

Advisory on Filing of BIR Form No. 1709

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Clarifies certain issues on the filing of BIR Form No. 1709 and its attachments	

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MEMBER FIRM OF

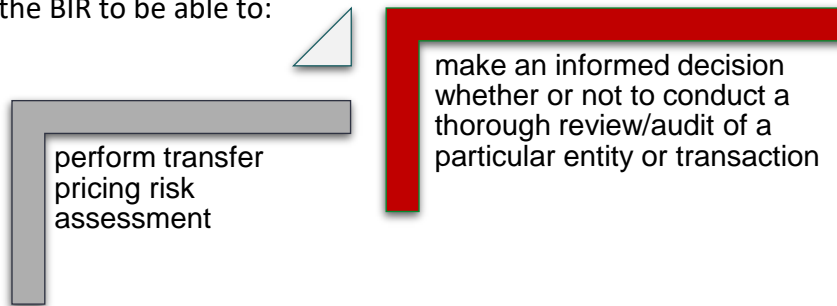
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BUREAU OF INTERNAL REVENUE
REVENUE MEMORANDUM CIRCULAR
NO. 76-2020

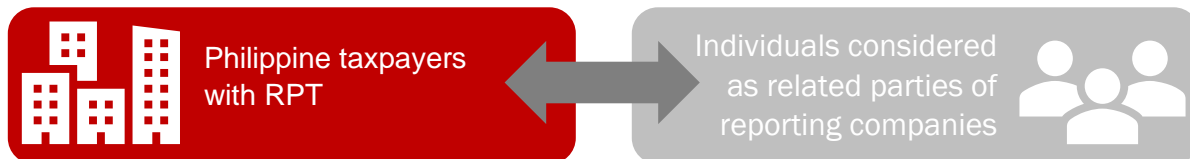
CLARIFIES CERTAIN ISSUES ON THE FILING OF
BIR FORM NO. 1709 AND ITS ATTACHMENTS

What is the rationale for the issuance of RR No. 19-2020?

For the BIR to be able to:

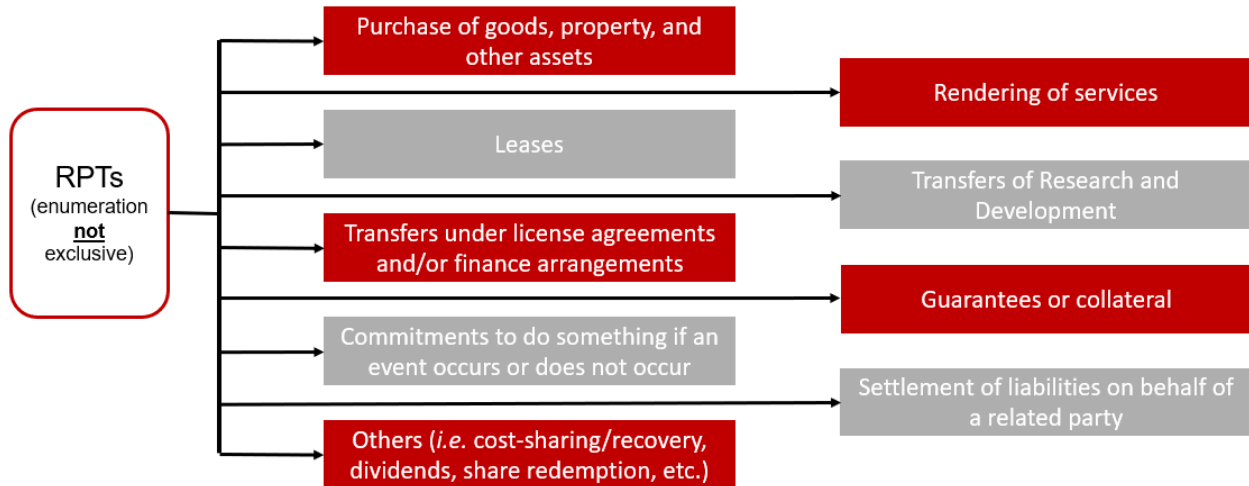


Who needs to complete BIR Form No. 1709?



Non-stock, non-profit corporations with related party transactions are likewise required to comply with RR No. 19-2020 and file BIR Form 1709.

What are the RPTs under RR No. 19-2020?



When is the effectivity of the reporting requirement?

2020						
03 MARCH						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

- Required starting fiscal year ending **MARCH 31, 2020**, irrespective of the date of filing of the AITR
- For FY ending March 31, 2020, compliance is extended for two (2) months from July 30, 2020, or until September 30, 2020

What are the guidelines for filing BIR Form 1709?

To be filed manually

No need to resubmit AITR if already filed (photocopy is sufficient)

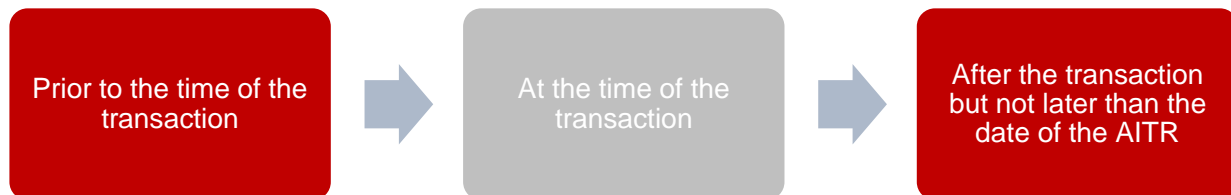
Due date for manual filing: September 30, 2020
Due date for eFPS: w/in 15 days from statutory due date or actual date of electronic filing of AITR, w/c ever comes later

Additional sheets may be used depending on the number of RPTs

Transfer pricing documentation is a required attachment

What transfer pricing documentation must be attached?

The BIR requires the submission of TPD prepared during any of the following periods:



A subsidiary may use the TPD of a parent company (for transactions covered by the TPD) if the subsidiary **relied** upon such TPD. The **Master File** may be submitted but the **Local File** is preferred

Must the transfer pricing documentation be updated yearly?



If there are significant changes in the business model and nature of the RPTs

If there are **NO** significant changes



May the prior year's transfer pricing documentation be used?

Transfer pricing documentation for the immediately preceding year may apply to subsequent RPTs if:

Same type of transaction with same related parties



Same conditions:

- Relationship
- Conditions made/imposed
- TP methods used
- Arm's length conditions

What are the required attachments to BIR Form 1709?

In general, all contracts are required to be attached, regardless of volume, and shall serve as primary proof. Principal and supplementary receipts are only supporting evidence.

For dividend payments:

- Notarized BOD resolution approving the issuance of dividends (with amount of dividends and date of declaration and payment)

- Certification under oath by the corporate secretary/custodian banks/depository account holders/brokers dealers stating in detail the following:
 - Legal and beneficial owners and their corresponding subscription
 - Date of acquisition
 - Percentage of ownership and allocation of dividend
- GIS of the year immediately preceding the year of declaration
- Proof of payment of dividend and proof of payment of withholding tax

For cost-sharing arrangements:

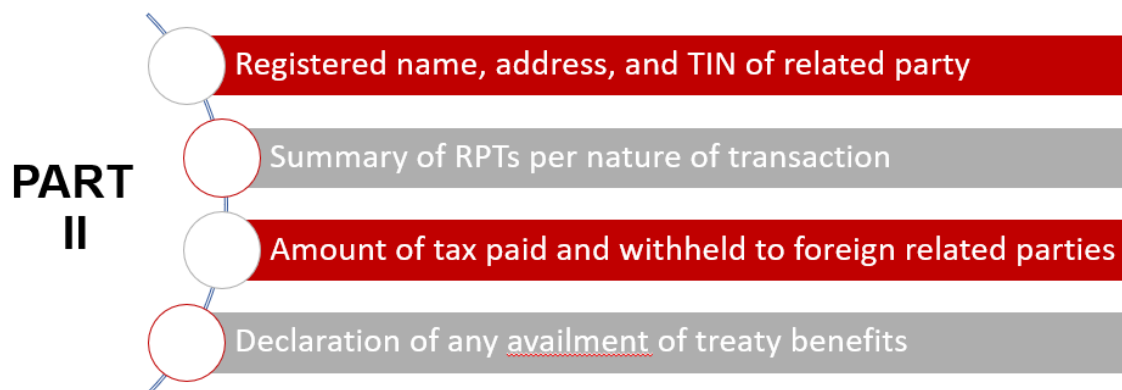
- Formal written agreement/contract
- Other substantive proof (i.e. receipts, proof of payment, etc.)

In lieu of hard copies, the following may be observed:

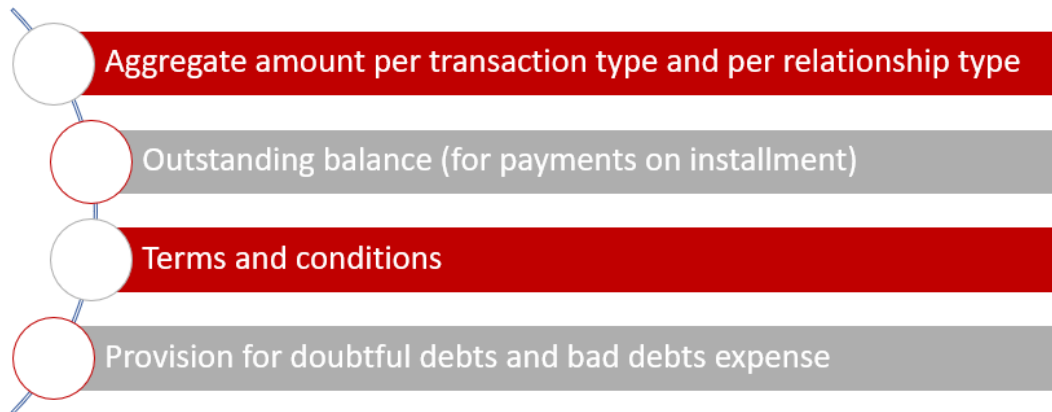
- Submission of a DVD-R (as Annex A) containing the scanned copies of the original copies
- Scanned copies in PDF format and renamed as followed:
 - Registered name_type of document_taxable year
 - In case of multiple contracts: registered name of related party_name of contract
- Sworn certification duly signed by the authorized representative (who has custody of the originals or was involved in its execution) that the scanned copies are complete and the exact copies shall be made available during audit

Are the disclosures under PAS 24 sufficient for purposes of complying with the disclosures under BIR Form 1709?

RR No. 19-2020 requires more details than PAS 24 (Related Party Disclosures), specifically in Parts II and III of BIR Form 1709.



PART III



Must payment of foreign taxes be included in BIR Form 1709?

- Any taxes paid to a foreign country by a Philippine taxpayer must be declared in, and the proof of payment thereof must be attached to BIR Form 1709.
- If the foreign tax has not yet been paid upon filing of BIR Form 1709, the taxpayer still has to declare the income and indicate that it did not pay the corresponding withholding taxes. Proof of subsequent payment must be presented upon audit.
- Proof of payment of foreign taxes issued by the relevant foreign tax authority must be duly authenticated or apostillized.
- The TTRAs indicated in BIR Form 1709 must be those filed with the ITAD.

Does RR No. 19-2020 violate the Bank Secrecy Law?

- RR No. 19-2020 only requires the banks to fully disclose their RPTs and to prove that the same were conducted at arm's length.
- The BSL cannot be used to justify the non-submission of the required documents since the BIR is not examining, inquiring, or looking into deposits of whatever nature with banks or banking institutions.

What are the penalties for non-compliance with the requirements under RR No. 19-2020?

Violation	Penalty
Failure to file BIR Form 1709 and its attachment due to reasonable cause and not to wilfull neglect (<i>First offense</i>)	Penalty of not less than P1,000 but not more than P25,000
Failure to file BIR Form 1709 and its attachment due to reasonable cause and not to wilfull neglect (<i>Repetition</i>)	Maximum penalty of P25,000
Failure to produce the attachments despite being served summons	Imprisonment of not less than 1 year but nor more than 2 years AND fine of not less than P5,000 but not more than P10,000

Source:
Revenue Memorandum Circular No. 76-2020