



TAX LAW FOR BUSINESS
Atty. Benedicta Du-Baladad

*BDB Law's "Tax Law for Business" appears in the opinion section of **Business Mirror** every Thursday.*

New rules for the April 15 tax filing

My article "New rules for the April 15 tax filing" released in this column and posted in BDB Law's web site (www.bdbl原因.com.ph) around the same time last year has, by far, the most number of hits.

I then realized that at this time of the year, people are looking for help and guidance on how to religiously comply with their tax obligations. Thus, as our firm advocates proper tax compliance, I made a commitment to write about tax filing reminders every year thereafter.

Like last year, new rules have been issued by the Bureau of Internal Revenue (BIR) that must be complied with in filing the 2010 annual income-tax return (ITR). These include the following:

1. Additional disclosures of tax payments and tax assessments—Revenue Regulations 15-2010 requires that the Notes to Financial Statements should contain a disclosure on the amount of taxes, duties and license fees accrued or paid during the year covered by the return (2010). Such information include, among other things, the amount of value-added tax output, zero-rated and exempt sales, input taxes, duties and taxes paid on importations, excise tax, DST, withholding taxes, deficiency assessments and tax cases pending in court.
2. Out-of-district tax filing is not allowed—In previous years, the BIR allowed taxpayers to file and pay anywhere. This was meant to make the filing and payment of taxes a friendly and easy exercise. This year, however, taxpayers are mandated to file their tax returns only in the district where they are registered. Out-of-district filing is no longer allowed. A tax return filed out-of-district is prima facie considered fraudulent or spurious and will not be considered as filed (Revenue Regulations 13-2010).

An exception to the prohibition of "out-of-district" filing is granted to members of the Armed Forces of the Philippines, Philippine National Police, public-school teachers, professors and instructors, but they have to file on or before April 15,

2011. This consideration is given in view of the peculiar nature of their work where they are assigned, transferred, seconded or required to be physically present in other places outside of the jurisdiction of the district where they are registered. I note, however, that while there are employees in the private companies that may be similarly situated, such privilege is not given to them. (Revenue Memorandum Order [RMO] 15-2011)

3. Allows stamping of additional copies of the financial statements—The old rule strictly limits the number of copies of tax returns to be stamped “Received” by the BIR to only three copies. But for this year, the BIR will allow corporations to have additional two copies of the financial statements to be stamped “Received.” These extra copies are for filing with the Securities and Exchange Commission (SEC), (RMO 13-2011).

4. To avail oneself of the optional standard deduction (OSD), such option must be indicated in the 2010 first-quarter tax return—Corporations and individual taxpayers are allowed to claim the OSD instead of the itemized deduction. The OSD is computed as 40 percent of the gross income (revenues less direct costs), in the case of corporations and 40 percent of gross sales or receipts, in the case of individuals.

To avail oneself of the OSD, however, such intention must be signified as early as upon filing of the first-quarter tax return by checking the appropriate box for OSD. Once the choice is made, it cannot be changed for the year. Failure to indicate such choice in the first- quarter return shall be construed as an avilment of the itemized deduction. Thus, one cannot avail himself/herself of OSD in the annual income-tax return if such choice was not indicated in the first-quarter tax return, even if OSD yields a lower tax payment.

Of course, in addition to these new rules, taxpayers should also keep in mind the standard rules required in the filing of tax returns. The deadline for filing is April 15, 2011. Late filing of return is subject to a penalty equivalent to 25 percent of the tax to be paid, plus a 20-percent interest computed from April 15, 2011, to the time of actual payment. Another thing to consider is the audit criteria of the BIR in selecting the tax returns to be audited for the taxable year 2010. Under RMO 3-2011 and 4-2011, lawyers, doctors, engineers, accountants and other professionals are on the priority list for audit. Taxpayers belonging to this industry group (professional services) must, therefore, ensure that income and deductions are properly reported and tax returns are correctly filed.

To reward those who properly pay their taxes, the BIR has put in the category of “last priority for audit” those with an effective tax rate of 18 percent based on gross income. The BIR considers 18 percent as within the acceptable range of correct tax payment. Hence, taxpayers with income-tax payments of at least 18 percent of gross income can have a peaceful year free from visitation by the BIR.

* * *

The author is the managing partner of Du-Baladad and Associates Law Offices (BDB Law), a member firm of World Tax Services Alliance. If you have any comments or questions concerning the article, you can e-mail the author at dick.du-baladad@bdblaw.com.ph or call 403-2001, local 300.