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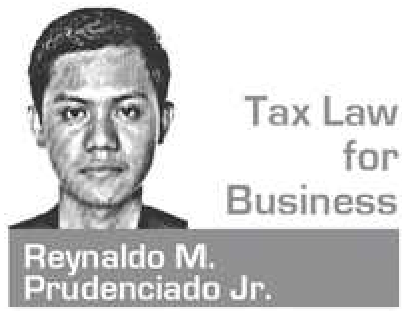

BDB Law's "Tax Law for Business" *appears in the opinion section of* ***Business Mirror*** *every Thursday.*

New income-tax returns

THE Bureau of Internal Revenue (BIR) must have been inspired by these words from Winston Churchill: "To improve is to change; to be perfect is to change often." Taxpayers have not yet fully familiarized themselves with the use of the income-tax return (ITR) forms that were revised in 2011, and now they are required to use a newer version of these forms for taxable year 2013. Through Revenue Regulations 02-2014, revised forms containing bar codes are required to be used. The new forms are supposedly readable by an optical character reader for ease in scanning. The new forms also include changes in the information that are required to be reflected in the return.

Previously, there were only three ITR forms. This has increased to five, the use of which depends on who the taxpayer is and/or the nature of his or her income. Aside from the increase in the number of ITR forms, the following are some of the changes introduced in the revised forms:

1. Relaxed requirement on the use of the Community Tax Certificate (CTC). Compared to the old forms, taxpayers have the option to use either the CTC, other government-issued identification cards or Securities and Exchange Commission registration numbers in case of juridical entities. This, however, does not excuse the taxpayer from securing the CTC.

2. Information on external auditor/accredited tax agent. Except for the ITR form for individuals earning purely compensation income, the revised forms require the disclosure of the name of the external auditor or the accredited tax agent and its signing partner, in case the external auditor is a partnership, and their respective tax-identification numbers (TINs). The new form also requires the disclosure of the external auditor's or tax agent's BIR accreditation number, the date of issuance and expiry date. As provided in the guidelines and instructions in the preparation of the return, information on the accredited tax agent is required if the return is filed by an accredited tax agent on behalf of the taxpayer.

3. Balance sheet. Again, except for the ITR form for individuals earning purely compensation income, the revised forms contain a schedule requiring information on the taxpayer's balance sheet or a schedule containing the taxpayer's assets, liabilities and capital/net worth. This requirement appears to be redundant for taxpayers who are required to submit their audited financial statements.

4. Information on the top 20 stockholders, partners or members. The new forms also require nonindividual taxpayers to disclose the registered name, TIN, capital contribution and percentage of ownership of the top 20 stockholders, partners or members. It should be recalled that the said schedule was required to be attached to the ITR of the general professional partnerships (GPPs). The new forms made this requirement mandatory, not only to GPPs, but to all nonindividual taxpayers. This would compel nonindividual taxpayers to require their shareholders/partners/members to register with the BIR.

5. Supplemental information. The revised return for nonindividual taxpayers now includes a section for supplemental information, wherein taxpayers are required to declare their gross income/receipts that are subjected to final withholding tax and gross income/receipts that are exempt from income tax. As in the old form, this requirement is also present in the revised ITR for individual taxpayers. But this is made optional for individual taxpayers who are filing their tax returns for 2013. It will be mandatory for 2014.

This may not add to the tax-collection effort, since the burden of paying the tax rests on the withholding agent and not on the taxpayer. Nevertheless, any erroneous declaration may expose the taxpayer to penalties arising from errors in the declared information. Hence, it is still the burden of the taxpayer to ensure that the correct information is timely obtained from the third party, so that the correct data is reflected in the ITR form.

6. New rules for Optional Standard Deduction (OSD). The new rule/form explicitly provides that the OSD can be availed of only if all of the taxpayer's income is subject to the regular income-tax regime. Thus, taxpayers having several activities, in which few are subject to special/preferential rates, or exempt from tax, and subject to regular income tax, are mandated to use the itemized deductions. Similarly, those taxpayers whose income is not subject to income tax are also prohibited to use the OSD.

There are many other peculiarities in the new forms. In a way, this may improve the level of tax administration and enforcement in the country through sufficient disclosure on the part of the taxpayers. However, there are some requirements that add burden to the taxpayers, but do not necessarily result in the improvement of tax administration.

Likewise, there are requirements that limit the rights of taxpayers, such as the limitation of the use of the OSD only to those subject to the regular income tax. It seems that the law does not have a similar limitation. While we support the BIR's determination to improve taxpayer compliance, we just hope that it does not impose unnecessary burden or limit the rights available to the taxpayers.

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