

Tax Bulletin

April 2021

In everything we do, we nurture leaders
and enable businesses for a better Philippines.

#SGVforABetterPhilippines



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- 18** RR No. 2-2021 implements the new final tax rates on certain passive incomes of individuals and corporations as prescribed under the CREATE Act.
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- 32** RMC No. 49-2021 was issued to circularize the full text of RA No. 11517, entitled "An Act Authorizing the President to Expedite the Processing and Issuance of National and Local Permits, Licenses and Certifications in Times of National Emergency."

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- 32** Circular No. 1111 amends Section 331 of the Manual of Regulations for Banks (MORB) to implement the provisions of Section 7 of the Implementing Rules and Regulations (IRR) of RA No. 10000, which provides for modes of alternative compliance with the mandatory agriculture and agrarian reform credit.

Amendments to Operational Risk Management and Internal Control Measures

- 35** Circular No. 1112 amends Section 146 of the MORB and 146-Q/125-N/125-T of the Manual for Non-Bank Financial Institutions (MORNBFI).

IV. Bureau of Customs

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- 35** CMO No. 12-2021 provides for the Guidelines on the Imposition of Penalties Relative to the Customs Accreditation of Importers and Brokers.

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- 38** CMO No. 14-2021 provides for the Order from the Department of Trade and Industry (DTI) Amending Department Administration Order (DAO) No. 20-11 on the Preliminary Determination of the Safeguard Measures Case on the Importation of Motor Vehicles from Various Countries.

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- 38 MISTG Memo No. 06-2021 announces the development of the GTSB ABMS Online Inquiry System to help stakeholders monitor their bond accounts and bond balances.

Resumption of Submission of Certificates of Origin and Product Evaluation Applications to the Export Coordination Division, Assessment and Operations Coordinating Group (AOCG)

- 38 AOCG Memo No. 161-2021 provides that exporters may now submit their Certificate of Origin (CO) for signature and request for Product Evaluation Report at the Export Coordination Division (ECD).

V. Board of Investments

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- 39 BOI Memorandum Circular No. 2021-002 provides for the Policy on Base Figure for Expansion Projects Affected by the COVID-19 Pandemic.

Guidelines on the Filing of Electronic Documents with the Board of Investments

- 39 BOI Memorandum Circular No. 2021-003 provides for the Guidelines on the Filing of Electronic Documents with the Board of Investments.

VI. PEZA

- 40 MC No. 2021-024 provides for PEZA Assistance to Ecozone I.T. Enterprises Under ECQ for the Period 29 March 2021 Until 04 April 2021 and for the Duration of Any Extension of the Said Period by the Office of the President.

VII. SEC Filing, Payments and Other Deadlines

Amendment on the Guidelines on Anti-Money Laundering and Combating the Financing of Terrorism for SEC Covered Institutions (2018 AML/CFT Guidelines) and the 2020 Guidelines on the Submission and Monitoring of the Money Laundering and Terrorist Prevention Program (MTPP)

- 43 SEC Memorandum Circular No. 4, Series of 2021 issued guidelines to promulgate the rules for the amendment on the 2018 AML/CFT Guidelines and on the 2020 Guidelines on the Submission and Monitoring of the MTPP.

Extension of the Deadline for the Submission of 2020 Annual Reports for the Calendar Year Ended 31 December 2020

- 44 SEC Memorandum Circular No. 05 extended the deadline for submission of the 2020 Annual Reports for the calendar year ended 31 December 2020 from 15 April 2021 to 17 May 2021 without prejudice on the schedule of the filing of the Audited Financial Statements (AFS) as may be required by the BIR.

Extension of Deadline to file Mandatory Declarations under the Beneficial Ownership Transparency Guidelines

- 44 SEC Notice dated 25 March 2021 extended the deadline to file the mandatory declarations under the Beneficial Ownership Transparency Guidelines to 30 May 2021.

Submission of CRMD Applications through Couriers

- 44 SEC Notice dated 26 March 2021 allowed the submission of CRMD applications through couriers to limit mobility and face to face transactions in light of COVID-19.

Non-Extension of Grace Period for Payment of Loans during the ECQ

- 45 SEC Notice dated 30 March 2021 clarifies that there will be no extension of the grace period granted for the payment of loans and/or interest falling due within the ECQ period from 29 March to 4 April 2021.

Extension of Deadline for the Submission of General Information Sheet for 2021

- 45 SEC Notice dated 31 March 2021 extends the deadline for the submission of the General Information Sheet (GIS) for 2021 and reiterated the filing procedures.

VIII. Other SEC Updates

New Company Registration System

- 46 SEC Notice Series of 2021 dated 5 April 2021 provides that starting 19 April 2021, the SEC implemented a new company registration system called the Electronic Simplified Processing of Application for Registration of Company (eSPARC) for new applications for registration of One Person Corporations, Corporations with two to four incorporators, and Regular Domestic and Foreign-Owned (Stock and Non-stock) Corporations.

In the Matter of Requests for Copy of the Beneficial Ownership Declaration Page in the General Information Sheet (GIS)

- 46 SEC Notice Series of 2021 dated 05 April 2021 clarified that all requests for a copy of the Beneficial Ownership (BO) Declaration page in the General Information Sheet (GIS) shall be made through a formal letter signed by the Head of the Agency or his/her duly authorized representative addressed to the Director of the Enforcement and Investor Protection Department of the SEC.

Anti-Money Laundering and Countering Financing of Terrorism Sectoral Risk Assessment 2021 of Financing Companies and Lending Companies

- 46 SEC Notice Series of 2021 dated 6 April 2021 published the Report on Anti-Money Laundering and Countering Financing of Terrorism Sectoral Risk Assessment 2021 of Financing Companies and Lending Companies.

Use of Electronic Signature for the Submission of AFS during the ECQ Period beginning 29 March 2021 and until Further Notice

- 46** SEC Notice Series of 2021 dated 8 April 2021 provides that Corporations duly enrolled in the Online Submission Tool (OST) of the SEC, pursuant to Memorandum Circular No. 3 Series of 2021, may be allowed to file their electronically signed AFS through the system.

IX. Supreme Court Cases

- 47** Failure to maintain subsidiary sales and purchase journals or to file monthly VAT declarations are not grounds for the denial of a taxpayer's refund claim for unutilized input VAT attributable to zero-rated sales

BIR Administrative Requirements

RR No. 1-2021 dated 8 April 2021

"Sec 11. Exemption from Import Duties, Taxes and Other fees for the Procurement, Deployment and Administration of COVID-19 Vaccines - Beginning January 1, 2021, the procurement, importation, donation, storage, transport, deployment, and administration of COVID-19 vaccines through the COVID-19 Vaccination Program by the government or any of its political subdivisions and by private entities shall be exempt from customs duties, value-added tax, excise tax, donor's tax, and other fees: Provided, That the vaccines shall not be intended for resale or other commercial use and shall be distributed without consideration from persons to be vaccinated."

- ▶ Beginning 1 January 2021 and during the period of the state of calamity as declared under Proclamation No. 1021 dated 16 September 2020 issued by the President of the Philippines, the (i) procurement, (ii) importation, (iii) donation, (iv) storage, (v) transport, (vi) deployment, and (vii) administration of COVID-19 vaccines through the COVID-19 Vaccination Program by:

1. The National Government, through the Department of Health (DOH) and the National Task Force Against COVID-19 (NTF);
2. Any of the political subdivisions of the State; and
3. Private entities, and international humanitarian organizations, such as the Philippine Red Cross (PRC),

shall be exempt from valued-added tax (VAT), excise tax and donor's tax and other fees, subject to the guidelines, procedures and requirements provided hereunder.

- ▶ The following guidelines and procedures shall be followed and observed:
 1. No VAT shall be imposed on the procurement of COVID-19 Vaccines by the entities mentioned in Section 2 hereof. Hence, VAT shall not be part of the contract price for the procurement of the COVID-19 Vaccines by these entities.
 2. No VAT and excise tax shall be imposed on the importation of COVID-19 Vaccines by the entities mentioned in Section 2 hereof.

RR No. 1-2021 prescribes the guidelines, procedures and requirements for availing of the tax exemptions and fee privileges granted under Section 11 of RA No. 11525 otherwise known as the "COVID-19 Vaccination Program Act of 2021."

3. The importation of COVID-19 Vaccines as allowed herein shall not be subject to the issuance of an Authority to Release Imported Goods (ATRIG) under Revenue Memorandum Order (RMO) No. 35-2002, as amended; and may be released by the Bureau of Customs (BOC) without need of an ATRIG. However, the BIR may conduct a post investigation/ audit on the importations released by the BOC without ATRIG pursuant to these Regulations.
 4. No VAT shall be imposed by the service providers on the services to be rendered to the entities mentioned in Section 2 hereof for the storage, transport, deployment and administration of the COVID-19 Vaccines. Hence, VAT shall not be part of the contract price for the engagement procurement of such services by these entities.
 5. No donor's tax shall be imposed on the donation of the COVID-19 Vaccines to the entities mentioned in Section 2 hereof, subject to the ordinary rules of deductibility as provided for in Section 34 (H) of the NIRC of 1997, as amended, and its existing rules and regulations, if applicable.
 6. The tax incentives herein shall only be applicable if the vaccines are not intended for resale or other commercial use and shall be distributed without any consideration from persons to be vaccinated.
- The following requirements must be present for the purpose of qualifying for exemption from VAT, excise tax, and donor's tax, the entities mentioned in Section 2:
1. Certified true copy of the COVID-19 vaccine procurement agreement/ multiparty agreement, as may be applicable. The multi-party agreement on the procurement by the Local Government Units (LGUs) and private entities shall include the DOH and the relevant supplier of the COVID-19 vaccine;
 2. Certified true copy of the COVID-19 vaccine's Certificate of Product Registration or Emergency Use Authorization (EUA) issued by the Food and Drug Administration (FDA);
 3. "Sworn Declaration" from the taxpayer-buyer/importer/donee that the COVID-19 vaccines shall not be intended for resale or other commercial use and shall be distributed without consideration from persons to be vaccinated, in accordance with the COVID-19 Vaccination Program of the National Government. For private entities, a statement shall be included that any such vaccines shall be for the sole and exclusive use of such entities and their related parties, if any, as discussed under Section 4 of Revenue Regulations No. 19-2020; and
 4. For COVID-19 vaccines donated to the entities mentioned in Section 2 hereof, in addition to the foregoing requirements, the following shall be presented:
 - For the National Government and LGUs, a certified true copy of the duly accepted Deed of Donation; and
 - For private entities and international humanitarian organizations, a certified true copy of the duly accepted Deed of Donation and/or BIR Form 2322 (Certificate of Donation).

- ▶ The grant of exemption for the importation of COVID-19 vaccines, engagement of services for the storage, transport, deployment and administration, as well as the donation of the COVID-19 vaccines is deemed to be in effect beginning 1 January 2021. The value-added tax on all covered and qualified shipments/ importations/ services that may have been paid from 1 January 2021 until the effectivity of these regulations, shall be refunded pursuant to Section 204(C) of the Tax Code in accordance with existing rules and procedures for refund of value-added tax on importation/services, provided that the input tax on the imported items/services have not been reported and claimed as input tax credit in the monthly and/or quarterly value-added tax returns. The same shall not be allowed as input tax credit pursuant to Section 110 of the Tax Code for purposes of computing the value-added tax payable of the concerned taxpayer/s for the said period.

Similarly, the Excise Tax and Donor's Tax on all covered and qualified transactions that may have been paid from 1 January 2021 until the effectivity of these Regulations, shall be refunded pursuant to Section 204 (C) of the Tax Code and its implementing rules and regulations.

- ▶ All existing rules and regulations or parts thereof, which are inconsistent with the provisions of these regulations, are hereby revoked.

Prescribes additional guidelines for implementing the tax provisions of the PERA Act of 2008 effectively amending pertinent provisions of RR No. 17-2011.

RR 6-2021 dated 14 April 2021

- ▶ The following reports shall be submitted by the PERA Administrators through the PERASys administered by the Bangko Sentral ng Pilipinas and forwarded to the Bureau of Internal Revenue, for approval of the PERA Processing Office, through the ePERA System:

	Name of Report	Due Date of Submission	Format
1	Quarterly Report on the PERA Contributions	Not later than the 15 th day following the close of every quarter	Annex A
2	Quarterly Report on PERA Distributions/ Early Withdrawals/ Terminations	Within 60 days following the end of the quarter of the date termination or withdrawal	Annex B
3	Annual Report on PERA Contributions	Within 60 days from the close of the calendar year	Annex C
4	Annual Report on PERA Distributions/ Early Withdrawals/ Terminations	Within 60 days from the close of the calendar year	Annex D
5	Alphalist of PERA Contributors	Within 60 days from the close of the calendar year	Annex E

- ▶ The PERA-Tax Credit Certificate (TCC) refers to the document evidencing the amount of tax credit equivalent to 5% of the total amount of qualified PERA contributions made in a year. The application for PERA-TCC shall be filed online thru the PERASys by the PERA Administrator within 60 days from the close of the calendar year. The application shall be processed and approved for issuance of the corresponding PERA-TCC by the PERA Processing Office, using the format in Annex "F" of these Regulations, and shall be generated through the facilities of the ePERA System.
- ▶ The PERA-TCC shall be used for the payment of income tax liabilities of qualified employee and self-employed contributors, while for qualified overseas Filipino contributors, the PERA-TCC can be used in the payment of any internal revenue taxes. The PERA-TCC shall reflect such restrictions.
- ▶ In the case of an employee contributor, the PERA-TCC shall be submitted to the employer to apply the gross amount of the PERA-TCC in the annual year-end adjustments for computing the net withholding tax due of the contributor-employee.
- ▶ In all cases, the PERA-TCC shall be surrendered and attached to the applicable tax returns. The duly received copies of the tax returns, together with copy/ies of the PERA-TCC and the other prescribed attachments, shall be submitted to the concerned Revenue District Office (RDO) pursuant to the existing revenue guidelines and procedures.
- ▶ The penalties of 5% and 20% for early withdrawal of qualified contribution prescribed under RR No. 10-2016 shall be deducted by the PERA Administrator from the PERA account prior to its release of payment of withdrawal by the contributor, which shall be remitted using online filing and payment facilities:

Penalty	BIR Form No.	In the name of	Deadline of Payment/ Remittance
5% Tax Credit availed for the entire period of PERA	0605	Qualified Contributor	On or before the last day of the month following the close of the calendar quarter during which the deduction was made
20% of Total Income earned from the time of its opening up to the time of withdrawal	1601FQ	PERA Administrator	

RMO No. 14-2021 streamlines the procedures and documents for the availment of treaty benefits.

RMO No. 14-2021 dated 31 March 2021

- ▶ The Order is issued to settle at once all issues related to the availment of treaty benefits and to deliver efficient service to the taxpayers in compliance with the Ease of Doing Business Act.
- ▶ The following are the salient provisions of the RMO:

Particulars	Details
I. Coverage	This Order shall cover all items of income derived by non-resident taxpayers from Philippine sources that are entitled to relief from double taxation under the relevant tax treaty.
II. Guidelines and Procedures	<ul style="list-style-type: none"> ▶ The withholding agent or income payor may rely on the submitted BIR Form No. 0901 or Application Form for Treaty Purposes (hereinafter referred to as Application Form), Tax Residency Certificate (TRC) duly issued by the foreign tax authority, and the relevant provision of the applicable tax treaty on whether to apply a reduced rate of, or exemption from, withholding at source on the income derived by a non-resident taxpayer from all sources within the Philippines. Therefore, it is imperative for non-resident taxpayers intending to avail of treaty benefits to always submit said documents to each withholding agent or income payor prior to the payment of income for the first time. <p>Failure to provide the said documents when requested may lead to withholding using the regular rates prescribed under the Tax Code, as amended, for non-resident foreign corporations or non-resident aliens not engaged in trade or business, as the case may be, and not the treaty rate.</p> <ul style="list-style-type: none"> ▶ When the treaty rates have been applied by the withholding agent on the income earned by the non-resident, the former shall file with ITAD a request for confirmation on the propriety of the withholding tax rates applied on that item of income. On the other hand, if the regular rates have been imposed on the said income, the non-resident shall file a tax treaty relief application (TTRA) with ITAD. In either case, each request for confirmation and TTRA shall be supported by the documentary requirements set out hereunder. ▶ The request for confirmation shall be filed by the withholding agent at any time after the payment of withholding tax but shall in no case be later than the last day of the fourth month following the close of each taxable year. <p>The filing of TTRA largely depends upon the non-resident who must invoke and prove his/her/its entitlement to treaty benefits. The non-resident may, at any time after the receipt of income, file a TTRA to prove its entitlement to treaty benefits. Failure to prove the same may result in the confirmation of the tax rate previously applied on the income, and in the eventual denial of the TTRA.</p> <ul style="list-style-type: none"> ▶ If the BIR determines that the withholding tax rate applied is lower than the rate that should have been applied on an item of income pursuant to the treaty, or that the nonresident taxpayer is not entitled to treaty benefits, it will issue a BIR Ruling denying the request for confirmation or TTRA. Consequently, the withholding agent shall pay the deficiency tax plus penalties. <p>On the contrary, if the withholding tax rate applied is proper or higher than the rate that should have been applied, the BIR will issue a certificate confirming the non-resident income recipient's entitlement to treaty benefits. In the latter case, the taxpayer may apply for a refund of excess withholding tax.</p>

Particulars	Details
	<ul style="list-style-type: none"> ▶ Generally, one TTRA or request for confirmation shall be filed for each transaction except for long-term contracts (e.g., contracts for services or loan agreements, license agreements) i.e., those which are effective for more than a year, where an annual updating shall be made until the termination of the contract. To ensure that the proper rate is applied until the end of the contract, the non-resident taxpayer shall file an updated Application Form, a new TRC [if the validity period of the previously submitted TRC has already lapsed], and other relevant documents not later than the last day of the fourth month following the close of each taxable year. <p>Thus, for instance, if a contract for consultancy services has a term of 5 years starting from 1 January 2020 until 31 December 2024, 5 TTRAs shall be filed on or before 30 April of the following year to determine at the earliest possible time whether or not the non-resident taxpayer already has a permanent establishment in the Philippines.</p> <ul style="list-style-type: none"> ▶ New TTRAs shall be processed within 4 months from the submission of complete documents or as soon as practicable provided that the ITAD has addressed all its backlogs.
III. Documentary Requirements	<p>The original or certified true copy of the following documents shall be submitted to ITAD when claiming relief from double taxation:</p> <ul style="list-style-type: none"> ▶ General Requirements <ol style="list-style-type: none"> 1. Letter-request 2. Application Form duly signed by the non-resident income recipient or its/his/her authorized representative 3. TRC for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident 4. Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income 5. Withholding tax return with Alphalist of Payees 6. Proof of payment of withholding tax 7. Notarized Special Power of Attorney (SPA) issued by the non-resident taxpayer to his/her authorized representative(s), which shall expressly state the authority to sign the Application Form as well as to file the TTRA or request for confirmation ▶ Specific Requirements <p>The specific requirements depend on the type of income (e.g., business profits, dividends, interest, royalties). Example of the specific requirements are as follows:</p> <ol style="list-style-type: none"> 1. Contract duly executed by the parties or authorized representatives 2. Sworn certification 3. Audited financial statements 4. Invoice(s) duly issued by the income recipient in accordance with the invoicing requirements of the country of residence 5. Board of Directors' resolution <p>The BIR reserves the right to request additional documents which are deemed necessary for the proper disposition of the case, as well as the right to require the presentation of the original copy of the documents to verify the authenticity of the submitted copies thereof.</p>

Particulars	Details
IV. Details Requirement of Authentication	All documents executed in a foreign country must either be authenticated by the Philippine Embassy stationed therein or apostilled if the said foreign country is a signatory to the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (HCCH 1961 Apostille Convention) in order to be acceptable in the Philippines.
V. Manner of Granting and Denying Treaty Benefits	<p>To streamline the process of confirming entitlement to treaty benefit or confirming the correctness of the withholding tax rates applied on a particular item of income, the BIR shall issue a certification duly signed by the Assistant Commissioner for Legal Service in lieu of the usual BIR Ruling and Compliance Check Report. The ITAD shall always ensure that a loose documentary stamp provided by the applicant is affixed on the Certificate before releasing it.</p> <p>In cases of denial or a ruling of first impression, a BIR Ruling signed by the Commissioner or his/her authorized representative, which shall contain the factual and legal bases that led to the conclusion, shall instead be issued.</p> <p>ITAD shall only issue the certification or BIR Ruling to the filer (nonresident income recipient or withholding agent) or his/her/its authorized representative(s) as mentioned in the Application Form. Any representative not mentioned in the said form shall be allowed to receive the certification or ruling provided he/she is equipped with a notarized Special Power of Attorney.</p>
VI. Appeals	<p>All adverse rulings are appealable to the Department of Finance (DOF) within 30 days from receipt thereof pursuant to existing rules and regulations.</p> <p>Any request for certified true copy of the complete case docket in support of such appeal shall only be processed upon presentation of proof of payment of certification fee of P10.00 per page. Within 5 days from the date of payment of the certification fee, the complete case docket, i.e., each and every page of the records of the case including a copy of the subject BIR Ruling, shall be sequentially numbered, photocopied, stamped and signed by the Division Chief of the ITAD as an attestation that the said copies are authentic and true copies of the original and complete records on file.</p>
VII. Evaluation of Pending TTRAs for Income Earned in Prior Years	<p>While the Court held in the case of Deutsche Bank AG Manila Branch vs. Commissioner of Internal Revenue that the TTRA should merely operate to confirm the entitlement of the taxpayer to the relief, it did not give a blanket authority upon the taxpayer to request for such confirmation whenever it/he/she deems appropriate.</p> <p>Therefore, by virtue of this Order, taxpayers with pending TTRAs for income earned in 2020 and prior years, including those with Notice of Archiving, are given 3 months from the receipt of a Final Notice to Submit Additional Documents (Final Notice), or from the effectivity of this Order, whichever is later, to submit the lacking documents. Taxpayers who were issued a Notice of Archiving will no longer receive a Final Notice.</p> <p>Failure to submit the requested documents would result in the automatic denial of the TTRA for failure of the non-resident income recipient to substantiate or prove his/her/its entitlement to treaty benefits.</p>
VIII. Filing a Claim for Refund	<p>If the income of the non-resident taxpayer has been subjected to regular rates, he/she/it may subsequently file a claim for refund of the difference between the amount of withholding tax actually paid in the Philippines and the amount of tax that should have been paid under the treaty after obtaining a certificate confirming his/her/its entitlement to treaty benefits. For this purpose, a duly accomplished BIR Form No. 1913 shall be filed together with the letter-request. The claim for refund may be filed independently of, or simultaneously with, the TTRA. If the claim was not filed simultaneously with the TTRA, the office where it was filed shall coordinate with, and defer to, ITAD the resolution of the nonresident's entitlement to treaty benefit. If, on the other hand, the claim was filed simultaneously with the TTRA, it shall be the responsibility of the ITAD to endorse the claim for refund to the proper office that handles the processing of tax refunds after the resolution of the TTRA. At any rate, all issues relating to the application and implementation of treaty provisions shall fall within the exclusive jurisdiction of the ITAD.</p> <p>All claims for refund shall be filed within the two-year prescriptive period provided under Section 229 of the Tax Code, as amended.</p>

Particulars	Details
IX. Penalties for Late Filing of Requests for Confirmation	<p>Any violation of the provisions of this Order, including the failure to file a request for confirmation within the period herein prescribed shall be subject to penalties provided in Sections 250 and 255, and other pertinent provisions, of the Tax Code.</p> <p>The taxpayer may likewise be charged with the crime of perjury under Article 183 of the Revised Penal Code and with other appropriate crimes or offenses as may be warranted under existing laws, in addition to the payment of deficiency taxes for failure to supply correct and accurate information in the Application Form and other documents submitted in support of such application.</p>
X. Transitory Provisions	<p>Upon the effectivity of this Order, all pending TTRAs shall be processed following the manner laid down in Section 7 of this Order.</p> <p>For dividends, interest and royalties, the submission of Certificate of Residence for Treaty Relief (CORTT) Form shall henceforth be discontinued. Nevertheless, previously submitted CORTT Forms shall still be forwarded to the concerned RDOs for compliance check.</p>

RMC No. 39-2021 circularizes the extension of the deadline for the filing of applications and suspension of the 90 day processing of VAT refund claims, pursuant to Section 112 of the Tax Code, as amended by R.A No. 10963 (TRAIN Law).

RMC No. 39-2021 dated 18 March 2021

- ▶ Following the temporary closure of the VAT Credit Audit Division (VCAD) until 28 March 2021, in compliance with the existing health protocols for the mitigation of the COVID-19 pandemic, the filing of VAT Refund, where the 2-year period within which to file the claim falls on 31 March 2021, shall be extended until 12 April 2021.
- ▶ The 90-day period of processing of all VAT refund claims pending with VCAD during the temporary closure is also suspended pursuant to Section 5(3) of Revenue Regulations No. 27-2020.

RMC No. 41-2021 allows the filing and payment of returns to be made anywhere, regardless of jurisdiction to provide relief to taxpayers affected in the current surge in COVID 19.

RMC No. 41-2021 dated 22 March 2021

- ▶ The filing of returns and payment of taxes due falling within the period 22 March 2021 to 30 April 2021 may be made anywhere, even outside the jurisdiction of the RDO where they are registered.
- ▶ Taxpayers not mandated to use eFPS and eBIR Forms are encouraged to electronically file their returns through eBIR Forms Facility and pay their taxes through any ePayment channels.

RMC No. 43-2021 provides for the revised guidelines in the use of the eAFS system in the submission of duly filed Income ITRs and their required attachments, including BIR Form No. 1709.

RMC No. 43-2021 dated March 31, 2021

- ▶ Accordingly, all concerned taxpayers submitting documents through the eAFS System shall scan the documents for submission and observe the following procedures:
- ▶ For submission of attachments to the ITR, the following naming convention shall be observed:

File No.	Naming Convention
File 1	Income Tax Return : EAFSXXXXXXXXXITRYYMMYYYY
File 2	Audited Financial Statements: EAFSXXXXXXXXXAFSTYYMMYYYY
File 3	Form 1709: EAFSXXXXXXXXXRPTTYMMYYYY
File 4	Tax Credits: EAFSXXXXXXXXXTCRTYYMMYYYY-01
File 5	Other Attachments: EAFSXXXXXXXXXOTHTYYMMYYYY

Where:

- ▶ XXXXXXXXX is the 9-digit TIN
- ▶ TY is the placeholder for Taxable Year to identify it as annual submission; regardless if Fiscal or Calendar Year submission
- ▶ MM is the Month end of the Taxable Year
- ▶ YYYY is the Year Ended
- ▶ 01 is the first file of other attachments up to 99 (*applicable only for File 4 - Tax Credits*)

- ▶ In submitting the attachments to the ITR, the BIR provided for under this Circular the list of scanned documents and the corresponding naming conventions of the files for both manually and electronically filed ITRs.

RMC No. 44-2021 amends pertinent provisions of RMC No. 76-2020 to include submission of BIR Form 1709 through the eAFS System.

RMC No. 44-2021 dated 31 March 2021

Provisions under RMC No. 76-2020	Amendments and Additions under RMC No. 44-2021
<p>Q6. What is the manner of filing of the RPT Form and its attachments?</p> <p>A6. Given the file size, the RPT Form and its attachments shall be manually filed unless there is another revenue issuance mandating their filing electronically.</p>	<p>Q6. What is the manner of filing of the RPT Form by the taxpayers enumerated under Section 2 of RR No. 34-2020 dated 18 December 2020?</p> <p>A6. The RPT shall be filed, at the option of the taxpayers enumerated under Section 2 of RR No. 34-2020, either at the RDO where the taxpayer is registered, or electronically through the eAFS System.</p>
<p>Q7. When is the deadline for submission of RPT Form and its attachments?</p> <p>A7. For manual filers, the RPT Form and its required attachments must be submitted together with the AITR and other required attachments at the Large Taxpayers (LT) Division/RDO where the taxpayer is registered, on or before the statutory due date.</p> <p>For eFPS filers, the hard copy of RPT Form and its required attachments must be submitted manually and stamped "Received" at the LT Division/RDO where the taxpayer is registered, within 15 days from the statutory due date or actual date of electronic filing of the AITR, whichever comes later.</p>	<p>Q7. When is the deadline for submission of RPT Form?</p> <p>A7. For manual filers who opt to submit manually, the RPT Form must be submitted together with the AITR and other required attachments at the Large Taxpayers (LT) Division/ RDO where the taxpayer is registered, if without tax payable, within 15 days from the statutory due date of filing the AITR or electronic date of filing of the AITR, whichever comes later; or through the Authorized Agent Banks (AAB), if with tax payable, on or before the statutory due date of filing the AITR.</p> <p>For electronic filers who opt to submit manually, the hard copy of RPT Form must be submitted and stamped "Received" at the LT Division/RDO where the taxpayer is registered, within 15 days from the statutory due date of filing the AITR or electronic date of filing of the AITR, whichever comes later.</p> <p>For taxpayers who opt to submit electronically through the eAFS System, regardless if manual or electronic filers, the email confirmation with a system generated Transaction Reference Number shall serve as proof of submission in lieu of the stamped "Received" at the LT Division/RDO had it been filed manually in the LT Division/RDO where the taxpayer is registered. Submission must be made within 15 days from the statutory due date of filing the AITR or electronic date of filing of the AITR, whichever comes later.</p>

RMC 45-2021 extends the deadline for the filing of position papers, replies, protests, documents and other similar letters and correspondences in relation to on-going BIR audit investigations and filing of VAT refund with VCAD.

RMC 45-2021 issued on 5 April 2021

- ▶ The deadline for filing of the following letters and documents falling due on 5 April 2021 and during the Enhanced Community Quarantine (ECQ) period, including extensions thereof, and filing of VAT refund with VCAD for taxpayers registered with Revenue District Offices in NCR Plus areas (Metro Manila, Laguna, Cavite, Bulacan and Rizal) and other registered taxpayers outside NCR Plus who have transactions with any BIR office within NCR Plus, is extended as follows:

Letter/Correspondence	Extended Deadline
Position Paper and Supporting Documents in Response to Notice of Discrepancy	30 days from lifting of ECQ
Reply and Supporting Documents in Response to the Preliminary Assessment Notice (PAN)	15 days from lifting of the ECQ
Protest Letter in Response to the Final Assessment Notice/Formal Letter of Demand (FAN/FLD)	30 days from lifting of the ECQ
Transmittal Letter and Supporting Documents in relation to Request for Reinvestigation	30 days from lifting of the ECQ
Request for Reconsideration to the Commissioner of Internal Revenue (CIR) on Final Decision on Disputed Assessment (FDDA)	30 days from lifting of the ECQ
Submission of Documents in Response to <i>Subpoena Duces Tecum</i>	15 days from lifting of the ECQ
Submission of Documents in relation to First, Second and Final Notice	10 days from lifting of the ECQ
Other Similar Letters and Correspondences	30 days from lifting of the ECQ
Filing of VAT Refund with VCAD which falls due on April 12, 2021 per RMC No. 39-2021	30 days from lifting of the ECQ

- ▶ Moreover, face to face meetings of BIR officials and employees with taxpayers and/or their authorized representatives in NCR Plus areas are deferred and rescheduled until lifting of ECQ.

RMC 46-2021 clarifies the deadline for filing of AITR for Taxable Year ending 31 December 2020. It also provides guidelines in the manner of filing thereof, including the use of electronic signature, and reiterates the availability of eAFS.

RMC 46-2021 issued on 6 April 2021

- ▶ The deadline for filing of the AITR and payment of taxes due thereon is not extended and remains to be on 15 April 2021. However, tentative AITR may be filed on or before the set deadline. The return may be amended on or before 15 May 2021 without imposition of increments. Provided that, a taxpayer whose amended returns will result in overpayment of taxes paid can opt to carry over the overpaid tax as credit against the tax due for the same tax type in the succeeding period or file for refund.

- ▶ Pursuant to Republic Act No. 8792 (Electronic Commerce Act of 2000), all tax returns, attachments and documents identified above can be signed by the taxpayer or authorized officer or signatory through an electronic signature. Such electronic signature shall be deemed equivalent to an actual signature or “wet signature” for filing purposes.
- ▶ Taxpayers are also reminded of the availability of the eAFS facility as an option in submitting hard copies of their electronically filed AITR and its attachments.

RMC No. 50-2021 prescribes the guidelines in the filing and payment of AITRs by Non-Individual Taxpayers for the Taxable Year ending 31 July 2020 to 30 June 2021 which was affected by the passing of the CREATE Act.

RMC No. 50-2021 dated 5 April 2021

- ▶ Non-Individual taxpayers, whether eFPS or non-eFPS Filers, shall use the Offline eBIRForms Package v7.9 in filing their AITR.
- ▶ The eBIRForms is available for downloading from the following sites:
 1. www.bir.gov.ph and
 2. www.knowyourtaxes.ph
- ▶ In the selected tax return, the following items/fields shall be accomplished, as follows:

BIR Form No.	Part/Item No.	Remarks
1702-RT v2018C	Part IV Item 40	Indicate the applicable tax rate based on the table provided on page 4
	Part IV Item 41	Computed amount shall appear based on the Income Tax Rate provided in Item 40, but the amount is editable and enterable
	Part IV Item 42	Compute the Minimum Corporate Income Tax (MCIT) Due by multiplying Item 33 of Part IV with the applicable MCIT rate based on the table provided on page 4
	Part V Item 57	If Item 35 of Part IV has a value, Item 57 of Part V must also have a value. Compute the Tax Relief Availment for Special Allowable Itemized Deductions by multiplying Item 35 of Part IV with the applicable tax rate used in Item 40 of Part IV
1702-MX v2018C	Part IV Schedule 2 Item 14C	Indicate the applicable tax rate based on the table provided on page 4
	Part IV Schedule 2 Item 15C	Computed amount shall appear based on the Income Tax Rate provided in Item 14C, but the amount is editable and enterable
	Part IV Schedule 2 Item 18C	Compute the Minimum Corporate Income Tax (MCIT) by multiplying Item 7C of Part IV Schedule 2 with the applicable MCIT rate based on the table provided on page 4
	<i>If with only one activity/project under Exempt and/or Special Tax Regimes</i>	
	Part IV Schedule 4 Items 1A/1B	Compute the Regular Income Tax Otherwise Due by multiplying Items 13A and/or 13B of Part IV Schedule 2 with the applicable income tax rate based on the table provided on page 4 or the income tax rate provided in Item 14C of Part IV Schedule 2, if any
	Part IV Schedule 4 Items 2A/2B/2C	If Items 9A, 9B and/or 9C of Part IV Schedule 2 have value, Items 2A, 2B and/or 2C of Part IV Schedule 4 must also have value. Compute the Tax Relief Availment for Special Allowable Itemized Deductions by multiplying Items 9A, 9B and/or 9C of Part IV Schedule 2 with the applicable tax rate used in Item 14C of Part IV Schedule 2, if any or the applicable income tax rate based on the table provided on page 4
	<i>If with two or more activities/projects under Exempt and/or Special Tax Regimes</i>	
	Part V Schedule C Item 1	Compute the Regular Income Tax Otherwise Due by multiplying Item 12 of Part V Schedule B with the applicable income tax rate based on the table provided on page 4 or the income tax rate provided in Part IV Schedule 2 Item 14C, if any
	Part V Schedule C Item 2	If Item 9 of Part V Schedule B has a value, Item 2 of Part V Schedule C must also have a value. Compute the Tax Relief Availment for Special Allowable Itemized Deductions by multiplying Item 9 with the applicable tax rate used in Item 14C of Part IV Schedule 2, if any or the applicable income tax rate based on the table provided on page 4
	1702-EX v2018C	Part V Item 52
Part V Item 53		If Item 36 of Part IV has value, Item 53 of Part V must also have a value. Compute the Tax Relief Availment for Special Allowable Itemized Deductions by multiplying Item 36 of Part IV with the applicable tax rate based on the table provided on page 4.

- ▶ Once the tax return is successfully submitted, the taxpayer shall receive a Tax Return Receipt Confirmation that the BIR has received the submitted return.
- ▶ The BIR Form Nos. 1702-RT, 1702-MX and 1702-EX version 2018 in the new Package has been modified and added letter "C" after the version date (i.e. 1702-RTv2018C, 1702-MXv2018C and 1702-EXv2018C). The automatic computation of tax due has been disabled and taxpayer shall indicate the rate of tax applicable based on the matrix below, depending on the taxable period of the taxpayer:

Transitory rates				
Annual Accounting Period (Transition TY 2020)	Regular Corporate Income Tax Rates	Other domestic corporations with net taxable income not exceeding P5M & total assets not exceeding P100M, exclusive of land	MCIT	Proprietary Non-profit Educational Institutions / Hospitals
	30% / 25%	30% / 20%	2% / 1%	10% / 1%
FY 7-31-20	29.58 %	29.16 %	1.91 %	9.25 %
FY 8-31-20	29.16	28.33	1.82	8.50
FY 9-30-20	28.75	27.50	1.73	7.75
FY 10-31-20	28.33	26.66	1.64	7.00
FY 11-30-20	27.91	25.83	1.55	6.25
CY 12-31-20	27.50	25.00	1.50	5.50
FY 1-31-21	27.08	24.16	1.41	4.75
FY 2-28-21	26.66	23.33	1.32	4.00
FY 3-31-21	26.25	22.50	1.23	3.25
FY 4-30-21	25.83	21.66	1.14	2.50
FY 5-31-21	25.41	20.83	1.05	1.75
FY 6-30-21	25.00	20.00	1.00	1.00

- ▶ Payment of the taxes due thereon, if any, shall be made thru:

1. Manual Payment - Non e-FPS Filers

Any Authorized Agent Banks (AABs) as provided under RMC No. 41-2021. In places where there are no AABs, the return shall be filed and the tax due shall be paid with the Revenue Collection Officer (RCO) under the jurisdiction of any Revenue District Office (RDO).

2. Online Payment - Non e-FPS filers

- ▶ Mobile Payment (GCash/PayMaya);
- ▶ Landbank of the Philippines (LBP) Link.BizPortal - for taxpayers who have ATM account with LBP and/or holders of Bancnet ATM/Debit Card;
- ▶ Development Bank of the Philippines (DBP) Tax Online - for taxpayers-holders of Visa/Master Credit Card and/or Bancnet ATM Debit Card;
- ▶ Union Bank Online Web and Mobile Payment Facility - for taxpayers who have account with Union Bank; or
- ▶ PESONet through LBP Link.BizPortal - for taxpayers who have account with RCBC, Robinsons Bank, Union Bank and BPI.

3. Online Payment - e-FPS filers

After submitting the return thru eBIRForms, eFPS Filers shall proceed to payment using the eFPS facility. They shall fill out and e-File BIR Form No. 0605 then proceed to e-Payment to pay their income tax due and shall use the following codes:

Tax Type - **Income Tax (IT)**
Alphanumeric Tax Code (ATC) - **MC 200 Miscellaneous Tax**

RMC 52-2021 suspends the running of the Statute of Limitations on the assessments and collection of taxes pursuant to Section 223 of the National Internal Revenue Code of 1997, as amended, due to the declaration of the ECQ in Metro Manila, Bulacan, Cavite, Laguna, and Rizal (NCR Plus), and other applicable jurisdictions.

RMC 52-2021 issued on 14 April 2021

- ▶ The ECQ was declared in Metro Manila, Bulacan, Cavite, Laguna and Rizal, collectively known as the NCR Plus bubble, from 29 March 2021 to 4 April 2021 and further extended from 5 April 2021 to 11 April 2021. It restricted the movement in the said area and effectively barred the service of assessment notices, personally or by substituted service, and warrants of Dstraint and/ or Levy, as well as warrants of Garnishment, to enforce collection of deficiency taxes.
- ▶ Section 223 of the National Internal Revenue Code of 1997, as amended, provides that: *“The running of the Statute of Limitations provided in Sections 203 and 222 on the making of assessments and the beginning of distraint or levy a proceeding in court for collection, in respect of any deficiency, shall be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or levy a proceeding in court and for sixty (60) days thereafter -xxx-.”*
- ▶ Pursuant to said Section 223, the running of the statute of limitations for assessment and collection of deficiency taxes is suspended in the affected jurisdictions while the EQC is in effect including any extension/s thereof, and for 60 days thereafter.
- ▶ The suspension of the running of the Statute of Limitations shall apply with respect to the issuance and service of assessment notices, warrants and enforcement, and/ or collection of deficiency taxes.
- ▶ The Circular applies nationwide on areas placed under ECQ.

Other BIR Issuances

RR No. 2-2021 dated 8 April 2021

- ▶ Section 2.57.1(B), (E) and (F) of RR No. 2-98, as amended, is hereby further amended to read as follows:
 1. **Income Payments to Non-resident Aliens Engaged in Trade or Business in the Philippines** - The following forms of income derived from sources within the Philippines shall be subject to final withholding tax (FWT) in the hands of a non-resident alien individual engaged in trade or business within the Philippines, based on the gross amount and at the tax rates prescribed:
 - ▶ On Certain Passive Income - A tax of 20% is hereby imposed on certain passive income received from all sources within the Philippines.

RR No. 2-2021 implements the new final tax rates on certain passive incomes of individuals and corporations as prescribed under the CREATE Act.

- a. Cash and property dividend from a domestic corporation or from a joint stock company, or from an insurance or mutual fund company or from a regional operating headquarter of a multinational company;
 - b. Share in distributable net income after tax of a partnership (except general professional partnership) of which he is a partner, or share in the net income after tax of an association, a joint account, or a joint venture of which he is a member or a co-venturer;
 - c. Interests from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements;
 - d. Royalties (except royalties on books, as well as other literary works and musical compositions which shall be subject to 10% final withholding tax);
 - e. Prizes (except prizes amounting to Ten thousand pesos [P10,000] or less which shall be subject to tax under Subsection [B] [1] of Section 24 of the Tax Code, as amended) and other winnings (except winnings from Philippine Charity Sweepstakes Office [PCSO] games amounting to P10,000 or less which shall be exempt from income tax)
2. **Income Payments to a Resident Foreign Corporation** - The following forms of income shall be subject to FWT in the hands of a foreign corporation, based on the gross amount and at the rate of tax prescribed:
- ▶ Tax on Branch Remittances - On any profit remitted by the Philippine branch of a foreign corporation to its head office abroad based on the total profits applied or earmarked for remittance without any deduction for the tax component thereof except those registered with the Philippine Economic Zone Authority (PEZA) -15%
 - ▶ Interest on any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements and royalties derived from sources within the Philippines - 20%
 - ▶ Interest income derived from a Depository Bank under the Expanded Foreign Currency Deposit System -15%
 - ▶ Capital Gains from Sale of Shares of Stock Not Traded in the Stock Exchange. - On the net capital gains realized during the taxable year from the sale, barter, exchange or other disposition of shares of stock in a domestic corporation -15%
3. **Income Derived From all Sources Within the Philippines by Non-Resident Foreign Corporation (NRFC)** - The following shall be subject to FWT based on the gross amount of income and at the rate of tax prescribed:
- ▶ In general - on gross income derived from all sources within the Philippines such as interests, dividends, rents, royalties, salaries, premiums (except reinsurance premiums), annuities, emoluments, or other fixed or determinable annual, periodic or casual gains, profits

and income and capital gains (except capital gains realized from sale, exchange, disposition of shares of stock in any domestic corporation which is subject to capital gains tax under item 7 hereof) - 1 January 2021 onwards -25%

- ▶ Dividends received from a domestic corporation - In general, it is subject to 25% FWT. However, a reduced rate of 15% shall be applied, subject to the condition that the country in which the non-resident foreign corporation is domiciled (a) shall allow a credit against the tax due from the said non-resident foreign corporation which are equivalent to taxes deemed to have been paid in the Philippines equal to 10% effective 1 January 2021, which represents the difference between the regular income tax rate for non-resident foreign corporation under Section 28(B)(1) of the NIRC of 1997, as amended, and the 15% tax on dividends as herein provided; or, (b) does not impose any income tax on dividends received from a domestic corporation
- ▶ Capital Gains from sale of Shares of Stock Not Traded in the Stock Exchange. - On net capital gains realized during the taxable year from sale, barter, exchange, or other disposition of share of stock in a domestic corporation -15%
- ▶ Purchases made by Government-Owned and Controlled Corporations, National Government Agencies, Local Governments, and other government instrumentalities, from persons/entities subject to percentage tax pursuant to Section 116 of the Tax Code, as amended, shall be subject to 1% withholding tax for the period 1 July 2020 until 30 June 2023.
- ▶ Any taxes withheld from persons/entities where the withholding agents used the rate higher than what are imposed in these Regulations, may be claimed as tax refund by the withholding agents if the withheld taxes have already been remitted, provided that, in case the withholding agents or other persons/entities shall file the claim for refund for and on behalf of the payees, they must be duly authorized by said payees. The claim for refund shall be filed with the Revenue District Office/Large Taxpayer Service having jurisdiction over the withholding agents.
- ▶ All existing rules and regulations or parts thereof which are inconsistent with the provisions of these regulations are hereby amended or revoked accordingly.

RR No. 4-2021 implements the provisions on VAT and Percentage Tax under the CREATE Act, which further amended the NIRC of 1997, as amended, as implemented by RR No. 16-2005, as amended.

RR No. 4-2021 dated 8 April 2021

- ▶ Among the salient provisions of this RR are as follows:
 1. VAT-Exempt Transactions
 - ▶ Sale of a residential lot valued at P1.5 Million and below, or house & lot and other residential dwellings valued at P2.5 Million and below, as adjusted in 2011 using the 2010 Consumer Price Index (CPI) values.

Provided, That beginning 1 January 2021, the VAT exemption shall only apply to sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business, sale of real property utilized for socialized housing as defined by RA No. 7279, as amended, and, sale of house and lot, and other

residential dwellings with selling price of not more than P2 Million as adjusted in 2011 using the 2010 CPI values: Provided, further, That every 3 years thereafter, the amounts stated herein shall be adjusted to its present value using the CPI as published by the Philippine Statistics Authority (PSA).

- ▶ Sale, importation, printing or publication of books, and any newspaper, magazine, journal, review bulletin, or any such educational reading material covered by the United Nations Educational, Scientific and Cultural Organization (UNESCO) Agreement on the importation of educational, scientific and cultural materials, including the digital or electronic format thereof. Provided, That the materials enumerated herein are not devoted principally to the publication of paid advertisements. Provided further, That the materials enumerated herein are compliant with the requirements set forth by the National Book Development Board pursuant to RA No. 8047.
- ▶ Sale or importation of prescription drugs and medicines for:
 - a. Diabetes, high cholesterol, and hypertension beginning 1 January 2020; and
 - b. Cancer, mental illness, tuberculosis, and kidney diseases beginning 1 January 2021.

The exemption from VAT under this subsection shall only apply to the sale or importation by the manufacturers, distributors, wholesalers and retailer of drugs and medicines included in the "list of approved drugs and medicines" issued by the Department of Health (DOH) for this purpose.

- ▶ Sale or importation of the following beginning 1 January 2021 to 31 December 2023:
 - a. Capital equipment, its spare parts and raw materials, necessary for the production of personal protective equipment (PPE) components such as coveralls, gown, surgical cap, surgical mask, n-95 mask, scrub suits, goggles and face shield, double or surgical gloves, dedicated shoes, and shoe covers, for COVID-19 prevention;
 - b. All drugs, vaccines and medical devices specifically prescribed and directly used for the treatment of COVID-19; and
 - c. Drugs for the treatment of COVID-19 approved by the Food and Drug Administration (FDA) for use in clinical trials, including raw materials directly necessary for the production of such drugs.

Provided, That the Department of Trade and Industry (DTI) shall certify that such equipment, spare parts or raw materials for importation are not locally available or insufficient in quantity, or not in accordance with the quality or specification required.

Provided further, That for item (ii), within 60 days from the effectivity of the CREATE Act, and every 3 months thereafter, the DOH shall issue a list of prescription drugs and medical devices covered by this provision.

Provided finally, That for items (i) and (iii) hereof, on the sale or importation of equipment, spare parts and raw materials for the production of PPE components as well as the sale or importation of raw materials directly necessary for the production of drugs for the treatment of COVID-19, the supplier/s or importer shall submit, for the purpose of availing the exemption, the following:

- a. Certified true copy of "License to Operate", issued to the manufacturer-buyer by the DOH-FDA authorizing the manufacture of medical grade PPE components and drugs for the treatment of COVID-19; and
- b. "Sworn Declaration" from the manufacturer-buyer that the items shall be used for the manufacture of the PPE components and drugs for the treatment of COVID-19.

The exemption claimed under this subsection shall be subject to post audit by the BIR or the Bureau of Customs (BOC), as may be applicable.

- ▶ Sale or lease of goods or properties or the performance of services other than the transactions mentioned in the preceding paragraphs, the gross annual sales and/or receipts do not exceed the amount of P3 Million.

For purposes of these Regulations, the P3 Million gross annual sales shall comprise of the business' total revenues from sales of its products, which are either goods or services, including non-refundable advance deposits/payments for services, net of discounts, sales returns and allowances, covering the calendar or fiscal year. Sales incidental to the registered operations of the business shall also be included pursuant to Section 105 of the Tax Code, as amended.

2. Tax on Persons Exempt from VAT

Any person whose sales or receipts are exempt under Section 109(1)(CC) of the Tax Code from the payment of VAT and who is not a VAT-registered person shall pay a tax equivalent to 3% of his gross quarterly sales or receipts: Provided, however, that the following shall be exempt from the payment of 3% percentage tax:

- ▶ Cooperatives; and
- ▶ Self-employed individuals and professionals availing of the 8% tax on gross sales and/or receipts and other non-operating income, under Sections 24(A)(2)(b) and 24(A)(2)(c)(2)(a) of the Tax Code.

Provided, further, that effective 1 July 2020 until 30 June 2023, the rate shall be 1%.

3. Transitory Provisions

- ▶ A VAT-registered taxpayer who opted to register as non-VAT as a result of the additional VAT-exempt provisions under Sections 109(1)(R), 109(1)(AA), and 109(1)(BB) of the Tax Code, as amended by the CREATE Act and provided that it did not meet the threshold set under Section 109(1)(CC) thereof, shall:

- a. Submit an inventory list of unused invoices and/or receipts as of the date of filing of application for update of registration from VAT to Non-VAT, indicating the number of booklets and its corresponding serial numbers; and
- b. Surrender the said invoices and/or receipts for cancellation.

A number of unused invoices/receipts, as determined by the taxpayer with the approval of the appropriate BIR Office, may be allowed for use, provided the phrase "Non-VAT registered as of (date of filing an application for update of registration) Not valid for claim of input tax." shall be stamped on the face of every copy thereof, until new registered non-VAT invoices or receipts have been received by the taxpayer or until 31 August 2021. Upon receipt of newly-printed registered non-VAT invoices or receipts, the taxpayer shall submit immediately a new inventory list of, and surrender for cancellation, all unused previously-stamped invoices/receipts."

- ▶ The taxpayer shall treat the resulting excess taxes paid due to the inclusion in the items exempt from VAT or adjustment in percentage tax rates, as the case may be, in the following manner:
 - a. Unutilized VAT paid on local purchases and importation under subsections 4.109-1(B)(aa)(ii) and 4.109-1(B)(bb) hereof from their specified effectivity under RA No. 11534 on 1 January 2021 until the effectivity of these Regulations may be carried-over to the succeeding taxable quarter/s or be charged as part of cost, pursuant to Section 110 of the Tax Code.

Input VAT which are directly attributable to goods now classified as VAT-exempt may be allowed as part of cost. For input VAT that cannot be attributed to goods now classified as VAT-exempt, only a ratable portion thereof shall be charged to cost.

- b. Excess percentage tax payments as a result of the decrease of tax rate from 3% to 1% starting 1 July 2020 until the effectivity of these Regulations may be carried forward to the succeeding taxable quarter/s by reflecting the excess percentage tax payment under Line 17 of the Quarterly Percentage Tax Return (BIR Form No. 2551Q), "*Other Tax Credit/Payment*", specifying therein as "*Carry-Over Excess Percentage Taxes Paid from Previous Quarter/s*".
- ▶ Excess/Unutilized input taxes as a result of the change of status from VAT to Non-VAT registration, under Sec. 112(B) of the Tax Code of 1997, as amended, may be subject to refund or the issuance of TCC, at the option of the taxpayer.

RR No. 5-2021 implements the new income tax rates on the regular income of corporations, on certain passive incomes and additional allowable deductions of persons engaged in business or practice of profession as provided for in the CREATE Act.

RR No. 5-2021 issued on 8 April 2021

- ▶ The new income tax rates applicable to the regular taxable income of corporations are as follows:

Type of Corporation	The higher between the "Regular" or "Minimum Corporate Income Tax (MCIT)" rates			
	Regular		MCIT	
	Rate	Effectivity	Rate	Effectivity
Domestic Corporation:				
Domestic corporations, in general	25%	1 July 2020	1%	1 July 2020 to 30 June 2023
			2%	1 July 2023
For corporations with net taxable income not exceeding Five Million Pesos (P5,000,000) AND total assets not exceeding One Hundred Million (P100,000,000), excluding the land on which the particular business entity's office, plant and equipment are situated	20%	1 July 2020	1%	1 July 2020 to 30 June 2023
			2%	1 July 2023
Proprietary Educational Institutions and Hospitals	1%	1 July 2020 to 30 June 2023	Not Applicable	
	10%	1 July 2023		
Foreign Corporation [on taxable income (e.g., net or gross income, as applicable) derived from all sources within the Philippines]				
Resident Foreign Corporation	25%	1 July 2020	1%	1 July 2020 to 30 June 2023
			2%	1 July 2023
Offshore Banking Unit (OBUs) (Note: OBUs shall now be taxed as resident foreign corporation upon effectivity of the CREATE)	25%	Upon the effectivity of the CREATE	1%	Upon the effectivity of the CREATE until 30 June 2023
			2%	July 1, 2023
Regional Operating Headquarters (ROHQs)	25%	1 January 2022	1%	1 January 2022 to 30 June 2023
			2%	1 July 2023
Non-Resident Foreign Corporation	25%	1 January 2021	Not Applicable	

- ▶ The MCIT is imposed beginning on the fourth taxable year immediately following the year in which such corporation commenced its business operations, when it is greater than the regular income tax computed for the taxable year.
- ▶ Domestic corporations shall account separately in their Audited Financial Statements (AFS) the cost of land on which the particular business entity's office, plant and equipment are situated, and shall not lump the same in one account title nor consolidate its cost with other fixed asset accounts.
- ▶ In the case of proprietary educational institutions or hospitals, if the gross income from "unrelated trade, business or other activity" (as defined under Section 2 hereof) exceeds 50% of the total gross income derived by such educational institutions or hospitals from all sources, the tax prescribed for domestic corporations shall be imposed on the entire taxable income.
- ▶ GOCCs, agencies and instrumentalities, except the Government Service Insurance System (GSIS), the Social Security System (SSS), the Home Development Mutual Fund (HDMF), the Philippine Health Insurance Corporation (PHIC), and the local water districts, shall pay such rate of tax upon their taxable income as are imposed upon corporations or associations engaged in a similar business, industry, or activity.
- ▶ The new income tax rates applicable to certain passive incomes of individuals and corporations are as follows:

Type of Individual/ Corporation	Nature of Income	Rate	Effectivity
Non-Resident Alien Individual	Winnings from Philippine Charity Sweepstake Office (PCSO) games amounting to more than P10,000.00	20%	Upon the effectivity of the CREATE
	Winnings from PCSO games amounting to P10,000.00 and below	Exempt	
Domestic Corporation	Intercorporate Dividends (domestic and foreign source dividends)	From another domestic corporation - Exempt From non-resident foreign corporation - 25% or 20%, as the case may be	For foreign source dividends, these will be exempt from income tax upon the effectivity of the CREATE, subject to the conditions imposed under Section 5 of these Regulations
Resident Foreign Corporation	Interest income from a depository bank under the expanded foreign currency deposit system	15%	Upon the effectivity of the CREATE
	Capital gains from sale of shares of stock not traded in the stock exchange	15%	Upon the effectivity of the CREATE
Non-resident Foreign Corporation	Gross income received from all sources within the Philippines, such as interests, dividends, rents, royalties, salaries, premiums (except reinsurance premiums), annuities, emoluments or other fixed or determinable annual, periodic or casual gains, profits and income, and capital gains, except capital gains from sale of shares of stock not traded in the stock exchange	25%	1 January 2021
	Intercorporate dividend received from a domestic corporation, in general	25%	1 January 2021
	However, if the country in which the non-resident foreign corporation is domiciled, allows a tax credit equivalent to the difference between the regular income tax rate of 25% under Section 28(B)(1) of the Tax Code and the 15% tax on intercorporate dividends or does not impose tax on dividends, the rate to be imposed shall be 15%	15%	1 January 2021
	Capital gains from sale of shares of stock not traded in the stock exchange	15%	Upon the effectivity of the CREATE

- ▶ Foreign-sourced dividends received by domestic corporations are generally subject to income tax. However, the same shall be exempt if all of the following conditions concur:
 1. The dividends actually received or remitted into the Philippines are reinvested in the business operations of the domestic corporation within the next taxable year from the time the foreign-source dividends were received or remitted;
 2. The dividends received shall only be used to fund the working capital requirements, capital expenditures, dividend payments, investment in domestic subsidiaries, and infrastructure project; and
 3. The domestic corporation holds directly at least 20%min value of the outstanding shares of the foreign corporation and has held the shareholdings uninterrupted for a minimum of 2 years at the time of the dividends distribution. In case the foreign corporation has been in existence for less than 2 years at the time of dividends distribution, then the domestic corporation must have continuously held directly at least 20% in value of the foreign corporation's outstanding shares during the entire existence of the corporation.

- ▶ Absent any one of the above conditions, the foreign-sourced dividends shall be considered as taxable income of the domestic corporation in the year of actual receipt or remittance, subject to surcharges, interest, and penalties, as applicable.

- ▶ For this purpose, to avail of the exemption, the domestic corporation shall:
 1. Submit, thru the responsible corporate officers, to the concerned BIR office within 30 calendar days from actual receipt of the remitted dividends a Sworn Statement/Affidavit containing (i) the fact of actual receipt of such dividends, (ii) the amount and the source (non-resident foreign corporation [NRFC) of such dividends, including their shareholdings in that NRFC and the holding period at the time of the dividends distribution, and (iii) a statement that they shall fully comply with the conditions of the exemptions above stated;
 2. In the year of receipt of dividend, attach to the AFS an Independent Auditor Sworn Certification as to (i) the fact of actual receipt of the remitted dividends, (ii) the amount and the source (NRFC) of such dividends, including their shareholdings in that NRFC and the holding period at the time of the dividends distribution, (iii) the fact that the domestic corporation, thru its Board, has appropriated or has a plan to reinvest the dividends in its business operations to fund its working capital requirements, capital expenditures, dividend payments, investment in domestic subsidiaries, or infrastructure project, and (iv) if any amount has been disbursed, a statement that said disbursement complies with the above requirements.

The Sworn Statement/Affidavit in item (1) hereof and the Independent Auditor Sworn Certification shall be deemed as substantial compliance with the above conditions for exemption without the need of securing a written tax exemption ruling/certificate from the BIR. In addition, a disclosure of the dividends in the said AFS which shall be attached to the AITR to be filed in the year of receipt, as well as the amount of dividend deemed exempt from income tax shall be declared in reconciliation part of the said AITR.

3. In the immediately following taxable year, attach to the AITR a Sworn Certification prepared and executed by an Independent Auditor on the utilization or non-utilization of the dividends received by the corporation. The Sworn Certification on the utilization of the dividends received shall confirm the taxpayer's full compliance with the conditions for its exemption. However, if the Certification will state non-utilization of the dividends received, the corresponding tax due on the unutilized dividends shall be declared as taxable income, subject to surcharges, interest, and penalty, if any.
- ▶ Further, no credit or deduction under Section 34(C) of the Tax Code shall be allowed for any taxes of foreign countries paid or incurred by the domestic corporation in relation to the exempt foreign-sourced dividends. Finally, any taxes of foreign countries paid or incurred by the domestic corporation in relation to the exempt foreign-sourced dividends shall be disregarded in computing the limitations provided under Section 34(C)(4) of the Tax Code.
 - ▶ The improperly accumulated earnings tax shall no longer be imposed on corporations upon the effectivity of the CREATE Act onwards. This shall apply to the entire taxable year for all fiscal years/taxable years ending after the effectivity of CREATE Act.
 - ▶ Except for taxpayers earning purely compensation income arising from personal services rendered under an employer-employee relationship, in computing taxable income subject to income tax under Sections 24 (A), 25 (A), 26, 27 (A), 27 (B), 27 (C) and 28 (A) (1) of the National Internal Revenue Code of 1997, as amended, where the person subject to income tax opted to claim itemized deductions, the following shall be allowed as deductions from gross income under Section 34 of the Tax Code, as amended:

1. Expenses

- ▶ Ordinary and Necessary Trade, Business or Professional Expenses. - In general, there shall be allowed as deductions from gross income all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on or which are directly attributable to, the development, management, operation and/or conduct of the trade, business or exercise of a profession, including:
 - a. A reasonable allowance for salaries, wages, and other forms of compensation for personal services rendered, including the gross-up monetary value of fringe benefit furnished or granted by the employer to the employee: Provided, that the income tax imposed on such salaries and fringe benefits has been paid;
 - b. A reasonable allowance for travel expenses, here and abroad, while away from home in the pursuit of trade, business or profession;
 - c. A reasonable allowance for rentals and/or other payments which are required as a condition for the continued use or possession, for purposes of the trade, business or profession, of property to which the taxpayer has not taken or is not taking title or in which he has no equity other than that of a lessee, user or possessor;

- d. A reasonable allowance for entertainment, amusement and recreation expenses during the taxable year, that are directly connected to the development, management and operation of the trade, business or profession of the taxpayer, or that are directly related to or in furtherance of the conduct of his or its trade, business or exercise of a profession not to exceed such ceilings as prescribed under RR 10-2002. Provided, that any expense incurred for entertainment, amusement or recreation (EAR) that is contrary to law, morals, public policy or public order shall in no case be allowed as deduction.
 - e. Upon the effectivity of the CREATE, an additional deduction from taxable income of one-half (1/2) of the value of labor training expenses incurred for skills development of enterprise-based trainees enrolled in Public Senior High Schools, Public Higher Education Institutions, or Public Education Institution, or Public Technical and Vocational Institutions and duly covered by an apprenticeship agreement under Presidential Decree No. 442, Series of 1974, or the Labor Code of the Philippines, as amended, shall be granted to enterprises. Provided, further, that for the additional deduction for enterprise-based training of students from Public Educational Institutions, the enterprise shall secure proper "certification" from the Department of Education (DepEd), Technical Education and Skills Development Authority (TESDA), or Commission on Higher Education (CHED). Provided, finally, that such deduction shall not exceed Ten Percent (10%) of Direct Labor Wage.
 - ▶ Expenses shall be allowable to Private Educational Institutions - xxx
2. Interest. - Interest paid or incurred within a taxable year on indebtedness in connection with the taxpayer's profession, trade or business shall be allowed as deduction from gross income, provided the same also satisfied the following criteria:
- ▶ The indebtedness must be that of the taxpayer;
 - ▶ The interest must have been stipulated in writing;
 - ▶ The interest must be legally due;
 - ▶ The interest payment arrangement must not be between related taxpayers as mandated in Section 34 (B) (2) (b), in relation to Section 36 (B) both of the Tax Code of 1997;
 - ▶ The interest must not be incurred to finance petroleum operations; and
 - ▶ The interest was not treated as capital expenditure, if such interest was incurred in acquiring property used in trade, business or exercise of profession.
- ▶ Provided, further, that the taxpayer's otherwise allowable deduction for interest expense shall be reduced by an amount equivalent to 20% of interest income subjected to final tax. However, if the final withholding tax rate on interest income of 20% will be adjusted in the future, the interest expense reduction rate shall be adjusted accordingly.

- ▶ In the case of corporations, since the income tax rates changed effective 1 July 2020, it follows that the deduction from the interest expense of 20% shall be effective also on the said date. For other domestic corporations with net taxable income not exceeding P5,000,000.00 and total assets not exceeding P100,000,000.00, excluding the land on which the particular business entity's office, plant and equipment are situated, the deduction is 0% since there is no difference in the income tax rate on the taxable income (20%) with the tax rate applied on the interest income subjected to final tax (20%). However, in the case of individuals engaged in business or practice of profession, such deduction shall take effect upon the effectivity of CREATE Act.

3. Taxes - xxx

4. Losses - xxx

5. Bad Debts - xxx

6. Depreciation - xxx

7. Depletion of Oil and Gas Well and Mines - xxx

8. Charitable and other Contributions - xxx

9. Research and Development - xxx

10. Pension Trusts - xxx

- ▶ Existing implementing rules and regulations governing the policies in the application of other allowable deductions, if any, shall remain in effect.
- ▶ The following provisions shall apply on non-recognition of gain or loss on exchange of property:
 1. No gain or loss shall be recognized on a corporation or on its stock or securities if such corporation is a party to a reorganization and exchanges in pursuance of a plan of reorganization solely for stock or securities in another corporation that is a party to the reorganization.
 2. No gain or loss shall also be recognized if property is transferred to a corporation by a person, alone or together with others, not exceeding four (4) persons, in exchange for stock or unit of participation in such a corporation of which as a result of such exchange, the transferor or transferors, collectively, gains or maintains control of said corporation: Provided, that stocks issued for services shall not be considered as issued in return for property.
 3. Sale or exchanges of property used for business for shares of stocks covered hereunder shall not be subject to value-added tax (VAT). In all of the foregoing instances of exchange of property, prior Bureau of Internal Revenue (BIR) confirmation or tax ruling shall not be required for purposes of availing of the tax exemption. The concerned parties can implement the transaction covered hereunder including, but not limited to, the issuance of the Certificate Authorizing Registration (CAR) by the Revenue District Office (RDO) where the property is located, in case of real properties, or to the RDO where the business is registered, in case of shares of stocks, subject to post-transaction audit by the Bureau.

- ▶ For the tax rate to be used in the deduction of a certain percentage of interest income subject to final tax from the claimed interest expense to come up with the allowable interest expense, or the interest arbitrage, the following shall be applied for taxable year 2020 by corporations, except non-resident foreign corporations:

Compute for the interest arbitrage using the applicable rate:

1. Divide the gross interest income subjected to final tax for the year by 12 months:
 - ▶ Interest income subjected to final tax ÷ 12
2. Multiply the number of months applicable to old arbitrage rate by the resulting monthly gross interest income subjected to final tax; then, multiply the product by the old arbitrage rate :
 - ▶ Number of months applicable x (a) x 33.33%
3. Multiply the number of months applicable to the new arbitrage rate by the resulting monthly gross interest income subjected to final tax; then, multiply the product by the new arbitrage rate:
 - ▶ Number of months applicable x (a) x (20% or 0%, as the case may be)
4. Add the computed interest arbitrage under items (b) and (c) above to get the amount to be deducted from the interest expense claimed to arrive at the allowable interest expense.

- ▶ Another option in the computation of the interest arbitrage is to use the rates reflected in the table below, and multiply the same with the amount of gross interest income subjected to final tax to find the amount of interest deductible from the interest expense claimed, with the allowable interest expense as the end result.
- ▶ Transitory rates for interest arbitrage applicable for TY 2020 for corporations under itemized deductions are as follows:

For the computation of Interest Arbitrage		
Annual Accounting Period (Transition TY 2020)	Corporations subject to Regular Rates	Other domestic corporations with net taxable income not exceeding P5M & total assets not exceeding P100M, exclusive of land
	30% / 25%	30% / 20%
FY 7-31-20	31.92%	30.25%
FY 8-31-20	30.83	27.50
FY 9-30-20	29.75	24.75
FY 10-31-20	28.67	22.00
FY 11-30-20	27.58	19.25
CY 12-31-20	26.50	16.50
FY 1-31-21	25.42	13.75
FY 2-28-21	24.33	11.00
FY 3-31-21	23.25	8.25
FY 4-30-21	22.17	5.50
FY 5-31-21	21.08	2.75
FY 6-30-21	20.00	0.00

- ▶ In the computation of income tax due of the corporations for taxable year 2020, regardless of the taxpayers' annual accounting period, the taxable income shall be computed without regard to the specific date when sales, purchases and other transactions occur. The income and expenses shall be deemed to have been earned and spent equally for each month of the period. The corporate income tax due for taxable year 2020 shall be computed as follows:
 1. Compute for the tax due using the regular income tax rate:
 - ▶ Divide the taxable income for the year by 12 months
 - ▶ Multiply the number of months applicable to old rate by the resulting monthly taxable income; then multiply by 30%;
 - ▶ Multiply the number of months applicable to the new rate by the resulting monthly taxable income; then multiply by either 25% or 20%, as applicable;
 - ▶ Add the computed regular income tax under item 1.b and 1.c.
 2. Compute for the income tax due using the MCIT rate, if applicable:
 - ▶ Divide the gross income by 12 months;
 - ▶ Multiply the number of months applicable to the old MCIT rate by the resulting monthly gross income; then multiply by 2%
 - ▶ Multiply the number of months applicable to the new MCIT rate by the resulting monthly gross income; then multiply by 1%
 - ▶ Add the computed MCIT under 2.b and 2.c
 3. Compare the resulting figures under 1.d and 2.d above and the higher amount shall be the income tax due/payable.
- ▶ For ease of computing the income tax due during the transition period, the following rates reflected in the matrix below may be used:

Transitory rates				
Annual Accounting Period (Transition TY 2020)	Regular Corporate Income Tax Rates	Other domestic corporations with net taxable income not exceeding P5M & total assets not exceeding P100M, exclusive of land	MCIT	Proprietary Non-profit Edu/Hosp
	30% / 25%	30% / 20%	2% / 1%	10% / 1%
FY 7-31-20	29.58%	29.16%	1.91%	9.25%
FY 8-31-20	29.16	28.33	1.82	8.50
FY 9-30-20	28.75	27.50	1.73	7.75
FY 10-31-20	28.33	26.66	1.64	7.00
FY 11-30-20	27.91	25.83	1.55	6.25
CY 12-31-20	27.50	25.00	1.50	5.50
FY 1-31-21	27.08	24.16	1.41	4.75
FY 2-28-21	26.66	23.33	1.32	4.00
FY 3-31-21	26.25	22.50	1.23	3.25
FY 4-30-21	25.83	21.66	1.14	2.50
FY 5-31-21	25.41	20.83	1.05	1.75
FY 6-30-21	25.00	20.00	1.00	1.00

- ▶ Taxpayers who have already filed their income tax returns for taxable year 2020 (calendar year 2020; fiscal year ending from 31 July 2020 to fiscal year ending 28 February 2021) may amend their income returns using the transitory rates per above matrix, and any resulting excess/overpayment can be claimed for refund or tax credit certificate, or carried over to the next taxable year, at taxpayers' option.
- ▶ Any provisions of existing revenue regulations or revenue issuances which are inconsistent with these Regulations are hereby repealed, modified or amended accordingly.

RMC No. 49-2021 circularizes the full text of RA No. 11517, entitled "An Act Authorizing the President to Expedite the Processing and Issuance of National and Local Permits, Licenses and Certifications in Times of National Emergency."

RMC No. 49-2021 dated 9 March 2021

- ▶ The Act shall cover all agencies of the Executive branch, including departments, bureaus, offices, commissions, boards, councils; government instrumentalities, government-owned and-controlled corporations.
- ▶ Notwithstanding any law, decree, order or ordinance to the contrary, the President, in times of national emergency shall have the authority to:
 - ▶ Accelerate and streamline regulatory processes and procedures for new and pending applications and renewals of permits, licenses, clearances, certifications or authorizations, including fixing or shortening the periods provided for under existing laws, regulations, issuances, and ordinances;
 - ▶ Suspend or waive the requirements in securing such permits, licenses, clearances, certifications or authorizations; and
 - ▶ In consultation with or upon the recommendation of the affected government agencies, may prescribe to be permanent the streamlined regulatory processes and procedures, and the suspension or waiver of the requirements in securing permits, licenses, clearances, and certifications or authorizations

Provided, that the authority granted under paragraphs (a), (b), and (c) above shall not be used to undermine the existing procedures and processes, under applicable laws, rules and regulations, meant to protect the environment, especially those that aim to safeguard protected areas and its buffer zones, and environmentally critical areas.

- ▶ This Act shall take effect upon its publication in the Official Gazette or in a newspaper of general circulation. This was published in the Official Gazette on 5 January 2021.

Banks and Other Financial Institutions

Amendments to the Rules and Regulations on the Mandatory Credit Allocation for Agriculture and Agrarian Reform Credit

Circular No. 1111 dated 3 March 2021

Under Circular No. 1111, the required allocation for agriculture, fisheries and agrarian reform credit shall be at least 25% of Banks' total loanable funds, of which at least 10% of the total loanable funds shall be made available for Agrarian Reform Beneficiaries (ARBs) and/or ARB households.

Circular No. 1111 amends Section 331 of the MORB to implement the provisions of Section 7 of the IRR of RA No. 10000, which provides for modes of alternative compliance with the mandatory agriculture and agrarian reform credit.

Compliance with the 25% mandatory agriculture, fisheries and agrarian reform credit allocation may be done directly through actual extension of loans to qualified borrowers or agrarian reform beneficiaries and households or alternatively through the following:

- ▶ 25% mandatory agriculture, fisheries and agrarian reform credit
 1. Eligible securities (gross of allowance for probable losses but net of unamortized premium or discount) that are purchased after 20 April 2010:
 - ▶ Investments in bonds issued by the DBP and the LBP, the proceeds of which shall be used exclusively for on-lending to the agriculture, fisheries and agrarian reform sector;
 - ▶ Investments in other debt securities, the proceeds of which shall be used to finance activities identified under Section 23 of R.A. No. 8435 (Agriculture and Fisheries Modernization Act of 1997), as defined under item "j(9)" in this Section (Definition of terms); or
 - ▶ Paid subscription of shares of stock in the following institutions, subject to existing rules and regulations governing equity investments of banks:
 - a. Accredited rural FIS (preferred shares only);
 - b. Philippine Crop Insurance Corporation (PCIC); or
 - c. Companies primarily engaged in agriculture, fisheries and agrarian reform
 2. Loans and other credits (gross of allowance for probable losses) that are granted after 20 April 2010:
 - ▶ Investments in SDAs of Bangko Sentral-accredited rural FIs, the proceeds of which shall be used exclusively for on-lending to the agriculture, fisheries and agrarian reform sector;
 - ▶ Wholesale lending granted to accredited rural FIS for the exclusive purpose of on-lending to the agriculture, fisheries and agrarian reform sector;
 - ▶ Rediscounting facility granted by UBs/KBs to other banks covering eligible agricultural, fisheries and agrarian reform credits, including loans covered by guarantees of the PCIC;
 - ▶ Actual extension of loans intended for the construction and upgrading of infrastructure, including, but not limited to, farm-to-market roads, as well as the provision of post-harvest facilities and other public infrastructure as defined under this Section (Definition of terms), for the benefit of the agriculture, fisheries and agrarian reform sector;
 - ▶ Actual extension of loans to borrowers for purposes of agrarian reform financing activities, including palay housing and farming homestead;
 - ▶ Actual extension of loans to agri-business enterprises that maintain agricultural commodity supply-chain arrangements directly with qualified borrowers;
 - ▶ Agricultural value chain financing;

- ▶ Extension of loans to; and
- ▶ NFA-registered warehousemen/millers/wholesalers for the purpose of identified financing activities:
 - a. The NFA: Provided, that it shall not use the proceeds of said loans for relending; or
 - b. Purchase of eligible loans on a "without recourse" basis from other banks and FIS after 20 April 2010
- ▶ 10% mandatory agrarian reform credit
 1. Eligible securities (gross of allowance for probable losses but net of unamortized premium or discount) that are purchased after 20 April 2010:
 - ▶ Investments in bonds issued by the DBP and the LBP, the proceeds of which shall be used exclusively for on-lending to ARBs and/or ARB households or to finance activities that shall generally benefit ARBs and/or ARB households or ARCs; or
 - ▶ Investments in other debt securities, the proceeds of which shall be used to finance activities identified under Section 23 of RA No. 8435, as defined under Item No. "j(9)" in this Section (Definition of terms): Provided, that said activities shall generally benefit ARBs and/or ARB households or ARCs.
 2. Loans and other credits (gross of allowance for probable losses) that are granted after 20 April 2010:
 - ▶ Investments in SDAs of Bangko Sentral-accredited rural FIs, the proceeds of which shall be used exclusively for on-lending to ARBs and/or ARB households or to finance activities that shall generally benefit ARBs and/or ARB households or ARCs;
 - ▶ Wholesale lending granted to accredited rural FIS for the exclusive purpose of on-lending to ARBs and/or ARB households or to finance activities that shall generally benefit ARBs and/or ARB households or ARCs;
 - ▶ Rediscounting facility granted by UBs/KBs to other banks covering eligible agrarian reform credits, including loans covered by guarantees of the PCIC;
 - ▶ Actual extension of loans intended for the construction and upgrading of infrastructure, including, but not limited to, farm-to-market roads, as well as the provision of post-harvest facilities and other public infrastructure as defined under this Section (Definition of terms) that shall generally benefit ARBs and/or ARB households or ARG;
 - ▶ Actual extension of loans to borrowers, for purposes of financing activities identified under Section 23 of R.A. No. 8435, as defined under Item "j(9)" in this Section (Definition of terms), including palay housing and farming homestead: Provided, That said activities shall generally benefit ARBs and/or ARB households or ARCS;

- ▶ Actual extension of loans to agri-business enterprises that maintain agricultural commodity supply-chain arrangements directly with ARBs and/or ARB households;
- ▶ Agricultural value chain financing that shall generally benefit ARBs and/or ARB households or ARCS; or
- ▶ Purchase of eligible loans listed under Item "b(2)(b)" to "b(2)(g)" on a "without recourse" basis from other banks and FIS after 20 April 2010, subject to certain conditions.

Banks are allowed to grant a syndicated type of loan for agrarian reform credit/ agricultural and fisheries credit in general, either between or among themselves.

This Circular shall take effect 15 calendar days following its publication in the Official Gazette or in a newspaper of general circulation.

Amendments to Operational Risk Management and Internal Control Measures

Circular No. 1112 dated 23 April 2021

Under Circular No. 1112, Banks and Financial Institutions are required to embed in their enterprise-wide risk management framework measures to identify, measure, monitor, and control human resource related risks and to ensure that there are adequate policies and risk management and control measures in the areas of (1) Recruitment and Selection and (2) Performance Management.

Minimum internal control measures shall also include yearly direct verification with clients of balances.

Bureau of Customs

Guidelines on the Imposition of Penalties Relative to the Customs Accreditation of Importers and Brokers

CMO No. 12-2021 dated 18 March 2021

- ▶ Preliminary suspension of accreditation of importer or broker for a maximum period of 90 days shall be imposed upon the recommendation of the Chief of Accounts Management Office (AMO) and approval of the Bureau of Customs (BOC) Commissioner.
- ▶ The grounds for the imposition of preliminary suspension against importer or broker are:
 1. When the importation contains any prohibited or restricted goods without permit or clearance from the regulatory agency;
 2. Those whose shipments have been forfeited within preceding period of 1 year for violations of the Customs Modernization and Tariff Act (CMTA) and other customs laws, rules and regulations; and
 3. Other analogous circumstances, at the discretion of the BOC Commissioner.

Circular No. 1112 amends Section 146 of the MORB and 146-Q/125-N/125-T of the MORNBFI.

CMO No. 12-2021 consolidates the various guidelines and establishes the procedure in the imposition of penalties such as warning, suspension, revocation relative to the customs accreditation of importers and brokers, as well as the remedial process in relation thereon.

- ▶ Administrative proceedings will be conducted by Legal Service wherein the importer or broker is directed to appear and submit verified position paper. Clarificatory hearings may be scheduled to properly thresh out the issues involved but in no case shall exceed 90 days from the implementation of preliminary suspension.
- ▶ Within 5 days from the termination of the hearing, the hearing officer shall prepare a disposition form with recommendation and submit for the approval of the Director, Legal Service, and Deputy Commissioner, Revenue Collection and Monitoring Group (RCMG).
- ▶ The importer or broker whose accreditation has been preliminarily suspended may request for continuous processing of the shipments which are still in transit or which arrived at the ports prior to the preliminary suspension. The request for continuous processing shall be filed at the Legal Service for resolution, subject to the approval of the BOC Commissioner.
- ▶ After due notice and hearing, the BOC shall impose the following penalties:
 1. Light infractions - suspension of customs accreditation privileges for 1 month to 6 months. Acts classified as light infractions are:
 - ▶ Inadvertent mistake or erroneous information in the submitted documents, not substantial in nature;
 - ▶ Failure to report changes in requirements after approval of accreditation as required under existing rules on accreditation;
 - ▶ Violation of law or regulation by the accredited importer or customs broker, such as:
 - a. Belated submission of import permit/clearance;
 - b. Excusable negligence in protecting e2m/CPRS password from abuse and misuse; and
 - c. Other analogous circumstances.
 2. Less Grave Infractions - suspension of customs accreditation privileges for 6 months and 1 day to 12 months. Acts classified as less grave infractions are:
 - ▶ Violation of the sworn undertaking to strictly abide with existing rules and regulations on the Statement of Full Description of Imported Articles covered by entry declarations;
 - ▶ Material misrepresentation, or submission of false information or document, such as:
 - a. Failure to maintain office operations in the given address;
 - b. Submission of false identification card; and
 - c. Other analogous circumstances.
 - ▶ Violation of law or regulation by accredited importer or broker, such as:
 - a. General or inaccurate declaration, misclassification, misdeclaration, undervaluation or intentional over quantity of shipments;

- b. Lack of import permit/clearance;
 - c. Inexcusable negligence in protecting e2m/CPRS password from abuse and misuse; and
 - d. Other analogous circumstances.
- 3. Grave Infractions - cancellation or revocation of customs accreditation privileges. Acts classified as grave infractions are:
 - ▶ Failure to report any fraud upon customs revenue or knowingly assisting or abetting in the importation or exportation of prohibited articles;
 - ▶ Material misrepresentation, or submission of false information or document, such as:
 - a. Fictitious applicant or non-existent officer/s;
 - b. Fictitious BIR Tax Identification Number (TIN);
 - c. Inexistent office address; and
 - d. Other analogous circumstances.
 - ▶ Violation of law or regulation by accredited importer, such as:
 - a. Importation or exportation of absolutely prohibited goods;
 - b. Deliberate failure or refusal without justifiable reasons to comply with duties and responsibilities of an accredited importer or broker;
 - c. Willful misdeclaration or undervaluation that resulted to loss of government revenues; and
 - d. Other analogous circumstances.
 - ▶ In addition to revocation, the importer or broker may be blacklisted and disqualified from applying for customs accreditation under another business name or entity and may no longer be allowed to enter customs premises.
 - ▶ Mitigating or aggravating circumstances which may be appreciated in the determination of penalty imposed are: business track record or standing, educational attainment, first time offender, good faith or lack of malice, admission of infraction, habituality, actual or material loss to the government, wanton disregard of customs laws, remorse or lack thereof, and other analogous circumstances.
 - ▶ The importer or broker may file a Motion for Reconsideration with the BOC Commissioner within 15 calendar days from receipt of notice of suspension, revocation, and/or blacklisting.
 - ▶ When penalty of suspension of accreditation has been imposed, during the pendency of reconsideration or re-application for accreditation, a request for continuous processing may be submitted to the AMO and subject to the approval of the BOC Commissioner.
 - ▶ CMO No. 12 -2021 shall take effect on 18 March 2021.

(Editor's Note: CMO No. 12-2021 is yet to be published)

Order from the DTI Amending DAO No. 20-11 on the Preliminary Determination of the Safeguard Measures Case on the Importation of Motor Vehicles from Various Countries

CMO No. 14-2021 amends CMO No. 06-2021 concerning safeguard measures on importations of motor vehicles.

CMO No. 14-2021 dated 17 March 2021

- ▶ Amendment insofar as excluding from safeguard measures the importations of motor vehicles under AHTN Codes 8703 (Passenger Cars), 8704.21.19 and 8704.21.29 (Light Commercial Vehicles) originating from developing countries with de-minimis volume.
- ▶ Amendment of the List of Developing Countries under Annexes A and B of DAO No. 20-11. Thus, the countries listed per Annexes A and B of DAO No. 21-01 shall be exempt from imposition of provisional safeguard duties on imported vehicles in the form of a cash bond.
- ▶ CMO No. 14-2021 shall take effect immediately.

(Editor's Note: CMO No. 14-2021 is yet to be published)

ABMS Online Inquiry System

MISTG Memo No. 06-2021 announces the development of GTSB ABMS Online Inquiry System to help stakeholders monitor their bond accounts and bond balances.

MISTG Memo No. 06-2021 dated 25 March 2021

- ▶ Informs the stakeholders that Management Information Systems and Technology Group develops a GTSB ABMS Online Inquiry System that will help the public to monitor the status of their bond accounts and bond balances.
- ▶ The system is available and accessible on 27 March 2021 at the BOC website.

Resumption of Submission of Certificates of Origin and Product Evaluation Applications to the Export Coordination Division, AOCG

AOCG Memo No. 161-2021 provides that exporters may now submit their CO for signature and request for Product Evaluation Report at the ECD.

AOCG Memo No. 161-2021 dated 7 April 2021

- ▶ Informs the public that ECD is fully operational.
- ▶ Exporters may now submit their CO for signature and request for Product Evaluation Report at ECD.
- ▶ Exporters are advised to attach their Product Evaluation Report (PER) to the Certificate of Origin for signature pursuant to AOCG Memorandum No. 67-2021 and AOCG Memorandum No. 75-2021.

Board of Investments

Policy on Base Figure for Expansion Projects Affected by the COVID-19 Pandemic

BOI Memorandum Circular No. 2021-002 provides the policy on base figure for Expansion Projects affected by the COVID-19 pandemic.

BOI Memorandum Circular No. 2021-002 dated 7 April 2021

Expansion projects affected by the COVID-19 pandemic may choose any of the following options to maximize its entitlement to Income Tax Holiday (ITH):

- ▶ Computation of ITH rate of exemption for expansion projects based on capacity using the following formula:

$$\text{ROE} = \frac{\text{Expanded Capacity of Registered Project}}{\text{Total Capacity of the Registered Project}^*}$$

** Total Capacity of the Registered Project = Actual Existing Capacity at the Time of Registration + Expanded Capacity*

The use of the above formula for expansion projects is subject to the following conditions:

1. Only applies on the availment period covered during a state of national emergency and/or calamity as proclaimed by the President or his duly authorized representative.
 2. Those that have availed of this special treatment for expansion projects may not avail of the deferment year option available in Board Resolution No. 10-03 and vice-versa.
- ▶ Deferment of ITH entitlement period pursuant to Board Resolution No. 10-03, S'2020

This Circular shall take effect immediately upon publication in a newspaper of general circulation.

Guidelines on the Filing of Electronic Documents with the Board of Investments

BOI Memorandum Circular No. 2021-003 provides for the Guidelines on the Filing of Electronic Documents with the Board of Investments.

BOI Memorandum Circular No. 2021-003 dated 7 April 2021

The submission of the following to the BOI Office or through the official email accounts of the BOI or any of its officials and employees shall be acceptable:

- ▶ An electronic document that contains a digital signature.

In this case, such digitally signed electronic document shall be treated as original document.

- ▶ Scanned documents; Provided, that the original document shall be submitted to the BOI Office within 10 working days from such email submission.

In this case, the scanned documents shall be utilized for reference purposes only. The BOI action thereto shall only be released upon receipt of the original document within the prescribed period.

The date of actual filing in the BOI Office or date of email of the said documents shall be considered as the official date of filing for purposes of determining whether the same is filed on time or not; Provided, that for scanned documents, the original document is submitted within the prescribed period.

The BOI official action shall be issued in an electronic document with digital signature of the concerned BOI official and QR code. It will be released through the BOI email address or printed and delivered through the post office or courier. Such digitally signed electronic document with QR code shall be treated as original document.

This Circular shall take effect upon its publication in a newspaper of general circulation.

PEZA

PEZA MC No. 2021-024 dated 27 March 2021

In line with the ECQ in the NCR Bubble (Metro Manila, Bulacan, Rizal, Cavite and Laguna) from 29 March 2021 until 4 April 2021, PEZA issued PEZA Memorandum Circular MC No. 2021- 024 in order to ensure the continued operations of I.T. Enterprises during the said period and for any extended period of the implementation of the ECQ.

All Ecozone I.T. Enterprises located in the NCR Bubble are allowed to implement, effective immediately without need for a Letter of Authority from PEZA, and without need to file the required PEZA Permits prior to moving out equipment from their respective PEZA-registered facilities; provided, however, that the I.T. Enterprise shall send an email-notification to its respective PEZA Zone Administrator/Zone Manager/OIC (ZA/ZM/OIC) within the following day from implementation of the course of action undertaken by the I.T. Enterprise.

Work From Home arrangements, including arrangements for temporary operations in:

- ▶ Other PEZA-registered sites of the I.T. Enterprise concerned;
- ▶ PEZA-registered I.T. Parks / Centers where the I.T. Enterprise concerned has no registered facility; and
- ▶ Other sites/buildings that are not PEZA-registered I.T. Centers, including bringing out of I.T. equipment and other related assets/peripherals for said arrangements and deployment of its personnel to said sites.

MC No. 2021-024 provides for PEZA Assistance to Ecozone I.T. Enterprises Under ECQ for the Period 29 March 2021 Until 4 April 2021 and for the Duration of Any Extension of the Said Period by the Office of the President.

Ecozone IT Enterprises availing of PEZA's assistance under this Memorandum Circular shall comply with the following:

Who	When	What	Contents	Conditions to Comply
1. I.T. Enterprise	Within the day following its implementation	Send an email-notification to its respective PEZA ZA/ZM/OIC to be sent by / from the email account of any of the top three (3) officials of the I.T. Enterprise identified in its Ecozone Monthly Performance Reports (EZMPRs) submitted to PEZA, for every day of equipment, peripherals / necessary assets from its PEZA - registered facility.	<p>a. Description of specific course of action / arrangement implemented, indicating in the case of transfer of equipment from its PEZA-registered facilities, whether for Work From Home, or if to other sites/ buildings, the Building / site name and location;</p> <p>b. Date of actual withdrawal of I.T. equipment , together with a list of I.T. Equipment and necessary peripherals / assets, description (generic description only) and the number of units thereof.</p>	<p>a. The employees assigned to work outside their base office shall be informed of their temporary work location (if other than their homes) prior to deployment thereto;</p> <p>b. All employees deployed to work from home / other sites shall receive from the concerned I.T. Enterprise the same work load, salary and benefits, including overtime and night differential compensation, among others, that they are entitled to under their existing contracts of employment in their base offices;</p> <p>c. The I. T. Enterprise shall observe and comply with all applicable labor laws, rules and regulations relative to said deployed employees;</p> <p>d. The I.T. Enterprise shall be responsible and accountable for data privacy in accordance with applicable laws, rules and regulations, and shall adequately inform its deployed employees of data privacy rules and regulations while working outside their base offices;</p> <p>e. The I.T. Enterprise shall comply with applicable provisions and requirements, rules and regulations of the Telecommuting Act (R.A. No. 11165);</p> <p>f. The implemented work from home operations and operations outside the PEZA-registered facility of the I.T. enterprise shall be returned to the PEZA-registered facility of the I.T. Enterprise, or to the extent that PEZA may require to be returned to their PEZA-registered facilities, in accordance with guidelines to be issued by PEZA.</p>

Who	When	What	Contents	Conditions to Comply
<p>2. I.T. Enterprise (As similarly provided in PEZA MC No. 2020-11)</p>	<p>Within seven (7) days from withdrawal of I.T. equipment and necessary peripherals / assets from its PEZA-registered facility</p>	<p>Submit to its respective PEZA ZA/ZM/OIC via email</p>	<p>a. The corresponding PEZA Permit Form 8106;</p> <p>b. List of all equipment and necessary peripherals / assets brought out of its PEZA-registered facility, quantity, source, acquisition cost and book value thereof, duly certified by a responsible official / officially designated representative of the I.T. Enterprise;</p> <p>c. The corresponding bond to cover 150% of the amount of duties and/or VAT on the equipment and necessary peripherals / assets brought out of its PEZA-registered facility (in case the corresponding bond cannot be secured yet because of the ECQ circumstances, please coordinate with BOC officer - counterpart of your respective PEZA ZA/ZM/OIC, or through your respective PEZA ZA/ZM/OIC, on securing said Bond within the said 7-day period).</p>	<p>g. The I.T. Enterprise renders PEZA free and harmless from any liability or accountability for any issues that may arise in case of non-compliance by the concerned I.T. Enterprise with the requirements under this Memorandum Circular.</p>

The concerned PEZA Administrators / Zone Managers / OIC are instructed to forward immediately to their BOC counterparts on the above-cited PEZA assistance, particularly: to forward immediately to their BOC counterpart the email notifications from I.T. Enterprises sent to the respective ZAs/ZMs/OICs and to coordinate with their BOC counterpart on the concerned I.T. enterprises' securing of the required Bond.

SEC Filing, Payments and Other Deadlines

Amendment on the Guidelines on Anti-Money Laundering and Combating the Financing of Terrorism for SEC Covered Institutions (2018 AML/CFT Guidelines) and the 2020 Guidelines on the Submission and Monitoring of the MTPP

The SEC issued guidelines to promulgate the rules for the amendment on the 2018 AML/CFT Guidelines and on the 2020 Guidelines on the Submission and Monitoring of the MTPP.

SEC Memorandum Circular No. 4, Series of 2021 dated 30 March 2021

- ▶ The 2018 AML/CFT Guidelines covered persons shall refer to persons regulated by the Commission under the SRC, the Investment Houses Law, the Investment Company Act, the Financing Company Act of 1998, the Lending Company Regulation Act of 2007, other laws and regulations implemented by the Commission, and the Anti-Money Laundering Act (AMLA), as amended. The covered persons shall now include financing companies and lending companies.
- ▶ All financing companies and lending companies subject to the supervision of the Commission are directed to:
 1. Comply with Section 2, Rule 4 of the 2018 IRR of the AMLA and to register with the online reporting system of the Anti-Money Laundering Council (AMLC), pursuant to the AMLC Registration and Reporting Guidelines.
 2. For those not yet registered with the AMLC, submit proof of such registration to the Anti-Money Laundering Division of the Enforcement and Investor Protection Department (AMLD-EIPD) of the Commission within 2 months from the effective date of this Circular.
 3. Formulate and implement a comprehensive and risk-based MTPP that is compliant with the AMLA and the Terrorist Financing Prevention and Suppression Act (TFPSA) and their respective IRR and other AMLC issuances and the 2018 AML/CFT Guidelines, and designed according to their corporate structure and risk profile.
 4. For those who have not yet submitted their MTPPs, submit MTPP to the AMLD-EIPD within 2 months from the effective date of this Circular (in hard and soft copies) duly approved by the Board of Directors or by the country/regional/area head or its equivalent for local branches of foreign financing companies or lending companies.
- ▶ Financing and lending companies shall be subject to the AML/CFT supervision of the Commission in accordance with MC No. 26, Series of 2020 and shall adopt and implement a risk-based approach to AML/CFT.
- ▶ Section 5 of the 2020 Guidelines on the Submission and Monitoring of the Anti-Money Laundering and Terrorist Financing Prevention Program (MC No 29, Series of 2020) is hereby deleted.

- ▶ Failure to comply with this circular shall subject the financing companies and lending companies to the penalties provided under the 2018 AML/CFT Guidelines. The AMLD-EIPD shall enforce and monitor compliance with this Circular in coordination with the other Operating Departments of the Commission and impose the applicable sanctions for any violation thereof as may be warranted.

Extension of the Deadline for the Submission of 2020 Annual Reports for the Calendar Year Ended 31 December 2020

The Commission, *en banc*, extended the deadline for submission of the 2020 Annual Reports for the calendar year ended 31 December 2020 from 15 April 2021 to 17 May 2021 without prejudice on the schedule of the filing of the AFS as may be required by the BIR.

SEC Memorandum Circular No. 05 Series of 2021 dated 8 April 2021

The extended deadline shall automatically conform should the BIR move its own deadline to a date later than 17 May 2021.

The SEC extended the deadline to file the mandatory declarations under the Beneficial Ownership Transparency Guidelines to 30 May 2021.

Extension of Deadline to file Mandatory Declarations under the Beneficial Ownership Transparency Guidelines

SEC Notice dated 25 March 2021

The Commission has extended the deadline for submission of all mandatory disclosures under Sections 6 and 7 of SEC MC No. 01, Series of 2021 or "The Beneficial Ownership Transparency Guidelines" to 31 May 2021, in view of the requests from various stakeholders and to give the public more time to adjust to the new processes particularly on the online mode of submission.

The SEC allowed the submission of CRMD applications through couriers to limit mobility and face to face transactions in light of COVID-19.

Submission of CRMD Applications through Couriers

SEC Notice dated 26 March 2021

Pursuant to the Guidelines on the Implementation of the GCQ issued by the Inter-Agency task Force (IATF) For the Management of Emerging Infectious Diseases to reduce the risk of transmission of the COVID-19 virus, the SEC will implement further a method to limit the mobility and face to face transactions among its personnel and the public.

In this connection, the transacting public of the Company Registration and Monitoring Department (CRMD) are highly encouraged to submit hard copies of approved applications through courier, with an attachment of a return envelope/ pouch and a return address.

Applicants may send approved documents through CRMD Receiving Section, SEC Main Office, Ground Floor, Secretariat Building, PICC, Pasay City.

All queries and applications for pre-processing shall be assessed online through the CRMD's contact information and electronic mail platforms available through the link below:

<https://www.sec.gov.ph/notices/sec-contact-emails-to-send-their-queries-requests-for-clarification-and-other-concerns/>

Non-Extension of Grace Period for Payment of Loans during the ECQ

The SEC clarifies that there will be no extension of grace period granted for the payment of loans and/or interest falling due within the ECQ period from 29 March to 4 April 2021.

SEC Notice dated 30 March 2021

The provision on the 30-day grace period for loan payments under Section [8] General Provisions, paragraph 2 of the Omnibus Guidelines on the Implementation of Community Quarantine in the Philippines with Amendments as of 28 March 2021 pertains to the mandatory grace period mandated under Section 4(aa) of Republic Act No. 11469, or the Bayanihan to Heal As One Act. Financing companies (FCs), lending companies (LCs), and microfinance (MF)-NGOs implemented said mandatory grace period from 17 March 2020 to 31 May 2020.

Nonetheless, the SEC strongly encourages FCs, LCs, and MF-NGOs to continue implementing debt relief measures such as lowering of interest rates, waiver or reduction of penalties, charges and other fees, payment holiday, debt consolidation, extension of loan terms, and provision of flexible payment schedules, in view of the adverse impact of COVID-19 pandemic to the borrowing public, and based on the continuing assessment of their cash flows.

Extension of Deadline for the Submission of General Information Sheet for 2021

The SEC extends the deadline for the submission of the GIS for 2021 and reiterated the filing procedures.

SEC Notice dated 31 March 2021

Due to the implementation of an enhanced community quarantine to address the rising cases of COVID-19 in the National Capital Region and contiguous provinces of Bulacan, Cavite, Laguna, and Rizal and in view of the implementation of the Online Submission Tool (OST) for the submission of reports online, as provided under Memorandum Circular No. 3 s. 2021 (MC 3 s. 2021), the SEC extends the deadline for the submission of the GIS and reiterates the interim filing procedures, as follows:

► Coverage

The deadline and filing procedure provided herein shall be observed for the submission of the GIS to the SEC Main Office and Extension Offices by the following:

1. Stock corporations that were able to hold their Annual Stockholders' Meeting prior and/or during the OST enrollment period which started last 15 March 2021 and will end until 15 December 2021, and for those corporations that were not able to hold any Annual Stockholders' Meeting in 2020 who have until 30 January 2021 to submit their GIS.
2. Corporations that encountered problems during their enrollment and submission of GIS through the OST shall be accommodated over-the-counter submission, provided that filers present the Notice from the OST that problems have been encountered during the process of enrollment and/or submission, as stated under Section 11 of MC 3 s. 2021.
3. Non-stock corporations are given the option of whether they will enroll and submit their GIS through OST or proceed to the SEC to submit their GIS over the counter.

Nonetheless, by 2022, all corporations, whether stock or non-stock, shall be required to enroll and submit their reports through the OST.

▶ Adjusted Deadlines

For all corporations, whether stock or non-stock, the GIS shall be submitted within 90 calendar days after the Annual Stockholder's Meeting or Annual Members' Meeting of the Directors, Trustees and Officers of the corporation, as fixed in the bylaws or as determined by the Board of Directors/Trustees. This will also apply to those corporations mentioned under item no. 1(a) of this Notice.

Other SEC Updates

New Company Registration System

Starting 19 April 2021, the SEC implemented a new company registration system called the eSPARC for new applications for registration of One Person Corporations, Corporations with two to four incorporators, and Regular Domestic and Foreign-Owned (Stock and Non-stock) Corporations.

SEC Notice Series of 2021 dated 5 April 2021

Applications for registration submitted in the Company Registration System (CRS) prior to 19 April 2021 will still be processed in the CRS, unless the applicant is notified to resubmit the application using eSPARC. Applications for registration of partnerships and foreign corporations will continue to be accepted and processed under the CRS.

The SEC clarified that all requests for a copy of the BO Declaration page in the GIS shall be made through a formal letter signed by the Head of the Agency or his/her duly authorized representative addressed to the Director of the Enforcement and Investor Protection Department of the SEC.

In the Matter of Requests for Copy of the Beneficial Ownership Declaration Page in the GIS

SEC Notice Series of 2021 dated 5 April 2021

The SEC reiterated Section 3 of SEC Memorandum Circular No. 15, Series of 2019 which provides that BO Information shall only be made accessible or available to competent authorities for law enforcement and other lawful purposes. Hence, such information shall not be made available to the public.

The SEC published the Report on Anti-Money Laundering and Countering Financing of Terrorism Sectoral Risk Assessment 2021 of Financing Companies and Lending Companies.

Anti-Money Laundering and Countering Financing of Terrorism Sectoral Risk Assessment 2021 of Financing Companies and Lending Companies

SEC Notice Series of 2021 dated 6 April 2021

The report is an assessment of the money laundering and terrorist financing (ML/TF) risks affecting financing and lending companies registered with the SEC as of December 2020 and identifies the main criminal offenses, ML/TF threats currently facing the sector, and determines and highlights the key vulnerabilities of the sector to such ML/TF threats. The overall ML/TF risk for the financing and lending sector is assessed as MEDIUM.

Corporations duly enrolled in the OST of the SEC, pursuant to Memorandum Circular No. 3 Series of 2021, may be allowed to file their electronically signed AFS through the system.

Use of Electronic Signature for the Submission of AFS during the ECQ Period beginning 29 March 2021 and until Further Notice

SEC Notice Series of 2021 dated 8 April 2021

Those corporations who will encounter proven difficulties in the enrollment procedures and uploading and filing of scanned AFS in OST may be allowed to physically file the manually signed reports through the SEC Express Appointment System (SESAS).

The SEC reminded management and external auditors of corporations that filed electronically signed AFS to strictly observe respective protocols or procedures in signing documents electronically and should ensure that manually signed AFS will be available upon directive of the SEC.

Supreme Court Cases

Commissioner of Internal Revenue vs. Philex Mining Corporation

Supreme Court (Second Division) G.R. No. 230016 promulgated 23 November 2020

Failure to maintain subsidiary sales and purchase journals or to file monthly VAT declarations are not grounds for the denial of a taxpayer's refund claim for unutilized input VAT attributable to zero-rated sales.

Facts:

Philex Mining Corporation (Philex) is a domestic corporation engaged in the mining business. It is a VAT-registered taxpayer with duly approved Application for Zero-Rate effective 12 April 1998. During the second quarter of taxable year 2010, Philex sold and shipped mineral products to non-resident foreign corporations.

In 2012, Philex filed two refund claims for excess input VAT arising from zero-rated sales with the Department of Finance's One-Stop Shop Center, which it subsequently elevated to the Court of Tax Appeals (CTA). The CTA granted Philex' refund claim.

The Commissioner of Internal Revenue (CIR) argues that Philex's refund claim should be denied since it failed to comply with accounting requirements, specifically the keeping of the subsidiary sales journal and subsidiary purchase journal pursuant to RR No. 16-2005 or the Consolidated VAT Regulations. The CIR also argues that Philex failed to prove its filing of monthly VAT declarations, all of which are necessary to prove entitlement to refund.

Issue:

Is the taxpayer required to comply with accounting requirements and to prove its filing of monthly VAT declarations in order to be entitled to refund of excess input VAT attributable to zero-rated sales?

Ruling:

No, there is nothing in the Tax Code or RR No. 16-2005 that would suggest that subsidiary journals and monthly VAT declarations are part of substantiation requirements that must be complied with to support the refund claim.

The Tax Code and RR No. 16-2005 enumerates the documentation and information that must appear on the face of the invoice/official receipt to substantiate the input VAT on the importation of goods other than capital goods and on domestic purchase of services. These requirements do not indicate the subsidiary journals. While subsidiary journals may be sources of information which the BIR officers may utilize in making assessments, their submission is not indispensable to substantiate input taxes.

Similarly, there is nothing in the regulations that would make the filing of monthly VAT declarations an indispensable requirement for the grant of a refund claim. While the Tax Code and RR No. 16-2005 requires taxpayers to file monthly VAT declarations, these do not provide denial of the refund claim as a consequence of failure to file monthly declarations. The failure to file monthly declarations may give rise to penalties but does not affect entitlement to refund as long as it is proved that VAT has been paid.

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The deadlines and timelines mentioned in this Tax Bulletin are pursuant to our understanding of the existing administrative issuances of the BIR as of the date of writing. These may be subject to change in light of the recently passed Bayanihan 2, which also authorizes the President to move statutory deadlines and timelines for the submission and payment of taxes, fees, and other charges required by law, among others.