite the processing and issuance of permits and licenses

In times of national emergency, the President is authorized to:

1. Accelerate and streamline regulatory processes and procedures for applications and renewals of permits, licenses, clearances, certifications or authorizations;
2. Suspend or waive the requirements in securing such permits, licenses, clearances, certifications or authorizations; and
3. Prescribe the permanency of streamlined regulatory processes and procedures and suspension of waiver of requirements mentioned above.

The above authority shall not be used to undermine existing procedures and processes intended to protect the environment.

(Republic Act No. 11517, approved 23 December 2020)

Chicken run

Modifying the rates of import duty on certain agricultural products

The articles specifically listed in Annex “A” of Executive Order No. 123, generally described as “Meat and edible offal, of the poultry heading 01.05, fresh, chilled or frozen,” shall be subject to the Most Favoured Nation rates of import duty in accordance with the schedule indicated opposite each article.

(Executive Order No. 123, dated 15 January 2021)

Passenger details

Adoption and implementation of the Advance Passenger Information System

Executive Order No. 122 was issued to strengthen border control through the adoption and implementation of the Advance Passenger Information (API) System.

API is an electronic communication containing information related to passengers or crews/non-crew members which is transmitted to the Bureau of Immigration (BI) prior to arrival or departure. The API System collects biographic data from machine-readable passports, other official travel documents or basic details provided by commercial carriers.

The captain, master or agent, or owner of a commercial carrier whose vessel is arriving in or departing from any Philippine port shall provide the BI the API which serves as initial security vetting. However, passengers, crew or non-crew members are not exempted from submitting to physical primary inspection at the immigration counters.

The BI is the sole government agency authorized to receive or manage API. It shall implement strict security measures to protect and ensure the integrity and availability of API. Only personnel authorized by the Commissioner of Immigration shall have access to the API System. API information may be shared in furtherance of regional or international security, or to law enforcement agencies.

(Executive Order No. 122, dated 15 December 2021)



Meet us

Alex Cabrera presents the country's economic rebound



For the Asia CEO Forum Economic Briefing 2021, PwC Philippines Chairman and Senior Partner Alex Cabrera talked about the state of the Philippine economy, and what it takes to realize its projected rebound.

The other presenters were Dr. Bernie Villegas (Economist and Professor, University of Asia and the Pacific), Dan Lachica (President, Semiconductor and Electronics Industries in the Philippines [SEIPI]), Rep. Stella Quimbo (Second District of Marikina), and Marivi Valencia (Chief of Staff, Concentrix). ABS-CBN anchor Quintin Pastrana then moderated the panel discussion.

Asia CEO Events Chairman Richard Mills hosted the virtual event that happened on 21 January.

In case you missed it, watch the engaging discussion [here](#).

Raoul Villegas on real estate industry prospects at ULI-PwC report launch



PwC Philippines Deals and Corporate Finance Executive Director Raoul Villegas spoke on the prospects in the real estate industry during the Philippine launch of the *Emerging Trends in Real Estate® Asia Pacific 2021* report on 21 January.

The launch event featured Manila City Mayor Francisco "Isko Moreno" Domagoso and two response panels featuring the country's thought leaders.

Created in partnership with PwC, the *Emerging Trends in Real Estate® Asia Pacific 2021* report features a detailed analysis of how COVID-19 is affecting regional markets and sectors, including how the pandemic affects transaction volumes and valuations and how new investment opportunities will emerge heading into 2021.

Emerging Trends in Real Estate® Asia Pacific 2021, undertaken jointly by PwC and the Urban Land Institute,



provides an outlook on real estate investment and development trends, real estate finance and capital markets, property sectors, metropolitan areas, and other real estate issues throughout the Asia Pacific region.

Download your [complimentary copy](#) now.



PwC Philippines, iACADEMY wrap up its first online Accounting Triathlon



PwC Philippines and iACADEMY successfully concluded the final day of the iACADEMY Accounting Triathlon on 30 January.

The last two legs of the triathlon—the Online Endurance Exam and the Accounting Seminar—were held, as well as the awarding ceremonies. The event was a venue for senior high school students to get to know and consider the Bachelor of Science in Accountancy program for college.

PwC Philippines Vice Chairman and Assurance Managing Partner Roderick Danao was the resource speaker for the accounting seminar. He gave an inspirational talk to the students on how he earned his way to achieving success, and what paths and opportunities are available for accountants.

PwC Philippines' co-production team was led by Assurance Partner Ruth Blasco, with Assurance Manager Alvin Jay Perdio as event host, and Client Accounting Services Senior Manager Marvin Madrigalejo and Assurance Senior Manager Jayson C. Rivera on content and logistics. Marvin and Jayson are also faculty members of the school's BS Accountancy program.

PwC Philippines is a partner of iACADEMY in helping build its Bachelor of Science in Accountancy program that bridges the gap between the academe and the needs of the industry.

Young CPAs represent PwC Philippines at PUP JPIA Manila quiz event



Two junior accountants represented the firm in the Search for the Top Freshmen Quizzers held on 27 January 2021.

Polytechnic University of the Philippines Junior Philippine Institute of Accountants Manila (PUP JPIA Manila) organized the event where Tax Associate Frenz Angelie Hechanova and Assurance Senior Associate Jordan Lascota participated as arbiters.

The search, which was held for the first time, will be conducted annually for the academic welfare and training of freshmen students of Accountancy and Management Accounting under the College of Accountancy and Finance at PUP, Mabini Campus.

PwC Philippines is a Silver Sponsor of PUP JPIA Manila's activities for the Federation Year 2020-2021.

Raoul Villegas on the year that was



PwC Philippines Deals and Corporate Finance Executive Director Raoul Villegas talked about the year that was—when the world faced COVID-19—and what to expect this year in the 8 January episode of “BusinessWorld Live”.

Hosted by Ms Danie Laurel and Mr Jester delos Santos, the program airs on Signal TV’s One News Channel 8 (SD) or Channel 250 (HD), SatLite Channel 60 and on the Signal Play website or mobile app.

Click this link to watch the interview:
<https://youtu.be/XsN1NfEF8W4?t=900>

Talk to us

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

For tax and related regulatory matters



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The contents of this advisory letter are summaries, in general terms, of selected issuances from various government agencies. They do not necessarily reflect the official position of Isla Lipana & Co. They are intended for guidance only and as such should not be regarded as a substitute for professional advice.

Request for copies

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