

Advisory on Corporate Income Taxation

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**BUREAU OF INTERNAL REVENUE
REVENUE MEMORANDUM CIRCULAR
NO. 62-2021**

**Clarifies Certain Provisions of Revenue Regulations No. 5-2021
Relative to Corporate Income Taxation**

Q: For purposes of computing the total assets (not more than P100 Million) to qualify for the reduced corporate income tax rate of 20%, are the total assets net of depreciation and allowance for bad debts, if any?

Yes, total assets shall be **net of depreciation and allowance for bad debts**, if any. Further, the land where the business entity's office, plant and equipment are situated is excluded in computing for the total assets.

Q: In relation to Q1, what amount of land shall be excluded in the computation of total assets?

Value of Land Reflected in the Financial Statements	Basis of Exclusion in the Financial Statements
Cost of Acquisition	Based on Cost
Fair Market Value	Based on Fair Market Value

Q: Is the cost/value of all the land used in business excluded in determining the total assets of the corporation for purposes of qualification to the reduced corporate income tax rate of 20%?

No, the value of the land which shall be excluded is **limited to that particular land where the business entity's office, plant and equipment are situated** during the taxable year for which the 20% income tax is imposed.

Thus, if the land is being **held primarily for sale to customers or land held for investment purposes**, the value of these types of land **should not be excluded** in the determination of the business entity's total assets

Q: How to determine the amount of land to be excluded if only a portion is devoted to the entity's office and the rest are on lease?

The percentage of the floor area devoted to the entity's office shall be multiplied with the total value of the land.

Q: Are private educational institutions distributing dividends to shareholders taxable at the regular corporate income tax rates of 25% or 20%?

Yes, the preferential rate of 10% or 1% starting from July 1, 2020 to June 30, 2023 shall be imposed to Proprietary Educational Institution, which is defined as "any private schools which are **non-profit**, maintained and administered by private individuals or groups, with an issued permit to operate from Department of Education (DepEd) or Commission on Higher Education (CHED) or Technical Education and Skills Development Authority (TESDA), as the case may be, under existing regulations.

Q: Did the CREATE law prescribe a new tax treatment for proprietary educational institution and private hospital?

No, The CREATE Act merely reduced the tax rate, from 10% to 1%, effective July 1, 2020 to June 30, 2023 for such institutions which are **non-profit**.

Q: Section 5 of RR No. 5-2021 states that "if the Certification shall state non-utilization of the dividends received, the corresponding tax due on the unutilized dividends shall be declared as taxable income, subject to interest, surcharges and penalties, if any". What should be declared as "taxable income"?

The taxable income shall be the **unutilized dividends**. The provision on RR No. 5-2021 regarding unutilized dividends should be read as "if the Certification shall state non-utilization of the dividends received, the unutilized dividends shall be declared as taxable income, and **the corresponding tax due shall be subject to interest, surcharges and penalties**".

Q: What shall be the tax treatment for dividends received by a domestic corporation from a resident foreign corporation (RFC)?

The tax treatment of dividends received by a domestic corporation from RFC will **depend on the sources of income of the RFC**.

Under Section 42(A)(2)(b) of the Tax Code, as amended, "dividend received from a foreign corporation shall be treated as income derived from sources within the Philippines, unless less than fifty percent (50%) of the gross income of the foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of the period as the corporation has been in existence) was derived from sources within the Philippines xxx".

Q: Is the additional allowable deduction equivalent to one-half of the actual training expenses applicable only to entities engaged in manufacturing and that such actual training expenses exclude those which pertain to employees under supervisory, managerial, administrative and support functions??

The law provides **no distinction** as to which type of industry can claim the additional allowable deduction of one-half of the value of labor training expenses. There are, however, **requirements that must be complied** with before this deduction can be claimed. These are:

- The labor training expenses shall **not be more than 10%** of the Direct Labor Wage;
- The labor training expenses are **incurred for skills development** of enterprise-based trainees;
- The enterprise-based trainees are **enrolled in public senior high school, public higher education institutions, or public technical and vocational institutions** for the taxable year in which the labor training expenses are claimed;
- The training is covered by an **apprenticeship agreement** under Presidential Decree (PD) No. 442 or the Labor Code of the Philippines; and
- The Company claiming the additional deduction is granted an authority to offer training program for skills development as **certified by the DepED, TESDA or CHED**, as applicable.

Moreover, since the training is covered by an apprenticeship agreement, it follows that training expenses which pertain to training/s of employees under supervisory, managerial, administrative and support functions should not be included in the computation of the additional allowable deduction of one-half of the value of labor training expenses. The resulting amount then shall be subject to a cap of not more than 10% of the Direct Labor Wage. The "direct labor" is that portion of salaries and wages which can be identified with and charged directly to a product or to a project or service on a consistent basis. Thus, it **does not only apply to a manufacturing industry**.

Source:
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