

JUNE 2020 COURT AND REGULATORY ISSUANCES

CONTENTS

	Page No.
• HIGHLIGHTS for June 2020.....	1
• COURT AND REGULATORY ISSUANCES	
○ SIGNIFICANT SUPREME COURT DECISIONS.....	4
○ SIGNIFICANT COURT OF TAX APPEALS DECISIONS.....	7
• REGULATORY ISSUANCES (Detailed Summary)	
○ BIR ISSUANCES.....	14
○ SEC ISSUANCES.....	21
○ IC ISSUANCES.....	24
○ BSP ISSUANCES	30
• INSIGHTS	
a. Published Article	
“Taxing Online Business in the.....	33
Midts of COVID-19	
• OUR EXPERTS	
a. The Personalities	36

20/F Chatham House
Valero cor. Rufino Sts.



Salcedo Village
Makati Zip Code



www.bdblaw.com.ph
info@bdblaw.com.ph



T: (632) 403-2001
F: (632) 403-2001 loc. 130



Copyright © 2020 by Du-Baladad and Associates (BDB Law). All rights reserved. No part of this issue covered by this copyright may be produced and/or used in any form or by any means – graphic, electronic and mechanical without the written permission of the publisher.

MEMBER FIRM OF

wts global

HIGHLIGHTS for JUNE 2020

Court Decisions

- **Condominium dues are not subject to income tax, VAT and withholding tax.** (*Bureau of Internal Revenue v. First E-Bank Tower Condominium Corp.*, G.R. No. 215801, January 15, 2020)
- **A petition for declaratory relief is not the proper remedy to seek the invalidation of RMC No. 65-2012.** (*Bureau of Internal Revenue v. First E-Bank Tower Condominium Corp.*, G.R. No. 215801, January 15, 2020)
- **The issuance of an LOA is not subject to the prescriptive periods to assess and collect.** (*Hemisphere-Leo Burnett, Inc. v. Commissioner of Internal Revenue*, CTA Case No. 9749 dated June 3, 2020)
- **A withholding agent has personality to file the claim for refund on behalf of the taxpayer.** (*Toledo Power Company v. Commissioner of Internal Revenue*, CTA Case No. 9465 dated June 8, 2020)
- **In order to show that there was a failure to pay within the required period, the time or deadline for payment of the assessed tax must be clear.** (*People of the Philippines v. Bonner Purpura Armada*, CTA Criminal Case No. O-617 dated June 8, 2020)
- **Where the exaction is not for the purpose of raising revenues, it is not a tax. The CTA has no jurisdiction over assessments of regulatory fee.** (*Dole Philippines, Inc.,- Stanfilco Division v. The Sangguniang Panlungsod of the City of Davao, et.al.* CTA AC No. 215 dated June 25, 2020)
- **A Revenue Regional Director may appoint a sub-agent to examine a taxpayer and issue assessments in relation thereto when not prohibited from doing so by the CIR.** (*Nyk-FilJapan Shipping Corp., v. Commissioner of Internal Revenue*, CTA Case No. 9120 dated June 25, 2020; (*Sumitomo Corporation-Philippine Branch v. Commission of Internal Revenue*, CTA Case No. 9422 dated June 30, 2020)
- **A valid Waiver must state the nature and amount of tax due.** (*GMA Network Films, Inc., v. Commissioner of Internal Revenue*, CTA Case No. 9381 dated June 30, 2020)

BIR Issuances

- **RMC No. 57-2020, June 9, 2020** – Mayor’s permit is no longer a requirement for registration of new business with the BIR.
- **RMC No. 59-2020, June 9, 2020** – The temporary measures on the receipting/invoicing requirements no longer apply to business entities covered under GCQ and/or MGCQ. Taxpayers who adopted such temporary measures are required to submit a Summary of Temporary Receipts/Invoices Issued.
- **RMC No. 60-2020, June 10, 2020** – Persons conducting business through any forms of electronic media must be registered with the BIR and are subject to compliance with other requirements of the Tax Code. No penalty for late registration and non-payment of taxes for previous transactions shall be imposed for business entities registering and paying taxes previously due until July 31, 2020.
- **RMC No. 61-2020, June 15, 2020** – Tax Amnesty on Delinquencies provided under RR No. 4-2019, as amended, may be availed of until December 31, 2020.
- **RR No. 15-2020, June 19, 2020** – Tax Amnesty on Delinquencies (“TAD”) provided under RR No. 4-2019, as amended, may be availed of until December 31, 2020. Certificate of Delinquencies/Tax Liabilities will be issued within three (3) working days from the date of the request. Availment of TAD shall be considered fully complied with upon completion of the steps of the steps until December 31, 2020.

SEC Issuances

- **SEC Notice dated June 3, 2020** – This provides for the implementation of online applications with the Company Registration and Monitoring Department.
- **SEC Notice dated June 11, 2020** – This encourages the adoption of debt relief measures.

- **SEC Notice dated June 17, 2020** – The 30-day mandatory grace period for loans shall no longer apply effective June 1, 2020.
- **SEC Notice dated June 24, 2020** – This discusses the options for the submission of reports, applications and other documents during the effectivity of all community quarantine imposed due to Covid-19.
- **SEC Notice dated June 30, 2020** – This provides adjustment of deadlines for annual reports.

IC Issuances

- **IC Circular Letter No. 2020-69, June 11, 2020** – This provides guidelines on the issuance of temporary license to new insurance agent during the state of public health emergency due to the Covid-19.
- **IC Ruling No. 2020-05, June 15, 2020** – It is illegal for a financing company to offer and promote a credit personal accident insurance protection under a Group policy that it will enter into with the insurer to its loan borrowers/customers, without the necessary license.

BSP Issuances

- **BSP Memorandum No. M-2020-045, June 1, 2020** – The 30-day mandatory grace period for loans under the Bayanihan Act shall no longer apply effective June 1, 2020.
- **BSP Memorandum No. M-2020-047, June 1, 2020** – No distinct “digital banking” license is issued to institutions that have pursued a digital-centric business model.

Significant Supreme Court Decisions

Condominium dues are not subject to income tax, VAT and withholding tax.

The Supreme Court categorically held that condominium association dues, fees, and other charges are not subject to income tax, VAT, and withholding tax. Further, the Supreme Court held that RMC No. 65-2012 is invalid.

In reaching such conclusion, the Supreme Court made the following determinations:

1. A condominium corporation is not engaged in trade or business. A condominium corporation is not designed to engage in activities that generate income or profit. Under the Condominium Act, the corporate purpose of a condominium is limited to holding the common areas, management of the project, and such other necessary, incidental, or convenient purposes. Further, it is allowed under the same Act to collect association dues, fees, and other charges purely for the benefit of the condominium owners. It is a necessary incident to the purpose to effectively oversee, maintain, or even improve the common areas of the condominium as well as its governance.
2. Association dues, fees, and other charges do not constitute profit or gain. The expenditures incurred by the condominium corporation on behalf of the condominium owners are not intended to generate revenue nor equate to the cost of doing business. As mentioned above, the association dues, fees, and other charges are collected purely for the benefit of the condominium owners and are incidental to condominium corporation's responsibility to oversee, maintain, or even improve the common areas of the condominium as well as its governance.
3. Association dues, fees, and other charges do not arise from transactions involving the sale, barter, or exchange of goods or property nor for the performance of services. When a condominium corporation manages, maintains, and preserves the common areas of the building, it only does so for the benefit of the condominium owners. It cannot be said

Significant Supreme Court Decisions

4. to be engaged in trade or business. In collecting such fees, the condominium corporation is not selling its service to the condominium owners nor are the condominium owners buying goods and/or services from the condominium corporation when the dues are paid. Hence, there is no economic or commercial activity to speak of.
5. If there is no income tax, withholding tax cannot be collected. Only income, be it active or passive, earned by a payor-corporation can be subject to withholding tax. Further, withholding tax is intended only to facilitate the collection of income tax.
6. RMC No. 65-2012 went beyond, if not, gravely abused the CIR's authority to interpret tax laws. The CIR is empowered to interpret tax laws, but not to expand or alter them. In the exercise of such power, the CIR cannot issue administrative rulings or circulars inconsistent with the law to be implemented. However, in issuing RMC No 65-2012, the CIR expanded or modified the law when it was declared that association dues, fees, and other charges are subject to income tax. (*Bureau of Internal Revenue v. First E-Bank Tower Condominium Corp., G.R. No. 215801, January 15, 2020*)

A petition for declaratory relief is not the proper remedy to seek the invalidation of RMC No. 65-2012.

The Supreme Court ruled that certiorari or prohibition, not declaratory relief, is the proper remedy to assail the validity or constitutionality of executive issuances. There is no actual case involved in a petition for declaratory relief. It cannot, therefore, be the proper vehicle to invoke the judicial review powers to declare a statute unconstitutional.

A petition for declaratory relief may, nonetheless, be treated as one for prohibition if the case has far-reaching implications and raises questions that need to be resolved for the public good, such as in the case of RMC No. 65-2012, which imposes taxes on condominium dues.

Condominium corporations have proliferated throughout the country. Numerous Filipinos now opted for condominium living as their new way of life. The matter of whether indeed the contributions of unit owners solely intended for maintenance and upkeep of the common areas of the condominium building are

Significant Supreme Court Decisions

taxable is imbued with public interest. Suffice it to state that taxes, being the lifeblood of the government, occupy a high place in the hierarchy of State priorities, hence, all questions pertaining to their validity must be promptly addressed with the least procedural obstruction. (*Bureau of Internal Revenue v. First E-Bank Tower Condominium Corp.*, G.R. No. 215801, January 15, 2020)

Significant Court of Tax Appeals Decisions

In refund of excess input VAT, the input VAT must only be attributable to zero-rated sales. Effectively zero-rated sales need not be paid in acceptable foreign currency and accounted for in accordance with BSP rules and regulations.

In a claim for refund of excess input taxes, the law merely requires that the creditable input VAT should be “attributable” to zero-rated or effectively zero-rated sales. Nowhere does Section 112 (A) of the Tax Code state that the refundable creditable input VAT should be “directly attributable” to such sales.

Admittedly, the words “directly...attributed” were used under the same provision. However, the said words merely relate to a situation where the creditable input VAT cannot be “directly...attributed” to any transaction. It does not, in any way, qualify the preceding sentences of the same section which will have the effect of making the refundable input VAT as only those which are “directly attributable” to zero-rated or effectively zero-rated sales.

When the taxpayer’s zero-rated sales are effectively zero-rated on the basis of Section 108(B)(3) of the Tax Code – sales to persons or entities whose exemption under special laws effectively subjects the supply of such sales to 0%, the zero-rated sales need not be paid in acceptable foreign currency and accounted for in accordance with BSP rules and regulations. (*S&WOO Construction Philippines, Inc. v. Commissioner of Internal Revenue, CTA Case No. 9731 dated June 1, 2020*)

In refund of excess input taxes arising from current transactions, the taxpayer must substantiate its input VAT carry-over from previous year when such input tax carry-over was the one used to pay its output tax for the period.

In claiming excess or unutilized input VAT from zero-rated transactions, it is the excess over the output VAT which should be refunded to the taxpayer or credited against other internal revenue taxes. Hence, it is important for the taxpayer to prove that it has enough prior year’s excess input VAT credits with proper support to cover its output VAT liability for the current taxable year.

Considering that the taxpayer failed to present its VAT invoices or official receipts to prove the existence of its input VAT carried over from previous year, the same cannot be validly applied against its output VAT.

Consequently, the output VAT must be paid out of the input taxes for the current period and the amount of claim will therefore be affected. (*Commissioner of Internal Revenue v. Chevron Holdings, Inc., CTA EB No. 1950 dated June 3, 2020*)

Significant Court of Tax Appeals Decisions

The issuance of an LOA is not subject to the prescriptive periods to assess and collect.

The taxpayer argues that the BIR's LOA dated November 21, 2017 for the examination of the taxpayer's books for all internal revenue taxes for the period from January 1, 2012 to December 31, 2012 was issued beyond the three (3)-year prescriptive period to make a tax assessment. Hence, the same is null and void *ab initio*.

The CTA ruled that an LOA is not governed by the prescriptive periods to assess. What is being governed therein is the issuance of a tax assessment or the filing of an action in court without an assessment for the collection of taxes, within a certain period of time. In both provisions, nothing has been said about the issuance of an LOA. (*Hemisphere-Leo Burnett, Inc. v. Commissioner of Internal Revenue, CTA Case No. 9749 dated June 3, 2020*)

Note. At first glance, it can be argued that when an LOA is issued after the three (3) year prescriptive period to assess, it follows that any assessment made under the said LOA has already prescribed. This may not be so because if the BIR alleges fraud or filing of a false return, the prescriptive period is ten (10) not three (3) years.

In refund of excess input taxes, it must be shown that the foreign currency inward remittance pertains to payment for the zero-rated sales during the period for which the refund is being claimed.

Taxpayer, in support of its claim for refund, argues that the acceptable foreign currency exchange proceeds from its export sales have been duly accounted for in accordance with the rules and regulations of BSP. In support of its claim, taxpayer presented the Certification issued by BDO Unibank, Inc., which shows that the payment is in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP.

Upon examination of the evidence presented, however, the taxpayer did not provide a reconciliation of its reported zero-rated sales *vis-à-vis* schedule of inward remittances. Accordingly, the Court was unable to trace the sales invoice amounts to the certification of inward remittances. The taxpayer, therefore, failed to establish whether the remittances actually correspond to the zero-rated sales for the period covered by the present claim. Consequently, the CTA cannot determine with certainty whether the payment for the zero-rated sales were indeed "accounted for in accordance with the rules and regulations of the BSP."

Significant Court of Tax Appeals Decisions

Since the taxpayer failed to fulfill an essential requisite under the law for the successful prosecution of the refund claim, the same must be **denied.** (*Carmen Copper Corporation v. Commissioner of Internal Revenue, CTA Case No. 9726 dated June 5, 2020*)

A withholding agent has personality to file the claim for refund on behalf of the taxpayer.

The person entitled to claim a tax refund is the taxpayer. However, in case the taxpayer does not file a claim for refund, the withholding agent may file the claim. Furthermore, a withholding agent may file a claim for refund, even if the said withholding agent is not a wholly owned subsidiary of the principal taxpayer. Nevertheless, the withholding agent is obligated to remit to the said taxpayer the amount recovered as taxes erroneously or illegally collected. (*Toledo Power Company v. Commissioner of Internal Revenue, CTA Case No. 9465 dated June 8, 2020*)

In order to show that there was a failure to pay within the required period, the time or deadline for payment of the assessed tax must be clear.

In this case, the taxpayer argues that he did not commit the offense charged against him as he did not willfully fail to pay the tax deficiency. Although the FAN had become final, executory and demandable, the same did not indicate a deadline for payment. Hence, there was no willful failure on his part to pay the tax.

The CTA ruled in his favor. Accordingly, in order to sustain a conviction for willful failure to pay tax, the BIR must prove beyond reasonable doubt that accused failed to pay the deficiency taxes within the time required by law and such failure is willful. To show whether there was a failure to pay within the required period, the time or deadline for payment of the assessed tax must be clear. Since the deadline for payment was not indicated in the FAN, it is impossible for the CTA to construe the taxpayer's failure to pay his actual deficiency tax liabilities within the time required.

Owing to the absence of the deadline, there could not be any finding that the taxpayer willfully failed to pay the deficiency taxes. Considering that the BIR was not able to prove beyond reasonable doubt that the taxpayer was made fully aware of his obligation to pay taxes and when to pay the same, it could not be established that the taxpayer's failure to pay his deficiency taxes was willful on his part. (*People of the Philippines v. Bonner Purpura Armada, CTA Criminal Case No. O-617 dated June 8, 2020*)

Significant Court of Tax Appeals Decisions

In protests in the form of requests for reconsideration, the 180-day period commences from the date of filing of the protest.

In protests in the form of requests for reconsideration, the 180-day period for the BIR to act on such protests commences from the date of filing of the protest.

In this case, the protest filed by the taxpayer clearly stated the nature thereof, i.e., it is a “request for reconsideration.” Hence, the BIR had 180 days from filing of the protest on February 25, 2015, or until August 25, 2015, to act on the protest. Correspondingly, this case should have been filed with the CTA within thirty (30) days from the BIR’s inaction on August 25, 2015, or not later than September 23, 2015. Considering that this case was filed only on January 20, 2016, the CTA is clearly without jurisdiction to entertain the same. (*Getz Pharma (Phils.), Inc. v. Commissioner of Internal Revenue, CTA Case No. 9245 dated June 9, 2020*)

Note: A taxpayer may choose to either elevate his case to the CTA within 30 days from the expiration of the 180-day period or it may opt to wait for the decision of the BIR on its protest. However, the choice of one option precludes the other.

Proof of actual remittance is not a condition to claim for a refund of unutilized tax credit

In this case, the CTA ruled that proof of actual remittance is not a condition to claim for a refund of unutilized tax credits. The law provides that it is the payor-withholding agent, and not the payee-refund claimant who is vested with the responsibility of withholding and remitting income taxes. Further, the withholding of income tax and the remittance thereof to the BIR is the responsibility of the payor and not the payee. Hence, the payee-refund claimant should not be prejudiced by the acts of the payor-withholding agent.

Thus, proof of actual remittance is not indispensable. (*Tullet Prebon (Philippines), Inc, v. Commissioner of Internal Revenue, CTA Case No. 9804 dated June 15, 2020*)

COURT Issuances

Significant Court of Tax Appeals Decisions

It is the registry receipt issued by the mailing office and the affidavit of the person mailing which proves service made through registered mail.

In case the taxpayer denies receipt of the assessment notices from the BIR, the latter has the burden to prove by competent evidence that the required notices were actually received by the taxpayer. It is the registry receipt issued by the mailing office and the affidavit of the person mailing which proves service made through registered mail.

In this case, while the registry return receipt as well as the certification issued by the Postmaster were presented by the BIR as evidence, the Postmaster who issued the same was not the person who actually served the PAN. The server of the letter neither executed a judicial affidavit nor was he presented before the CTA. Hence, the return receipt and certification are not sufficient to prove that the taxpayer actually received the PAN.

Therefore, the assessment is void because the taxpayer's due process rights were violated. (*Ruben U. Yu v. Commissioner of Internal Revenue, CTA Case No. 9595 dated June 15, 2020*)

Where the exaction is not for the purpose of raising revenues, it is not a tax. The CTA has no jurisdiction over assessments of regulatory fee.

In this case, the taxpayer questioned before the CTA the assessment for environmental tax by the Office of the City Treasurer of Davao. The CTA dismissed the case for lack of jurisdiction.

Accordingly, it has exclusive appellate jurisdiction to review by appeal the decisions, orders or resolutions of the RTC in local tax cases originally decided or resolved by the RTC in the exercise of its original or appellate jurisdiction. Environmental tax is not a local tax.

Although the charge is named as environmental tax, the purpose for which it is charged is not to raise revenue but is solely for the implementation of the Watershed Code of Davao, the operational expenses of the Watershed Management Council and all its instrumentalities and for watershed protection, conservation and management programs and projects. Since the imposition involved here is merely a regulatory fee and not a local tax, the CTA has no jurisdiction over the case. (*Dole Philippines, Inc.,- Stanfilco Division v. The Sangguniang Panlungsod of the City of Davao, et.al. CTA AC No. 215 dated June 25, 2020*)

Significant Court of Tax Appeals Decisions

A Revenue Regional Director may appoint a sub-agent to examine a taxpayer and issue assessments in relation thereto when not prohibited from doing so by the CIR.

LOA empowers and enables a revenue officer to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax. The power to authorize examination of a taxpayer and issue assessments is primarily lodged with the CIR. However, the same may be delegated to the Revenue Regional Directors (“RRD”). The latter may likewise appoint a substitute if the CIR has not prohibited him from doing so.

In this case, the Memorandum Referrals, which supposedly appointed other revenue officers to continue the investigation on all of the taxpayer’s internal revenue taxes, were only signed by the OIC-Chief of the LT Regular Audit Division I of the BIR. They may be deemed authorized to do the investigation without need for a new LOA only if it were the RRD who signed the Memorandum Referrals. However, the RRD was not the one who signed the Memorandum Referrals. Thus, this made the assessment conducted by the revenue officers appointed under the Memorandum Referrals void for lack of authority. (*Nyk-FilJapan Shipping Corp., v. Commissioner of Internal Revenue, CTA Case No. 9120 dated June 25, 2020*)

A Memorandum of Assignment signed by the Assistant Commissioner/Head Revenue Executive Assistant of the Large Taxpayers Service is a valid authority. Under RMO No. 29-07, the equivalent of an RRD in the Large Taxpayers Service is the Assistant Commissioner/Head Revenue Executive Assistant. (*Sumitomo Corporation-Philippine Branch v. Commission of Internal Revenue, CTA Case No. 9422 dated June 30, 2020*)

A valid Waiver must state the nature and amount of tax due.

A valid Waiver extending the prescriptive period of tax assessment must indicate the nature and amount of tax due. A perusal of the Waiver involved here reveals that the same failed to indicate the kind and exact amount of taxes to be assessed or collected, hence, the same is invalid. Correspondingly, the same did not extend the three (3)-year prescriptive period. (*GMA Network Films, Inc., v. Commissioner of Internal Revenue, CTA Case No. 9381 dated June 30, 2020*)

Significant Court of Tax Appeals Decisions

Once a taxpayer denies having received assessments notices, it becomes incumbent upon the BIR to prove by competent evidence that the taxpayer received the same.

Taxpayer denies receiving the FLD/FAN for the subject deficiency tax assessment and argues that absent the required notice, the subject assessment is void. The BIR insists that the FAN/FLD was sent, released and mailed, and that the same was validly served to the taxpayer by registered mail.

The CTA held that CIR failed to prove that the taxpayer actually received the FLD/FAN. The BIR shall issue the FLD/FAN, which shall be sent to the taxpayer only by registered mail or by personal delivery. Considering the mandatory nature of this requirement, it is essential for the BIR to establish and prove that the said FLD/FAN were duly served to the taxpayer. Due process likewise requires that the taxpayer must actually receive the assessment. Once a taxpayer denies having received the assessment notices, the CIR BIR must prove by competent evidence that the assessment notices were indeed received by the taxpayer.

To prove the fact of mailing, the BIR must have presented the registry receipt issued by the Bureau of Posts or the registry return card, which would supposedly be signed by the taxpayer or an authorized representative. In the absence thereof, a Certification or any other document executed with the intervention of the Bureau of Posts must have been presented. In this case, the BIR presented transmittal letters, which only prove that the FLN/FAN were forwarded to the Administrative Division and Post Office for mailing, but the same do not establish the actual mailing and receipt thereof by the taxpayer. (*Square One Realty Corporation v. Commission of Internal Revenue, CTA Case No. 9484 dated June 30, 2020*)

RMC No. 56-2020, June 2, 2020

This further clarifies the manner of filing of returns and payment of internal revenue taxes until June 14, 2020.

Concerned taxpayers may file their tax returns and pay the internal revenue taxes at the nearest Authorized Agent Banks (“AABs”), notwithstanding Revenue District Office (“RDO”) jurisdiction. They may also file and pay the same to the concerned Revenue Collection Officers (“RCOs”) of the nearest RDO, even in areas where there are AABs. *Provided*, that payment of internal revenue taxes in cash should not exceed ₱20,000.00 while check payment will have no limitation if the same is made with the RCO in the district office until June 14, 2020. *Provided further*, that all checks shall be made payable to Bureau of Internal Revenue (with or without “IFO Name and TIN of the taxpayer” written on the check, as previously required), and that the name and branch of the receiving AAB may no longer be indicated therein.

Taxpayers may also file their tax returns through the eBIRForms facility and use the following payment options:

- a. Over-the-Counter payment through AABs;
- b. RCOs of the nearest RDO even in areas where there are AABs; and
- c. Electronic/Online Payment:
 - i. LandBank of the Philippines’ (LBP) Link.Biz Portal – for taxpayers who have ATM account with LBP and/or for holders of Bancnet ATM/Debit/Prepaid Card and taxpayer utilizing PesoNet facility (depositor of RCBC and Robinsons Bank)
 - ii. Development Bank of the Philippines’ (DBP) Pay Tax Online – for holders of Visa/Mastercard Credit Card and/or Bancnet ATM/Debit Card
 - iii. Union Bank Online Web and Mobile Payment Facility – for taxpayers who have an account with the Union Bank of the Philippines
 - iv. Mobile Payment (GCash/Paymaya)

Taxpayers who are enrolled in the eFPS shall continue to file through the system and settle their tax liabilities with the AABs where they are enrolled. Those who are not mandated to file and pay electronically has the option to use the eBIRForms facility or to file their tax returns manually. Filing of “no payment returns” shall also be made through the eBIRForms facility.

In case of unavailability of internet connection to electronically file such returns, taxpayers shall manually file the returns to the nearest RDO. In case of the unavailability of the BIR's electronic filing facilities, taxpayers shall manually file the returns and pay the corresponding taxes due thereon through the abovementioned payment venues.

RMC No. 57-2020, June 9, 2020

The requirements for registering a new business with the BIR have been streamlined by removing the mayor's permit as one of the mandatory requirements.

The BIR shall not process applications or requests with deficient or incomplete documentary requirements and shall process only those applications or requests with complete documentary requirements (pursuant to Rule VII, Section 2(b) of the Implementing Rules and Regulations of Republic Act No. 11032 or Ease of Doing Business and Efficient Government Delivery Act of 2018).

RMC No. 59-2020, June 9, 2020

This amends the provisions of RMC No. 47-2020 relative to the temporary measures adopted by taxpayers on the receipting/invoicing requirements pursuant to "Bayanihan to Heal as One Act."

All taxpayers who adopted the said workaround procedures/temporary measures during the periods of ECQ and MECQ are required to submit their Summary of Temporary Receipts/Invoices Issued (format is in Annex "A" of RMC No. 47-2020) within ninety (90) days from the date of lifting of ECQ and/or MECQ. The workaround procedures provided in the said Circular shall be applicable to taxpayers registered in areas under ECQ and MECQ.

Business entities covered under GCQ and/or MGCQ shall discontinue the use of the temporary measures allowed in RMC No. 47-2020. The use of the same during the said periods shall be considered a violation of the receipting/invoicing requirements.

RMC No. 60-2020, June 10, 2020

This notifies persons conducting business through any forms of electronic media regarding their tax obligations and the registration of their business with the BIR.

Persons doing business online with no Tax Identification Number (“TIN”) yet must register in the RDO having jurisdiction over the place where the head office of the business is located or over the place of residence of the individual taxpayer.

Individuals who already have TINs but their business are not yet registered, must register their business using BIR Form 1901 with the RDO having jurisdiction over their place of business, if with physical establishment, or with the RDO having jurisdiction over their place of residence. The concerned RDO shall effect the update of taxpayer classification and include the business activity of online selling. Non-individuals who already have TINs must update their business registration using BIR Form 1905, and include the additional business activity of online selling.

The Certificate of Registration (“COR”) shall be issued to those engaged in business upon compliance with the requirements prescribed in Annex A of the Circular. Aside from the COR, the taxpayer shall receive a copy of the BIR-received Form No. 1901 or 1903, Notice to Issue Receipt/Invoice, Bureau of Internal Revenue Printed Receipt/Invoice or Authority to Print (per taxpayer’s choice), and the proof of payment of registration fee.

All those who will register their business activity and/or update their registration status not later than July 31, 2020 shall not be imposed with penalty for late registration but are encouraged to voluntarily declare their past transactions subject to pertinent taxes, and pay the taxes due thereon, without corresponding penalty, when declared and paid on or before the said date.

The newly-registered business entities, including the existing registrants, are advised to comply with the provisions of the Tax Code, as amended, and other applicable tax revenue issuances, particularly on the following:

- a. Issuance of registered sales invoice or official receipt for every sale of goods or services to clients/customers/buyers;
- b. Keeping of registered books of accounts and other accounting records of business transactions;
- c. Withholding of taxes, as applicable;
- d. Filing of required tax returns; and
- e. Payment of correct taxes due on time.

Note: This is not a new requirement of the BIR. Persons who are engaged in business, whether conducted thru online or not, are required to be registered with the BIR, pay their corresponding taxes and comply with other requirements. In this RMC, the BIR will, in effect, condone the penalties for non-payment of taxes of persons conducting business through any forms of electronic media for their past transactions, provided that they will pay on or before July 31, 2020. Will this be a form of a tax amnesty? Is the tax condonation valid?

RMC No. 61-2020, June 15, 2020

This extended the deadline for availment of Tax Amnesty on Delinquencies (“TAD”) provided under RR No. 4-2019, as amended, from June 22, 2020 to December 31, 2020.

RR No. 15-2020, June 19, 2020

This further amends RR No. 4-2019, as amended, relative to the period and manner of availment of TAD. Section 3 of RR No. 4-2019 was amended to extend the period for availment of the TAD until December 31, 2020. However, the said date may be extended if the circumstances warrant an extension such as in case of country-wide economic or health reasons.

Further amendments were made as follows:

RR No. 04-2019	RR No. 15-2020
<p>SECTION 5. MANNER OF AVAILMENT OF TAX AMNESTY ON TAX DELINQUENCIES. Any person, whether natural or juridical, who wishes to avail of the Tax Amnesty on Delinquencies shall file, within the period under Section 3 of these Regulations, an application therefor in accordance with the procedures set forth below.</p> <p>A. DOCUMENTARY REQUIREMENTS: xxx xxx xxx</p> <p>B. PLACE OF FILING: xxx xxx xxx</p> <p>C. PROCEDURES: The taxpayer-applicant shall:</p> <p>Step 1. Secure the Certificate of Delinquencies/Tax Liabilities from the concerned BIR Office as specified below</p>	<p>SECTION 5. MANNER OF AVAILMENT OF AMNESTY ON TAX DELINQUENCIES. Any person, whether natural or juridical, who wishes to avail of the Tax Amnesty on Delinquencies shall file, within the period under Section 3 of these Regulations, an application therefor in accordance with the procedures set forth below.</p> <p>D. DOCUMENTARY REQUIREMENTS: xxx xxx</p> <p>E. PLACE OF FILING: xxx xxx xxx</p> <p>F. PROCEDURES: The taxpayer-applicant shall:</p> <p>Step 1. Secure the Certificate of Delinquencies/Tax Liabilities from the concerned BIR Office as specified below</p> <p>xxx xxx xxx</p> <p><u>The concerned BIR Office receiving request for Certificate of Delinquencies/Tax Liabilities shall issue said Certificate of Delinquencies/Tax</u></p>

	<p>xxx xxx xxx</p> <p>Step 2. Present the duly accomplished TAR made under oath and APF, together with the other required documents, to the concerned RDO/LTD/LTCED for endorsement of the APF and pay the tax amnesty amount with the AABs or RCs, whichever is applicable, by presenting the RDO/LTD/LTCED-endorsed or approved APF. <i>Provided,</i> that if no payment is required as in the case when the assessment consists only of unpaid penalties due to either late filing or payment, the phrase “no payment required” shall be indicated in the APF.</p> <p>Step 3. Submit/file immediately to the RDO/LTD/LTCED where the taxpayer is registered, in triplicate copies, the duly accomplished TAR, made under oath, together with the complete documentary requirements and proof of payment, which in no</p>	<p><u>Liabilities to the taxpayer within three (3) working days from the date of the request and should the concerned BIR Office find that said Certificate of Delinquencies/Tax Liabilities cannot be issued, said BIR Office must state in writing the legal and factual basis for its denial.</u></p> <p>Step 2. Present the duly accomplished TAR made under oath and APF, together with the other required documents, to the concerned RDO/LTD/LTCED for endorsement of the APF and pay the tax amnesty amount with the AABs or RCs, whichever is applicable, by presenting the RDO/LTD/LTCED-endorsed or approved APF. <i>Provided,</i> that if no payment is required as in the case when the assessment consists only of unpaid penalties due to either late filing or payment, the phrase “no payment required” shall be indicated in the APF. <u><i>Provided, further,</i> that the concerned RDO/LTD/LTCED</u></p>
--	---	--

	<p>case shall be beyond the one (1) year availment period. The taxpayer/applicant shall be furnished with a copy, stamped as “received”, of said TAR and APF.</p> <p>Availment of Tax Amnesty on Delinquencies shall be considered fully complied with upon completion of the above- enumerated steps within the one (1) year availment period.</p>	<p><u>shall endorse said duly accomplished TAR and APF within one (1) working day from receipt of complete documents.</u></p> <p>Step 3. Submit/file immediately to the RDO/LTD/LTCED where the taxpayer is registered, in triplicate copies, the duly accomplished TAR, made under oath, together with the complete documentary requirements and proof of payment, <u>which in no case shall be beyond the availment period set forth under Section 3 of these Regulations.</u> The taxpayer/applicant shall be furnished with a copy, stamped as “received”, of said TAR and APF.</p> <p><u>Availment of Tax Amnesty on Delinquencies shall be considered fully complied with upon completion of the above- enumerated steps within the period set forth under Section 3 of these Regulations.</u></p>
--	---	---

RR No. 16-2020, June 25, 2020

This further suspends the due dates in the application for and the ninety (90)-day period to process VAT refund/claim for taxable quarters affected by the declaration of the national state of emergency.

The filing of claims for VAT refund for the following taxable quarters shall be until the following specified due dates:

- Calendar Quarter ending March 31, 2018 – July 15, 2020
- Fiscal Quarter ending April 30, 2018 – July 31, 2020
- Fiscal Quarter ending May 31, 2018 – August 15, 2020
- Calendar Quarter ending June 30, 2018 August 31, 2020

Said due dates do not apply to areas not yet declared to be in a general community quarantine state. In which case, the deadline shall be thirty (30) days from the lifting of the Enhanced Community Quarantine (“ECQ”) or modified ECQ in the affected areas of taxpayer-claimant or the above stated deadlines, whichever comes later.

The 90-day period of processing VAT refund claims shall be suspended in areas where ECQ or modified ECQ is still in force.

SEC Notice dated June 3, 2020

This provides for the implementation of online applications with the Company Registration and Monitoring Department.

The SEC will implement the use of online platform applications through specified links/electronic mail gateways for online applications to the Company Registration and Monitoring Department. Only those applications what have been assessed and approved for payment through online processing will be entertained at the CRMD premises.

SEC Notice to All Non-Stock Corporations

This provides for the guidelines in the filing or submission of the Mandatory Disclosure Form (“MDF”).

Among others, the notice provides that non-stock corporations who have not yet submitted their MDFs online are advised to do so on or before July 15, 2020. Additionally, printed and notarized copy of the MDF may be submitted by means of courier service, registered mail, or electronic mail. The public is urged not to personally come to the SEC Main Office to submit the MDFs, however, the same may be accepted and received at the SEC-Extension Offices (EOs). Lastly, the deadline for submission of the printed and notarized copy of the MDFs shall be on July 31, 2020

SEC Notice dated June 17, 2020

This provides for the cessation of the mandatory 30-day grace period under Sec. 4(aa) of the Bayanihan to Heal As One Act.

The 30-day mandatory grace period for loans shall no longer apply effective June 1, 2020, pursuant to IATF Resolution No. 40, dated 27 May 2020, which already places majority of provinces and cities under GCQ or MGCQ.

With the lifting of the ECQ in the majority of the provinces and cities, the condition for the grant of the 30-day grace period under the Bayanihan Act is also no longer present.

SEC Notice dated June 24, 2020

This discusses the options for the submission of reports, applications and other documents during the effectivity of all community quarantine imposed due to Covid-19.

Investment companies, registered issuers of proprietary and non-proprietary shares/timeshares, public companies, corporate governance institutional training providers and publicly-listed companies under the supervision of the Corporate Governance and Finance Department (“CGFD”) are advised to file or submit their reports, applications, requests, compliance and other documents to the SEC, through any of the following means:

1. Via courier services only

Printed or hard copies of documents shall be deemed to have been filed on the date they were received by the courier.

2. Via electronic mail only

Unless otherwise required by the SEC, the submission of documents through email shall constitute full and official submission such that the covered company shall no longer be required to file the hard copies, provided all the requirements for each type of document are complied with.

a. For Documents Requiring Notarization

- A scanned copy of the document duly notarized and containing the necessary physical/ wet signatures without the need of a notarized certification; and
- Filing fee, if applicable.

b. For Documents Not Requiring Notarization

- A scanned copy of the document containing the necessary physical/ wet signatures;
- Notarized certification; and
- Filing fee, if applicable.

Except for documents that need pre-evaluation and are subject to processing fees, the scanned notarized documents shall be deemed to have been filed on the date the email was sent to the CGFD account only or to the Information Communication Technology Department account with copy furnished to CGFD account, as the case may be, during working days.

3. Via courier services and electronic mail

A covered company may file printed/hard copies of documents through a courier of their choice or the post office by accomplishing the SENS Form (Option 1) and, at the same time, furnish the CGFD with a scanned copy of the documents with or without payment through email at cgfd@sec.gov.ph (Option 2).

In this case, documents shall be deemed to have been filed on the date they were received by the courier. The scanned copy emailed to the CGFD shall serve as notification only for the submission of the document. The document filed through courier or mail shall be considered as the official submission.

Covered companies can choose only one mode of filing in submitting their reports, applications and other documents.

SEC Notice dated June 30, 2020

This announces the adjustment of deadlines for annual reports.

The schedule for filing Annual Financial Statement shall largely remain the same, as follows:

Filing Schedule	Last Digit of SEC Registration/ License Number
July 1, 2, 3, 6, 7, 8, 9, 10	1 and 2
July 13, 14, 15, 16, 17	3 and 4
July 20, 21, 22, 23, 24	5 and 6
July 27, 28, 29, 30	7 and 8
August 3, 4, 5, 6, 7	9 and 10

Corporations, which held their annual stockholders’ meetings during the ECQ and MECQ in the National Capital Region, may submit their GIS until August 31, 2020, without incurring penalties.

All corporations shall comply with the SEC’s directive that submissions to the SEC Main Office shall be made through courier services, including express delivery services, or through registered mail using the SENS facility at <https://sens.secexpress.ph>.

**IC Circular Letter No.
2020-69, June 11, 2020**

***This provides
guidelines on the
issuance of temporary
license to new
insurance agent during
the state of public
health emergency due
to the Covid-19.***

The guidelines are as follows:

1. The scope covers the process in applying for, and the criteria for the grant of, a temporary license for individual agents during the implementation of community quarantine, social distancing, or "mass or work gatherings" rules and regulations imposed by the President or authorized government agencies;
2. Applicants should possess all qualifications under the Insurance Code, as amended by Republic Act No. 10607 and the existing rules and regulations issued by the Insurance Commission without the need to take and pass the qualifying insurance agent's examinations;
3. All applications must be electronically submitted to the Insurance Commission by the sponsoring insurance company which the applicant wishes to represent through the Enhanced Licensing System by uploading the following:
 - a. Duly accomplished application form accompanied by a documentary stamp tax ("DST"); and
 - b. Certification from the sponsoring insurance company to be signed by an officer with a position of at least Vice-President.
4. The licensing fee in the amount of ₱1,515.00 for the individual agent's license shall be paid by the applicant to the sponsoring insurance company. The sponsoring insurance company shall remit the applicant's license fee on behalf of the applicant to the Insurance Commission;
5. All temporary licenses issued will be valid until December 31, 2020 and shall automatically expire on such date; *provided that*, it shall automatically expire once the applicant passes or fails the qualifying insurance agent's examination or fails to take the said examination once Section 1 of IC CL No. 2020-12 is lifted;

6. Individuals issued with temporary insurance agent license must be under the supervision of a duly licensed agent who will oversee his/her work and conduct thru the utilization of Information and Communication Technology, such as but not limited to, teleconferencing, video conferencing, computer conferencing, or audio conferencing;
7. A license issued is subject to cancellation or revocation if the licensee violates the insurance laws or if the interests of the insured or the public are endangered;
8. In the performance of their fiduciary duties and responsibilities, all temporary licensee shall become liable to all the duties, requirements, liabilities and penalties to which an insurance agent is subject; and
9. A temporary agent's license may be converted to a regular agent's license by completion of all requirements and after the passing of qualifying insurance agent's examinations. All applications for regular license must be submitted through the Enhanced Licensing System. The regular license's validity period shall be reckoned from the date of the issuance of the temporary agent's license and no additional license fee shall be required.

**IC Circular Letter No.
2020-72, June 13, 2020**

This mandates all Insurance Commission Regulated Companies ("ICRCs) to submit an Annual Corporate Governance Report ("ACGR") which aims to assess ICRCs' observance of different principles and recommendations of the Insurance Commission's Code of the Corporate Governance.

This mandates all ICRCs to submit an ACGR subject to the following:

1. All ICRCs shall submit two (2) copies of a fully accomplished and certified under oath ACGR to the Corporate Governance Unit of the Insurance Commission ("IC"). Initial submission shall be on or before May 30, 2021 based on the ICRC's 2020 operations. Subsequent submission of the fully accomplished and certified under oath ACGR to the IC shall be on or before May 30 of each year.
2. The ACGR shall cover all relevant information from January to December of the given year.
3. Copies of the ACGR that will be submitted shall be duly notarized and shall bear the original signatures of the following signatories: (a) Chairman of the Board; (b) President or Chief Executive Officer; (c) all independent directors; (d) Corporate Governance Compliance Officer; and (e) Corporate Secretary.
4. All ICRCs shall maintain a company website. The ACGR with accessible links, including copies of supporting documents to ACGR responses, shall be posted to the ICRCs' respective website within five (5) business days from submission to the IC.
5. All non-life insurance and professional reinsurance companies are mandated to provide additional information on the companies' policies and programs on its participation in the Philippine Catastrophe Insurance Facility, if applicable.

IC Circular Letter No. 2020-73, June 14, 2020

This provides guidelines on the adoption of a Regulatory Sandbox Framework for Insurance Technology (“InsurTech”) Innovations.

A “Regulatory Sandbox” means a controlled environment with a system set up by a licensed insurance provider in collaboration with another person, natural or juridical, licensed or not by the IC, that allows a small scale and live testing of technical innovations operating under special circumstance/s, allowance/s, and/or other limited and time-bound supervision.

Here are the following guidelines:

1. No Regulatory Sandbox that involves the doing an insurance business or the performance of any act that will require licensing and/or regulation by the IC shall be adopted and implemented unless approved by the IC.
2. Natural or juridical persons who intend to participate in a Regulatory Sandbox but whose businesses are not regulated by the IC and whose collaboration will require the performance of acts that will result in business or transactions that will require licensing, regulation or approval by the IC, *i.e.* Fintech start-ups, *etc.*, the same must first comply with existing regulations issued by the IC, insofar as applicable, before submitting any application for participation in a Regulatory Sandbox.
3. A Regulatory Sandbox shall be operated in Experimentation Cycle/s that will be implemented one at a time and subsequently evaluated and finalized first before commencing any subsequent Experimentation Cycle/s.
4. The Experimental Cycle, if approved by the IC, shall last for a maximum period not exceeding one (1) year but such can be extended for a period not exceeding six (6) months, provided that the Applicant shall submit a written justification.
5. Any person/s intending to apply for participation in a Regulatory Sandbox shall submit a formal proposal and shall submit the required documents to the IC's Regulation, Enforcement and Prosecution Division ("REPD"), whether in hard copy, flash drive or compact disc.

6. The REPD shall receive any and all applications under this Circular Letter and determine whether or not the required documentation is complete and whether the applications exhibit the parameters provided in this Circular Letter. The REPD may require additional information or documents for clarificatory matters only, if needed.
7. If the IC is satisfied with the recommendations of the REPD, the latter shall issue a letter of approval ("Approval") to the successful Applicants. The successful Applicant will be allowed to operate and proceed with live testing or experiments within the period stated in this Circular Letter.
8. The successful Applicants shall mandatorily submit a monthly written report to the IC, through the REPD.
9. At the end of the Experimentation Cycle, or if the successful Applicants achieve the results desired earlier than the end of the Experimentation Cycle, the successful Applicant shall submit a written Completion Report to the REPD.
10. Any information in the custody of or within the knowledge of the IC pertaining to the Applicants' participation in a Regulatory Sandbox, including its successful launching, shall be considered as trade secrets in accordance with applicable intellectual property laws of the Philippines.

**IC Ruling No. 2020-05,
June 15, 2020**

A financing company is not allowed to offer and promote a credit personal accident insurance protection under the Group policy it will enter into with the insurer to its loan borrowers/customers. If it will promote or offer the group policy, it will be tantamount to doing or transacting insurance business thru making or proposing to make or soliciting an insurance contract. That said act will necessitate the application and issuance of license to transact as an agent.

IC Circular Letter No. 2020-74, June 18, 2020
This provides guidelines on the use of videoconferencing for the conduct of hearings and other proceedings before the Claims Adjudication Division (“CAD”) and REPD.

The hearings through videoconferencing shall cover all litigants and counsel before the CAD and REPD; and, insofar as applicable, may apply to all stages of proceedings, including, but not limited to hearings on various motions, pre-trial, mediation proceedings, and trial proper.

The in-person appearances, testimonies and experiences of the litigants and parties shall be closely resembled in remote appearances and testimonies of the litigants and parties in the videoconference proceedings. In the same manner, the dignity and solemnity of proceedings before the CAD and REPD shall at all times be mirrored in videoconference proceedings.

The CAD and REPD are provided with software licenses for CISCO WEBEX MEETINGS to host the videoconference proceedings. No other platforms or software shall be used for the videoconference proceedings.

BSP Memorandum No. M-2020-045, June 1, 2020

This provides answers for the Frequently Asked Questions (“FAQ”) on the Implementing Rules and Regulations (“IRR”) of Section 4 (aa) of Republic Act No. 11469, otherwise known as the “Bayanihan to Heal as One Act” (“Bayanihan Act”):

1. The 30-day mandatory grace period for loans under the Bayanihan Act shall no longer apply effective June 1, 2020, due to placing of majority of provinces and cities under GCQ or modified GCQ. Therefore, all loan payments with principal and interest falling due from June 1, 2020 onwards shall be due and demandable.

The termination of the grant of the 30-day grace period is premised on the lifting of the restrictions on economic activities in majority of the provinces and cities in the country.

2. The 30-day mandatory grace period under the Bayanihan Act shall continue to apply to loan and/or interest payments falling due until May 31, 2020, even if the new due dates will fall on or after June 1, 2020.
3. Borrowers that were granted 30-day grace period on all their loan payments in March, April and May 2020 are not required to pay in June 2020. Effective June 1, 2020, the borrower shall only pay the amount of the loan principal and/or interest that is effectively due in June 2020 or for one month following the application of the 30-day grace period. The last payment due date of the loan is effectively extended by a period equivalent to the grace period granted for the duration of the ECQ. For accrued interest in March, April and May 2020, the borrower may pay it in lumpsum in June 2020 or on a staggered basis over the remaining term of the loan.
4. Borrowers have the option to pay the interest accrued during the mandatory grace period in lumpsum on the next payment due date or on a staggered basis over the remaining life of the loan. But covered institutions may offer less onerous payment arrangements that include setting new payment due dates for interest accrued during the mandatory grace period.
5. Further, no DST shall be imposed on credit extension and credit restructuring, micro-lending including those obtained from pawnshops and extensions thereof during the ECQ period.

***BSP Memorandum No.
M-2020-049, June 9, 2020***

To clarify, the BSP reiterates that no distinct “digital banking” license is issued to institutions that have pursued a digital-centric business model. Instead, institutions offering digital-centric financial services are either existing universal, commercial, thrift or rural banks or have applied either as universal, commercial, thrift or rural banks, in accordance with the existing bank licensing regime.

While the BSP encourages supervised institutions to actively offer digital solutions, BSP-Supervised Financial Institutions (“BSFIs”) are reminded to exercise caution when publicly promoting themselves as digital banks, in the absence of a separate licensing framework for a full-fledged digital bank for now. Pending formal issuance of such a framework, BSFIs should refrain from making representations that could generate ambiguities in the current state of licensing regime for banks.

***BSP Memorandum No.
M-2020-049, June 9, 2020
The Monetary Board
approved the relaxation
in the regulations
governing the submission
of reports and other
documents to the BSP-
Financial Supervision
Sector (“BSP-FSS”).***

The submission of required reports for BSP-FSS that fall due within the months of March to June 2020 is suspended until further notice, except for the submission of the Financial Reporting Package for Banks, the Consolidated Foreign Exchange (FX) Position Report, event-driven report requirements and reserve requirement-related reports.

The reserve requirement-related reports include the following: (a) Consolidated Daily Report of Condition; (b) Weekly Report on Required and Available Reserves Against Deposit Liabilities; (c) Consolidated Report on Required and Available Reserves Against Deposit Substitutes and Special Financing; and (d) Special Financing and Weekly Reserve Report on Trust and Other Fiduciary Accounts.

BSP Memorandum No. M-2020-051, June 17, 2020

This supplements and publishes the FAQs on the additional eligible credit instruments, revised loan documents and availment procedures for the BSP rediscount facilities.

For purposes of rediscounting loan availments, banks are required to submit a certification signed by the bank's authorized officer/s indicating the following, as applicable:

1. The credits are booked under the regular banking unit of the rediscounting bank;
2. The related end-user borrowers are operating during the time of the ECQ;
3. the nature of economic activity covered by the loan is included in the list specified by the Department of Trade and Industry in its Memorandum Circular No. 20-08 dated 20 March 2020;
4. The maturities of credit instruments were extended pursuant to R.A. No. 11469 and its IRR;
5. All electronic copies submitted are true and faithful copies of the original; and
6. The bank acknowledges that any misrepresentation shall be subject to appropriate enforcement actions, among other legal recourses available to the BSP.

The List of Accounts for Rediscounting for submission to the BSP has been revised to include columns for the original due date and the extended due date in consideration of credit instruments which were granted a mandatory 30-day grace period pursuant to BSP Memorandum No. M-2020-017 dated April 1, 2020 and Section 4 (aa) of R.A. No. 11469 and its IRR.

Published Articles

Business Mirror

Tax Law for Business

INSIGHTS



TAXING ONLINE BUSINESS IN THE MIDST OF COVID-19

By

Rodel C. Unciano

Of all the many Bureau of Internal Revenue's (BIR) circulars and issuances released in the midst of COVID-19, not one of them suspended the imposition of tax on business transactions which are otherwise taxable under existing tax laws. If at all, the rules simply extended deadlines for filing of returns or payment of taxes, if applicable, without the imposition of additional interest, charges and any form of penalty despite non-filing of return or non-payment of tax on the original deadline set forth under the Tax Code and regulations. Even Republic Act 11469 or the "Bayanihan to Heal As One Act" did not suspend the taxability of business transactions. Understandably so as the government is not spared from the economic impact of the pandemic.

Criticisms surfaced on the BIR's call for registration of business or persons involved in digital transactions through the use of any electronic platforms, as circularized in Revenue Memorandum Circular (RMC) 60-2020. They say it is not timely as it adds burden to the public trying to make ends meet during the pandemic.

Business registration is a mandatory requirement under the Tax Code. Section 236 thereof requires registration of every person subject to any internal revenue tax with the BIR on or before the commencement of business. And under Section 237, the issuance of duly registered receipts or sale or commercial invoices is required for sale and transfer of merchandise or for services rendered valued at one hundred pesos (P100) or more. And since no law has been passed suspending the enforcement of these provisions during the pandemic, these requirements are therefore still enforceable, with or without BIR circular reminding everyone to comply.

The BIR's call for the registration of taxpayers doing online business transactions is not in fact new. During the time of Commissioner Henares, a circular had already been issued reminding online sellers to register with the BIR and issue registered invoices or receipts, either manually or electronically, for every barter, sale or exchange of goods and services. True, this requirement of registration has already been there even prior to the emergence of COVID-19. And the registration requirements are equally applied with no distinction, whether the marketing channel is the internet/digital media or the physical and customary physical medium.

But considering the current health risk associated with COVID-19, what the BIR can probably do now is to devise a system of registration where physical presence of taxpayer at the BIR premises is not required. And this should be true for all businesses whether or not the marketing channel is via the internet/digital media or the customary physical medium.

Under the law, it is the bounden duty of all persons engaged in business to comply with business registration requirements and pay taxes, where applicable. Registration should not be seen as a burden to taxpayers but should be seen as a tool to avail of the full protection of the state particularly in case of suit. Also, registration will help boost business as some customers and clients prefer to do business with someone compliant with law, as they need assurance that they are doing transactions with a legitimate business.

To be clear and as a piece of advice to new players in the online business, registration with the BIR is one thing and payment of taxes is another thing. Registration per se does not necessarily mean payment of income tax. Deductions will still be claimed and only when the result of business operations will yield a taxable income will you be made to pay income tax.

By
Rodel C. Unciano

And for individual taxpayers, no income tax will be due if net income during the year does not exceed two hundred fifty thousand pesos (P250,000). It is only when you earn a net income of over 250,000 during the year that our Tax Code now requires you to give your just share to the government. And if your gross annual sales or receipts do not exceed three million pesos (P3,000,000), the Tax Code gives you the option to avail of an eight percent (8%) tax on gross sales or gross receipts and other non-operating income in excess of two hundred fifty thousand pesos (P250,000) in lieu of the graduated income tax rates and percentage tax.

Tax is the lifeblood of the government. Without taxes, the government will fail. Let us therefore do our share when it is due.

For inquiries on the article, you may call or email

ATTY. RODEL C. UNCIANO

Partner

T: +63 2 403 2001 loc. 140

Rodel.unciano@bdbl.com.ph

THE BDB TEAM

OUR EXPERTS



BENEDICTA DU-BALADAD

Founding Partner, Chair & CEO
T: +63 2 403 2001 loc. 300
dick.du-baladad@bdblaw.com.ph



FULVIO D. DAWILAN

Managing Partner
T: +63 2 403 2001 loc. 310
fulvio.dawilan@bdblaw.com.ph



IRWIN C. NIDEA, JR.

Senior Partner
T: +63 2 403 2001 loc. 330
irwin.c.nideajr@bdblaw.com.ph



RODEL C. UNCIANO

Partner
T: +63 2 403 2001 loc. 140
rodel.unciano@bdblaw.com.ph



LINO ERNIE M. GUEVARA

Special Counsel
T: +63 2 403 2001 loc. 160
ernie.guevara@bdblaw.com.ph