

Tax Bulletin

June 2023

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Table of contents

I. BIR Administrative Requirements	Page number
Revenue Regulation (RR) No. 6-2023 amends certain provisions of RR No. 13-2010 regarding late/out-of-district filing of tax returns.	6
Revenue Memorandum Order (RMO) No. 16-2023 provides the supplemental guidelines and procedures on the implementation of RMO No. 40-2022 to ensure effective conduct of apprehension/seizure and detention of unlicensed/unregistered articles.	6
RMO No. 18-2023 amends the policies and procedures in the issuance of the Authority to Cancel Assessment (ATCA) as provided in RMO No. 33-2018.	9
RMO No. 23-2023 provides the updated guidelines and prescribes the mandatory documentary requirements and procedures in the processing and grant of Value-Added Tax (VAT) credit/refund claims under Sections 112, 204 (C) and 229 of the National Internal Revenue Code of 1997, as amended (Tax Code, as amended), in line with the latest developments on VAT introduced by Republic Act (RA) No. 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) and RA No. 11354, also known as Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act.	10
Revenue Memorandum Circular (RMC) No. 57-2023 publishes the Updated List of Registered Manufacturers/Importers/ Exporters with the Corresponding Product Brands/Variants of Cigarettes, Heated Tobacco Products, Vapor Products and Novel Tobacco Products as of 15 May 2023 and integrates the requirements for compliance purposes.	13
RMC No. 58-2023 clarifies the policies and guidelines on the issuance and validity of TIN cards and Certificates of Registration.	13
RMC No. 59-2023 prescribes the availability of Revised BIR Form No. 2550Q [Quarterly Value-added Tax (VAT) Return] January 2023 (ENCS).	14
RMC No. 60-2023 circularizes the availability of certain Enhanced BIR Registration Forms (July 2021 Version).	15
RMC No. 61-2023 clarifies the procedures in the processing of taxpayer's request for stamping of Income Tax Returns/Annual Income Tax Returns (ITRs/AITRs) electronically filed through eBIRForms.	15
RMC No. 62-2023 announces the availability of BIR Forms in the Electronic Filing and Payment System (eFPS).	16
RMC No. 63-2023 revokes and invalidates BIR Ruling Nos. 038-2001 and 046-1995, which ruled that the Clark Development Corporation (CDC) is considered as a business enterprise because it was formed in accordance with the Philippine Corporation Law and existing rules and regulations promulgated by the Securities and Exchange Commission (SEC) and is performing activities that are proprietary in nature.	16
RMC No. 65-2023 amends Item VIII of RMC No. 19-2022 on the venue for the issuance of a Certificate Authorizing Registration (CAR) relative to tax-free exchanges of properties under Section 40(C)(2) of the National Internal Revenue Code of 1997, as amended.	17

RMC No. 68-2023 further clarifies imported goods that will no longer require the issuance of an “Authority to Release Imported Goods” (ATRIG) by the BIR prior to the release by the Bureau of Customs (BOC).	17
RMC No. 69-2023 informs the public of the reversion of rates of percentage tax, minimum corporate income tax, regular corporate income tax on proprietary educational institutions and not for profit hospitals, pursuant to the CREATE Act.	18
RMC No. 71-2023 streamlines the guidelines and mandatory requirements for claims of VAT credit/refund except those under the authority and jurisdiction of the Legal Group.	19
II. Banks and Other Financial Institutions	
Amendments to the Implementing Rules and Regulations, and Prudential Reports Relative to the Mandatory Agriculture, Fisheries and Rural Development (AFRD) Financing under Republic Act (RA) No. 11901 or “The Agriculture, Fisheries and Rural Development Financing Enhancement Act of 2022”	
Circular No. 1174 approves the amendments to the rules and regulations, and prudential reports relative to the mandatory agriculture, fisheries and rural development financing under RA No. 11901, otherwise known as “The Agriculture, Fisheries and Rural Development Financing Enhancement Act of 2022.”	20
Anti-Money Laundering Council (AMLC) Guidance on Sanctions Screening	
Circular Letter No. CL-2023-030 disseminates the AMLC Guidance on Sanctions Screening-2022-2023 Thematic Review of the Effectiveness of Customer and Transaction Screening Systems of Covered Persons in Targeted Financial Sanctions (TFS) Implementation.	23
Revocation of License to Operate as a Non-Stock Savings and Loan Association of the Batanes Government Employees Savings and Loan Association, Inc.	
Circular Letter No. CL-2023-031 approves the revocation of license of BATANES GOVERNMENT EMPLOYEES SAVINGS AND LOAN ASSOCIATION, INC. to operate as a non-stock savings and loan association, pursuant to Section 22 of Republic Act No. 8367, otherwise known as the “Revised Non-Stock Savings and Loan Association Act of 1997” and the rules and regulations promulgated thereunder.	24
Prohibition of the Rural Bank of San Juan (Southern Leyte), Inc. From Doing Business in the Philippines	
Circular Letter No. CL-2023-032 gives notice that the Monetary Board decided to prohibit the Rural Bank of San Juan (Southern Leyte), Inc. from doing business in the Philippines pursuant to Section 30 of Republic Act No. 7653 (The New Central Bank Act), as amended.	24
Prohibition of the Bangko Pangasinan - A Rural Bank, Inc. From Doing Business in the Philippines	
Circular Letter No. CL-2023-033 gives notice that the Monetary Board decided in its Resolution No. 694.A dated 1 June 2023, decided to prohibit the Bangko Pangasinan - A Rural Bank, Inc., from doing business in the Philippines pursuant to Section 30 of RA No. 7653 (The New Central Bank Act), as amended.	24

Cancelled and Replaced Bangko Sentral Registration Documents (BSRDs)	
Memorandum No. M-2023-018 provides for the link covering the list of original BSRDs and provisional BSRDs pertaining to registration of investments of non-residents in resident investee-firms, which were cancelled and replaced from April 2020 to December 2022 due to changes/transfers, etc. in these investments pursuant to the provisions of the Manual of Regulations on Foreign Exchange Transactions (FX Manual), as amended, has been updated as of the first quarter of 2023.	24
Customer Due Diligence (CDD) on Designated Non-Financial Business and Profession (DNFBP) Customers	
Memorandum No. M-2023-019 expects all BSFI to strictly perform CDD on their DNFBP customers, in accordance with Sections 921 and 921-Q of the Manual of Regulations for Banks (MORB) and Manual of Regulations for Non-Bank Financial Institutions (MORNBFI), respectively.	25
Monthly Monitoring Report on Sponsored Participation in the Peso Real Time Gross Settlement (RTGS) Payment System	
Memorandum No. M-2023-020 requires the submission of the report stated above in order to identify, monitor, and manage any material risks to the Peso RTGS Payment System arising from sponsored participation arrangements. This requirement is pursuant to Sections 605 (Participants) and 614 (Reporting Requirements) of Memorandum No. M-2022-049 on the Peso RTGS Rules.	25
III. SEC Filing, Payments and Other Deadlines	
Re-Uploading of Compliance to the MC28 Submission Portal	
SEC Notice dated 5 June 2023 requires all corporations that submitted the required forms/notices through electronic mail are directed to re-upload their submission to the MC 28 Submission Portal to facilitate the verification of compliance with SEC Memorandum Circular No. 28, Series of 2020 (MC 28).	26
Submission of List of Third-Party Service Providers in Compliance with the Financial Products and Service Products and Services Consumer Protection Act of 2022 (RA No. 11765) and its Implementing Rules and Regulations (SEC FCPA IRR)	
SEC Notice dated 8 June 2023 requires all Financial Service Providers (FSPs) to disclose and submit to the Commission a list of their authorized third-party service providers (TPSPs) engaged to perform debt collection, marketing, and/or customer transactions.	26
Transition from the Capital Market Participants Registry System (CMPRS) to the Electronic Registry of Application for Market Participant (eRAMP)	
SEC Notice dated 8 June 2023 informs the public that starting 22 June 2023, the SEC Capital Market Participants Registry System (CMPRS) shall no longer accept and process applications/transactions from capital market participants, both institutions and professionals.	27
IV. PEZA	
DTI-STMO M.C. No. 23-06 requires any entity who engaged or intends to engage in export of certain servomotors to apply for an individual authorization as they are subject to End-Use Catch-all Controls (CAC) under Section 11(a) of the STMA.	27

PEZA Memorandum dated 20 June 2023 advises that in line with the implementation of Memorandum Circular 2021-050 and 2021-059, effective 1 August 2023, no payments will be received by Cashiers and Special Collecting Officers.	28
V. Bureau of Customs	
Additional Commodities Subject to IAS Clearances	
Office of the Commissioner (OCOM) Memorandum No. 45-2023 requires that importations of certain commodities be forwarded to the Imports and Assessment Service (IAS) prior to their release from customs custody.	28
Requirement on Submission of Cargo (Reefer) Manifest	
OCOM Memorandum No. 43-2023 requires all Internal Shipping Lines and all members of the Association of Internal Shipping Lines, Inc. (AISL) to submit a softcopy (in Excel format) of the Cargo (Reefer) Manifest to the Office of the Deputy Collector for Operations and to copy furnish the Bay Service or the equivalent office of the concerned port.	28
Authority to Inspect Containers with FDA-Labeled Imported Goods	
OCOM Memorandum No. 41-2023 refers to the authority to inspect shipments classified as food stuff under RA No. 10611 also known as the Food Safety Act of 2013. It directs to strictly observe Section 12(b) of the Food Safety Act whereby all imported foods shall undergo cargo inspection and clearance by the Department of Agriculture.	29
Guidelines on the Issuance of Proof of Origin, Granting of Preferential Tariff Treatment, and Verification Procedures Under the Regional Comprehensive Economic Partnership (RCEP) Agreement	
Customs Memorandum Order (CMO) No. 12-2023 implements Chapter 2 (Trade in Goods) and Chapter 3 (Rules of Origin) of the Regional Comprehensive Economic Partnership (RCEP) Agreement.	29
VI. Court of Tax Appeals	
Assessment	
Documentary stamp tax (DST) is, by nature, an excise tax since it is levied on the exercise by persons of privileges conferred by law. It is an excise tax because it is imposed on the transaction rather than the document. DST may be imposed even in the absence of a debt instrument so long as the transaction is distinctly established. There is nothing in Sections 173 and 179 of the Tax Code, as amended, requiring that the loan proceeds be located or used in the Philippines. As long as the same arose from transactions involving rights or obligations arising from Philippines sources, then the loan transaction is subject to DST.	32
Refund/ Issuance of Tax Credit	
The rule is that for administrative claims filed during the effectivity of the TRAIN Law, the taxpayer is still required to submit all supporting documents together with the administrative claim. Otherwise stated, the reckoning of the 90-day period still coincides with the date of filing of the administrative claim.	33

RR No. 6-2023 amends certain provisions of RR No. 13-2010 regarding late/out-of-district filing of tax returns.

BIR Administrative Requirements

RR No. 6-2023 dated 11 April 2023

On "Section 3. Non-acceptance of out-of-district returns", the RR amended subsections b.1 and b.3 in relation to the policies and guidelines that shall be observed with respect to Out-of-District Returns:

"b. The following shall be considered as exceptions to the general rule on the non-acceptance of Out-of-District Returns:

b.1. In cases where an AAB, in the regular course of its operations, inadvertently or erroneously accepted an Out-of-District Return and the corresponding tax payment, the RDO/LTDO/LT Division receiving such return and payment shall, in no case, process or encode data from the Out-of-District Return. Rather, the RDO/LTDO/LT Division concerned shall segregate all such Out-of-District Returns and, within five calendar days from receipt thereof from the AAB, transmit such returns to the proper RDO/LTDO/LT Division where the returns are required to be filed (and the tax payments made) under the NIRC and existing rules and regulations. The proper RDO/LTDO/LT Division shall impose a penalty equivalent to 25% of the tax due for wrong venue filing of return, unless otherwise authorized by the Commissioner of the Internal Revenue pursuant to Section 248 (A)(2) of the 1997 NIRC, as amended.

b.3. In case there is a pronouncement through a revenue issuance/bank bulletin that a taxpayer can file a return and pay the corresponding tax due thereon anywhere, notwithstanding the RDO/LTDO/LT Division jurisdiction."

Regarding "Section 4. Acceptance of late returns", an AAB or RCO may already accept a late return provided that it has been stamped with the qualifier "LATE FILING" or "LATE FILING, INCREMENTS NOT PAID."

Upon retrieval of returns from the AABs, the RDOs, LTDOs and LT Divisions shall impose the applicable penalties on Late Returns that have been stamped with the qualifier "LATE FILING" or "LATE FILING, INCREMENTS NOT PAID" pursuant to Sections 248 and 249 of the same Tax Code, as amended.

"Section 6. Reporting Requirements" was also amended to indicate that the reports indicated under this Section shall be prepared and submitted every 30th day of the month to the Office of the concerned Regional Director/Assistant Commissioner, Large Taxpayer Service for information and appropriate action.

RMO No. 16-2023 provides the supplemental guidelines and procedures on the implementation of RMO No. 40-2022 to ensure effective conduct of apprehension/seizure and detention of unlicensed/unregistered articles.

RMO No. 16-2023 dated 13 February 2023

Among the salient provisions are as follows:

► Conduct of Surveillance Activity

The BIR personnel coming from the concerned team of the BIR STRIKE Group shall be authorized to conduct covert surveillance activities on identified business establishments for possible violations of the provision of the National Internal Revenue Code (NIRC) of 1997, as amended, based on a validly issued Mission Order (MO) signed by the Deputy Commissioner - Operations Group (DCIR-OG), Assistant Commissioner - Large Taxpayers Service (ACIR-LTS) or the concerned Regional Director (RD).

After the conclusion of the Covert Surveillance, a Memorandum Report shall be prepared recommending the necessary enforcement action if the result of surveillance activities warrants the same. In such case, the Memorandum Report must state that there are reasonable grounds that articles subject to Excise Tax are produced or kept, so far as may be necessary to examine, discover, or seize the same.

Within 48 hours from submission of the Memorandum Report finding that there are reasonable grounds recommending for the necessary enforcement action, the concerned BIR Strike Team shall prepare the necessary MO for the Enforcement Action.

Also, the most important factor in covert surveillance is the element of surprise. The subject must be caught unaware to prevent him from committing acts which may defeat the purpose of the surveillance. When the subject is caught *in flagrante delicto* of committing crimes punishable under the NIRC of 1997, as amended, the concerned team of the BIR STRIKE Group must immediately proceed to the enforcement action.

► **Conduct of Enforcement Action Based on Surveillance Activity**

All enforcement activities shall be covered by MOs to be signed by the DCIR-OG, ACIR LTS or the concerned RD.

The MO shall be served to the subject through personal service by personally delivering a copy of the MO at the specified place stated in the MO. RD or ACIR-LTS issuing the MO shall make sure that all personnel involved in the enforcement operations are included in the MO.

In case personal service is not possible, the MO shall be served by substituted service. However, substituted service can only be resorted to when the subject is not present at the specified place stated in the MO. The different ways by which substituted service shall be done are specified in Section 3.2.b.1 of this Order. The service shall be proven by an Affidavit of Service of the concerned BIR Strike Team who served the MO.

Together with the service of MO, the concerned BIR Strike Team shall present to the subject a Checklist of Documentary Requirements (as specified in the Order), if applicable, to be submitted/presented to the BIR by the latter within two days.

► **Inventory Stock-Taking/Physical Count**

The taking of inventory count shall be attended by the concerned BIR Strike Team; photographer and/or videographer; and subject or its authorized representative. The absence of the subject or its authorized representative shall not invalidate the inventory count. The concerned BIR Strike Teams shall adequately secure the location/storage room where the evidence is kept during the count to examine and verify the authenticity of the articles found in the place of the subject. The steps to be followed to secure the articles are specified in this Order. Whenever necessary, secure assistance from other government agencies, such as but not limited to the National Bureau of Investigation (NBI), Bureau of Customs (BOC), Philippine National Police (PNP), and concerned Local Government Unit (LGU).

► **Issuance of Apprehension Slip**

After the inventory stock-taking/physical count and determining that the items found in the subject's premises are illicit (e.g., no stamps, fake stamps, etc.), the same shall be immediately seized and confiscated, subject to the issuance of the Apprehension Slip (BIR Form No. 0423).

An Apprehension Slip shall be issued for all seized/confiscated articles, raw materials, packages, cigarette paper, tipping paper, cigarette filter tips, ingredients, machinery, equipment, apparatus, mechanical contrivances, and removable fixture of any sort used for their production and the use or possession of false, counterfeit, restored or altered BIR internal revenue stamps, labels or tags found to be in violation of any tax laws, rules and regulations. The subject must be provided a copy of the Apprehension Slip, with proof of receipt thereof.

► **Issuance of Collection Letter**

If the subject fails to comply and/or disagrees with the initial findings stated in the Demand to Comply, the BIR Strike Team shall issue a Collection Letter within five days, for the collection of deficiency Excise Taxes arising from the enforcement operation. No Preliminary Assessment Notice (PAN) shall be issued when the excise due on excisable articles has not been paid pursuant to Section 228 of the NIRC of 1997, as amended. If the Excise Tax discrepancies remained unsettled/unpaid, the corresponding Final Assessment Notice (FAN) and Formal Letter of Demand (FLD) shall be issued and served upon the subject.

► **Other Enforcement Actions**

The subject, or any officer or employee of such subject, or any person having possession, custody, or care of the books of accounts and other accounting records containing entries relating to the business of the subject liable for tax, or any other person, can be summoned to appear before the Commissioner of Internal Revenue (CIR) or his duly authorized representative at a time and place specified in the summons and to produce such books, papers, records, or other data, and to give testimony.

► **Guidelines in Handling Payment / Offer of Payment**

In any case the subject offers to pay the deficiency excise taxes and corresponding penalties, the offer of payment must originate from the subject. The imposition of the compromise penalties shall be in accordance with revised schedule of compromise penalties prescribed under existing revenue issuances and regulations. However, imposition of/acceptance of compromise penalties are amounts suggested for the settlement of criminal offense, thus, proper evaluation of the case must be made determine if the offer to pay the compromise penalty by 4 the subject should be accepted by the BIR Strike Team. The offer of compromise settlement shall be governed by Section 204 of NIRC of 1997, as amended, and as implemented by existing revenue issuances and regulations.

► **Filing of Criminal Complaint**

The result of the investigation and/or operation pursuant to this Order shall be forwarded to the Prosecution Division for Large Taxpayers Service or the Legal Division of the concerned Revenue Region, as the case may be, for evaluation and filing of appropriate legal action in accordance with existing laws, rules and regulations.

A criminal complaint for failure to obey summons shall be initiated and filed against the subject and other responsible officer/person in case of failure to obey the SDT within the prescribed period.

A Demand Before Suit shall be issued for criminal complaints involving collection of tax liabilities.

► **Disposition and Destruction of Evidence/Apprehended Items**

In the event that a case has already been filed in court, proper leave of court for destruction should be filed before said court.

A Certificate of Remaining Evidence shall be issued pertaining to the remaining evidence left to the Storage Facility, to be signed by the Apprehending Team, attending lawyer, authorized representative of the Storage Facility, and two disinterested witnesses.

A final memorandum report shall be issued by the Apprehending Team stating the sample taken and the recommendation for destruction of the remaining evidence in the Storage Facility, for approval of the DCIR, OG.

The remaining apprehended items, regardless of subsequent payment of unpaid Excise Taxes and incremental penalties, must be disposed of by destruction or by any other appropriate modes of disposition at the discretion of the CIR, subject to existing rules and regulations stated in this Order.

► **Documentation of Destruction Activity and Storage Retention Preservation of Reports, Photos, and Videos of all the activities**

The DCIR-OG, ACIR, LTS and concerned RDs should assign a focal person who will document the process of the seized/unlawful articles from the commencement until completion.

It is the duty of the Apprehending Team to preserve all reports, photos and videos of all activities relevant to the entire enforcement and operation until proper turn over to the proper authority/office.

RMO No. 18-2023 amends the policies and procedures in the issuance of the ATCA as provided in RMO No. 33-2018.

RMO No. 18-2023 dated 22 February 2023

- The ATCA is an internal form which is being accomplished by concerned offices to document the cancellation or reduction of the tax assessments. Currently, tax assessments which have been timely protested and resulted in the amendment of the tax computation, require the preparation of this document for approval of the authorized revenue official.
- In the review of the existing processes gearing towards the objective of simplifying and streamlining the same, one of the procedures identified as redundant is the issuance of an ATCA relative to protested tax assessments, which undoubtedly has not become final. The end result after evaluation of the protest is communicated to the concerned taxpayer through the issuance of the Final Decision on Disputed Assessment (FDDA), which is approved or recommended by the concerned Revenue Official, who is also authorized to approve an ATCA.

- ▶ Hence, this Order is issued to **remove item III.1 (a) from among the instances requiring the issuance of an ATCA as mentioned in RMO No. 33-2018**. This particular item pertains to the issuance of the ATCA for protested assessment, which is not yet final and delinquent. All other items listed thereof shall remain to be in effect as these all pertain to tax assessments which were reported and determined as “**delinquent accounts**” but later approved for compromise settlement, amnesty or abatement of penalties, or declared prescribed, including tax assessments determined to be invalid or worthless.

RMO No. 23-2023 provides the updated guidelines and prescribes the mandatory documentary requirements and procedures in the processing and granting of VAT credit/refund claims under Sections 112, 204 (C) and 229 of the National Internal Revenue Code of 1997, as amended (Tax Code, as amended), in line with the latest developments on VAT introduced by the TRAIN Law and the CREATE Act.

RMO No. 23-2023 dated 23 June 2023

Among the salient provisions and changes of the updated guidelines are as follows:

Section	Details
General Policies	<p>The processing offices authorized to receive “Application for Tax Credits/Refunds” (BIR Form No. 1914) are as follows:</p> <ol style="list-style-type: none"> The VAT Credit Audit Division (VCAD) in the National Office shall receive claims of direct exporters, regardless of the percentage of export sales to total sales, pursuant to Section 106(A)(2)(a)(I) and 106(A)(2)(a)(6) for sale of goods and Sections 1 08(B)(2), 1 08(B)(4), and 1 08(B)(6) for sale of services, and whose claims are anchored under Section 1 12(A) of the Tax Code, as amended, except for claims with a mix of VAT zero-rated sales emanating from sales of power or fuel from renewable energy sources pursuant to Section 1 08(B)(7) of the Tax Code, as amended, in which case, Item 2(b) hereof shall apply; Claims of taxpayer-claimants (I) engaged in other VAT zero-rated activities, other than direct exports mentioned in Section (I)(2) (a) of this Order, such as but not limited to renewable energy developers pursuant to Section 108(B)(7) of the Tax Code, as amended, and those with indirect exports classified as effectively VAT zero-rated sales, pursuant to Section 112(A) of the Tax Code, as amended; (2) whose VAT registration has been cancelled or change in the VAT registration status to non-VAT with accumulated unutilized input taxes pursuant to Section 112(B) of the Tax Code, as amended; and (3) those with claims for recovery of erroneously or illegally assessed or collected VAT pursuant to Sections 204(C) and 229 of the Tax Code, as amended, shall be filed at the following offices which have jurisdiction over the taxpayer-claimant: <ol style="list-style-type: none"> The VAT Audit Section (VATAS) in the Regional Assessment Division; or The respective Revenue District Office (RDO) if without VATAS; or The Large Taxpayers VAT Audit Unit (LTVAU) of the Large Taxpayers Service (LTS).

Section	Details
General Policies	<p>In all cases, the Revenue Officer (Assessment) designated as Revenue Officer of the Day shall receive claims filed at the aforesaid authorized offices and shall be responsible for checking the completeness of the documentary requirements submitted during filing of the application for VAT refund/credit.</p> <ul style="list-style-type: none"> ▶ Only applications with complete documentary requirements, as enumerated in the Checklist of Requirements (Annexes A. 1 , A.2 or A.3, whichever is applicable), shall be received and processed by the authorized processing office. ▶ In cases where the taxpayers filed VAT refund claim/s beyond the two-year prescriptive period required to file under Section 112 of the Tax Code, as amended, the processing office shall recommend outright denial of the claim/s. ▶ If upon filing or during the processing of the VAT refund claim, the taxpayer-claimant has outstanding tax liabilities (final and executory) as defined under Section II (1) of Revenue Memorandum Order No. 11-2014, as evidenced by Delinquency Verification Certificate (DVC) (Annex "B") prescribed in Revenue Memorandum Circular No. 64-2019 or Annex A of RMO No. 29-2014, the processing/reviewing Office, shall notify the Collection Section of the RDO and Collection Division of the Revenue Region having jurisdiction over the taxpayer-claimant, of the approved VAT refund which may be used or garnished by the BIR to collect either fully or partially for the outstanding delinquent tax liability of the taxpayer-claimant, subject to existing tax laws and revenue issuances on the enforcement and settlement of delinquent accounts. ▶ Pursuant to Section 112(C) of the Tax Code, as amended, the time frame to grant claims for VAT refund is 90 days from the date of submission of the official receipts or invoices and other documents in support of the application. <ul style="list-style-type: none"> a. In proper cases, a credit/refund for creditable input taxes shall be granted within 90 days from the date of complete submission of the application, official receipts or invoices and other documents in support of the application filed in accordance with Sections 112(A) and (B) of the same Tax Code, provided that should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial. b. In case of full or partial denial of the claim for tax credit/ refund, the taxpayer affected may, within 30 days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: Provided, however, that failure on the part of any official, agent, or employee of the BIR to act on the application within the 90 day-period shall be punishable under Section 269 of the Tax Code, as amended.

Section	Details
General Policies	<ul style="list-style-type: none"> ▶ Verification of the claim shall focus on the validity and existence of the zero-rated sales and related purchases in accordance with the documents submitted by the taxpayer-claimant. However, the books of accounts and accounting records shall be verified by the assigned RO to establish that such sales and purchases are indeed reported in the books of accounts of the taxpayer-claimant. Failure to submit and/or present the requested documents within the prescribed time/period therein stated may result in the full or partial denial of the claim. ▶ The processing offices shall utilize the sales and purchases data available in the Electronic Invoicing/Receipting and Sales Transmission System (EIS) through the EIS for ROs Portal in line with Section 237 and 237-A of the Tax Code, as amended, and as implemented by Revenue Regulations Nos. 8-2022 and 9-2022. ▶ Any findings that may result in a deficiency on internal revenue taxes, other than VAT, or may indicate a possible VAT assessment that needs further documentation and clarification shall be referred to the RDO or Large Taxpayers Audit Division having jurisdiction over the taxpayer-claimant for further investigation. ▶ A copy of the RO/s' memorandum report and documents pertaining to the findings shall be furnished to the concerned investigating office, which shall evaluate the report/findings referred to them and shall request for the issuance of an eLA, if the case warrants. However, if there is already an existing eLA covering the same period, the concerned investigating office shall also evaluate the findings and report of the processing office, and if they are accepted as valid, the concerned investigating office shall consolidate the findings referred to them with their findings and recommend the issuance of a Notice of Discrepancy/ Preliminary Assessment Notice (PAN)/Final Assessment Notice (FAN) for the collection of the deficiency tax. Within 15 days from receipt of the referral, feedback on the action taken shall be properly communicated to the Assessment Service and the referring processing office. ▶ Inasmuch as the original copies of supporting sales invoices or receipts for sales and purchases have been submitted as part of the mandatory requirements in the processing of VAT refund claims under Section 112 of the Tax Code, as amended, the entire tax docket of the claim shall be forwarded to the Commission on Audit (COA) if the claim is approved for refund with notice to claimant of such transmittal. Should there be a need to obtain a copy of the same, the requesting party shall submit a written request for a certified copy with COA at no cost, stating therein the reason for the request and the specific document/s that need/s to be certified. ▶ For claims that have been denied in full, the processing office shall return the original copies of supporting sales invoices or receipts for sales and purchases to the taxpayer claimants after stamping "VAT Credit/Refund Processed" to the supporting sales invoices or receipts for purchases.

RMC No. 57-2023 publishes the Updated List of Registered Manufacturers/Importers/ Exporters with the Corresponding Product Brands/Variants of Cigarettes, Heated Tobacco Products, Vapor Products and Novel Tobacco Products as of 15 May 2023 and integrates the requirements for compliance purposes.

RMC No. 57-2023 dated 16 May 2023

- ▶ Attached as Annexes A to H in this Circular are the said lists reflecting the following product categories:
 1. Manufacturers of Locally Produced Cigarettes (Domestic)
 2. Manufacturers of Locally Produced Cigarettes (Export)
 3. PEZA-Registered Manufacturers of Cigarettes
 4. Importers of Cigarettes
 5. Manufacturers of Vapor Products
 6. Importers of Vapor Products
 7. Importers of Heated Tobacco Products
 8. Importers of Novel Tobacco Products
- ▶ Those newly registered manufacturers/importers of cigarettes, heated tobacco products, vapor products, and novel tobacco products after 15 May 2023 shall be included in the updated list of such entities in the BIR website.
- ▶ As required under RR No. 7- 2021 and RR No. 14-2022, manufacturers/ importers/ exporters of cigarettes, heated tobacco products, vapor products and novel tobacco products must comply with the requisite registration of brands and variants thereof within six months from the date of release of this Circular to avoid penalties for non-compliance.
- ▶ Moreover, the products must comply with the requirement on Graphic Health Warning and the affixing of BIR Tax Stamps, except for vapor products and novel tobacco products for which Internal Revenue Stamps Integrated System (IRSIS) stamps are not yet available in the system.

RMC No. 58-2023 clarifies the policies and guidelines on the issuance and validity of TIN cards and Certificates of Registration.

RMC No. 58-2023 dated 19 May 2023

- ▶ TIN Card
 1. The old TIN cards (yellow-orange color) are no longer being used by BIR. It was replaced with a new design TIN card (**BIR Form No. 1931**) (**color green**), which is an accountable form of the BIR.
 2. In spite of the issuance of the new TIN card, previously issued old TIN cards (yellow-orange color) **are still valid TIN ID** which do not expire. Thus, it need not be replaced by the taxpayer since the TIN (the number itself) is still the same.
 3. The new TIN card shall be issued to individual taxpayers in the following instances:
 - ▶ Being issued a TIN for the first time; or
 - ▶ Updating of name of married female; or
 - ▶ Changing of registered address; or
 - ▶ Replacement for lost/damaged TIN Card.
 4. The request for TIN card issuance shall be submitted to the RDO where the taxpayer is registered. The generation of TIN card can be made only in the RDO where the taxpayer is registered.
 5. Application for TIN card requires the **personal appearance of the concerned taxpayer**. No authorized representative shall be allowed to secure TIN card on behalf of the taxpayer.

In emergency or valid cases, a Special Power of Attorney (SPA) (including a government-issued ID of the representative and taxpayer), stating the reason for non-appearance and relationship with the authorized representative (e.g., *related within the first degree of consanguinity and affinity, with proof presented*) shall be presented to the Revenue District Officer or Assistant Revenue District Officer, for approval.

6. The following shall be required in the application for TIN card:

- ▶ Duly accomplished BIR Form No. 1905
- ▶ 1 copy of 1x1 ID picture to be pasted on the TIN card in the presence of the BIR personnel
- ▶ Any government-issued ID

Re-issuance in case of damaged or lost TIN card:

- ▶ Affidavit of Loss, in case of replacement
- ▶ P100.00 replacement fee

7. There shall be **no cut-off time** in receiving applications for issuance of TIN Card.

▶ Certificate of Registration (COR)

1. Certificate of Registration printed in old template/yellow-orange color **is still valid and does not expire**, as long as the information printed therein are still up to date. Replacement of COR shall only be made if there are updates or changes in the information printed on the face of the COR.
2. The electronic COR generated by the Philippine Business Hub (PBH) and Online Registration and Update System (ORUS) printed by taxpayers is **valid and does not require a signature**. The electronic COR bears a QR Code that can be validated online when scanned.
3. The COR or electronic COR issued by the ORUS or PBH is required to be posted conspicuously in the place of business.

RMC No. 59-2023 prescribes the availability of Revised BIR Form No. 2550Q [Quarterly VAT Return] January 2023 (ENCS).

RMC No. 59-2023 dated 19 May 2023

- ▶ The VAT return was revised in line with the provisions of RA No. 10963, otherwise known as the TRAIN Law, which amended certain provisions of the Tax Code:

Tax Code of 1997	Particulars	RA No. 10963 provisions
Section 114(A)	Filing of Return and Payment of VAT	Section 37: Beginning 1 January 2023, the filing and payment required under this Subsection shall be done within 25 days following the close of each taxable quarter.
Section 110(A)(2)b	Creditable Input Tax	Section 35: The amortization of the input VAT shall only be allowed until 31 December 2021. After which, taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized.
Section 114(C)	Withholding of VAT	Section 37: Beginning 1 January 2021, the VAT withholding system shall shift from final to a creditable system.

- ▶ The revised BIR Form No. 2550Q is already available in the BIR website (www.bir.gov.ph) under the BIR Forms-VAT/Percentage Tax Returns Section. However, the Form is not yet available in the Electronic Filing and Payment System (eFPS) and Electronic Bureau of Internal Revenue Forms (eBIRForms). Thus, eFPS/ eBIRForms filers shall continue to use BIR Form No. 2550Q in the eFPS and in Offline eBIRForms Package v7.9.4 in filing and paying the VAT payable/due. Once the return becomes available in the eFPS and in the Offline eBIRForms Package, a separate issuance shall be released to announce its availability.
- ▶ Manual filers shall download and print the PDF version of the revised BIR Form 2550Q and must fill out all the applicable fields; otherwise, penalties under Sec. 250 of the Tax Code, as amended, shall be imposed.

RMC No. 60-2023 circularizes the availability of certain Enhanced BIR Registration Forms (July 2021 Version).

RMC No. 60-2023 dated 19 May 2023

- ▶ The following revised BIR registration forms are already available:

Form No.	Description
1901	Application for Registration for Self-Employed (Single Proprietor/Professional), Mixed Income Individual, Non-Resident Alien Engaged in Trade/Business, Estate and Trust
1902	Application for Registration for Individuals Earning Purely Compensation Income (<i>Local and Alien Employee</i>)
1903	Application for Registration for Corporations, Partnerships (Taxable/Non-Taxable), Including Government Agencies and Instrumentalities (GAIs), Local Government Units (LGUs), Cooperatives and Associations
1904	Application for Registration for Taxpayer and Person Registering under E.O. 98 (<i>Securing a TIN to be able to transact with any government office</i>) and Others.
1905	Application for Registration Information Update/Correction Cancellation

RMC No. 61-2023 clarifies the procedures in the processing of taxpayer's request for stamping of ITRs/AITRs electronically filed through eBIRForms.

RMC No. 61-2023 dated 15 May 2023

- ▶ Pursuant to RMC 32-2023, "No Payment AITRs" shall be filed electronically through the eBIRForms. Thus, taxpayers no longer need to file "No Payment AITRs" manually.
- ▶ RDOs may still manually stamp printed electronically filed AITRs for requesting taxpayers who can provide a letter request, with attached supporting documents, stating the need for their respective returns to be manually stamped "Received" by the BIR, as a requirement or proof of filing and payment of their taxes here in the Philippines (e.g., expatriates of multinational companies), or for whatever legal purpose it may serve.
- ▶ The RDOs shall also check and verify the supporting documents presented by the said taxpayers and have the abovementioned e-Filed ITRs/AITRs stamped "Received" by the BIR after the said supporting documents are validated.

RMC No. 62-2023 announces the availability of the following BIR Forms in the Electronic Filing and Payment System (eFPS):

RMC No. 62-2023 dated 24 May 2023

BIR Form No.	Description	Deadline of Filing/Payment
1604-C	Annual Information Return of Income Taxes Withheld on Compensation	On or before 31 January of the year following the calendar year in which the compensation payment and other income payments were aid or accrued.
1604-E	Annual Information Return of Creditable Income Taxes Withheld (Expanded)/Income Payments Exempt from Withholding Tax	On or before 1 March of the year following the calendar year in which the income payments subject to expanded withholding taxes or exempt from withholding tax were paid or accrued, whichever comes first.
1604-F	Annual Information Return of Income Payments Subjected to Final Withholding Taxes	On or before 31 January of the year following the calendar year in which the income payments subject to final withholding taxes were paid or accrued.
0620	Monthly Remittance Form of Tax Withheld on the Amount Withdrawn from the Decedent's Deposit Account	On or before the 10th day following the month when the withholding was made.

RMC No. 63-2023 revokes and invalidates BIR Ruling Nos. 038-2001 and 046-1995, which ruled that CDC is considered as a business enterprise because it was formed in accordance with the Philippine Corporation Law and existing rules and regulations promulgated by the SEC and is performing activities that are proprietary in nature.

RMC No. 63-2023 dated 30 May 2023

- It has been observed that, while it is true that CDC is a private corporation and performing activities that are proprietary in nature, the fact remains that is a Government Owned and Controlled Corporation (GOCC) entrusted with the responsibility of carrying out regulatory functions. As such, it does not stand on equal footing with business enterprises operating within Clark Special Economic Zone (CSEZ), thereby precluding it from claiming the same privileges available to them.
- Despite being structured as a stock corporation, it is evident that CDC is a GOCC that operates and performs as a regulatory agency. Thus, unless there is a law that expressly states otherwise, CDC must be treated on par with other GOCCs regardless of its formation or the nature of its operations. Consequently, its income shall be subject to Income Tax provided in Section 27(C) of the Tax Code.
- Assuming arguendo that CDC is correctly treated as a business enterprise, the BIR's position remains unchanged. It must be noted that upon passage of the CREATE Law, Section 12(c) of Republic Act No. 7227, as amended, was repealed and the availment of fiscal incentives becomes limited only to business enterprises registered with Investment Promotion Agencies (IPAs).
- Under the CREATE Law, IPAs, and Registered Business Enterprises (RBEs) are two separate and distinct entities with different purposes and functionalities. RBE refers to any individual, partnership, corporation, Philippine branch of a foreign corporation, or other entity organized and existing under the Philippine laws and registered with an IPA whether inside or outside the zones, which are granted fiscal and/or non-fiscal incentives to the extent of their approved registered project or activity under the Strategic Investment Priority Plan (SIPP). On the other hand, IPAs refer to government entities created by law, executive order, decree, or other issuance, in charge of promoting investments, granting, and administering

fiscal and/or non-fiscal incentives, and overseeing the operations of the different economic zones and freeports in accordance their respective special laws. Hence, in the eyes of the Legislature, an entity may either be classified as an IPA or an RBE but can never be both. Section 293(H) of the Tax Code explicitly states that CDC is an IPA.

- ▶ While CDC is performing functions that are proprietary in nature, it is classified as an IPA as defined and contemplated under the CREATE Law, its Implementing Rules and Regulations (IRR) and other related rules and regulations. Therefore, CDC cannot avail of the fiscal and non-fiscal incentives which are exclusively granted to RBEs. In this regard, BIR Ruling Nos. 038-2001 and 046-1995 are hereby revoked and invalidated, and all revenue issuance inconsistent with this Circular are deemed repealed without prejudice to Section 246 of the Tax Code.

RMC No. 65-2023 amends Item VIII of RMC No. 19-2022 on the venue for the issuance of CAR relative to tax-free exchanges of properties under Section 40(C)(2) of the National Internal Revenue Code of 1997, as amended.

RMC No. 65-2023 dated 8 June 2023

- ▶ RMC No. 19-2022 provides that, for the purpose of implementing the transaction covering tax-free exchanges of properties under Section 40(C)(2) of the National Internal Revenue Code (Tax Code) of 1997, as amended, prior ruling is not necessary. Instead, parties to the transaction may directly apply for the issuance of CAR with the concerned RDO.
- ▶ In compliance with Section 5 of Republic Act No. 11032, also known as the "Ease of Doing Business and Efficient Government Service Delivery Act of 2018," and to properly monitor transactions under Section 40(C)(2) of the Tax Code of 1997, as amended, Item VIII of RMC No. 19-2022 is hereby amended to read as follows:

"VIII. VENUE FOR THE ISSUANCE OF THE CERTIFICATE AUTHORIZING REGISTRATION (CAR):

FOR PURPOSES OF THE ISSUANCE OF THE CAR FOR THE TRANSFERRED PROPERTIES PURSUANT TO THE TAX-FREE REORGANIZATION/EXCHANGE, THE PARTIES TO THE TRANSACTION SHALL, IN ALL CASES, SUBMIT THE DOCUMENTARY REQUIREMENTS LISTED IN ANNEX "B" HEREOF TO THE REVENUE DISTRICT OFFICE (RDO)/LARGE TAXPAYERS (LT) OFFICE HAVING JURISDICTION OVER THE PLACE WHERE THE **TRANSFeree/SURVIVING CORPORATION** IS REGISTERED REGARDLESS OF THE NUMBER OF REAL PROPERTIES AND/OR SHARES OF STOCKS INVOLVED IN A TRANSACTION, AND WHETHER OR NOT, THOSE PROPERTIES ARE SITUATED IN VARIOUS LOCATIONS COVERED BY DIFFERENT RDOs/LT OFFICES."

- ▶ All existing rules and regulations or parts thereof which are inconsistent with the provisions of this RMC are hereby amended and revoked accordingly.
- ▶ This Circular shall take effect immediately.

RMC No. 68-2023 further clarifies imported goods that will no longer require the issuance of an ATRIG by the BIR prior to the release by the BOC.

RMC No. 68-2023 dated 13 June 2023

- ▶ This Circular is being issued to expand the coverage of non-issuance of an ATRIG to importers of goods covered by VAT exemption under Section 109 (1) (B) of the National Internal Revenue Code of 1997, as amended, prior to the release of such imported goods by the BOC.

- ▶ RMC No. 112-2021 requires that an ATRIG shall be secured from the BIR for feed, feed ingredients and fertilizers before the release of these imported goods by the BOC, pending resolution on the taxability of certain imported articles and the issuance of clear policies and procedures on the issuance of certifications from concerned regulatory government agencies.
- ▶ Due to the clamors from the importers that the required ATRIG for the release of these imported goods particularly feed, feed ingredients and fertilizers causes delays and losses on their part, and to be consistent with the mandate under Republic Act No. 11032, otherwise known as the "Ease of Doing Business and Efficient Government Service Delivery Act of 2018," this Circular is issued to inform the public that an ATRIG for feed, feed ingredients and fertilizers shall no longer be secured from the BIR.
- ▶ Thus, the certificate secured from the Bureau of Animal Industry (BAI), Fertilizer and Pesticide Authority (FPA) or other concerned regulatory government agency, which is competent to certify that the goods being imported are feed, feed ingredients and fertilizers shall be directly presented to the BOC to effect the release of the imported goods. It shall be the responsibility of the certifying government agencies to conduct their own validation of the declared goods to be released from the BOC and to submit to the BIR the list of importers that secured the said certification for tax audit purposes.

RMC No. 69-2023 informs the public of the reversion of rates of percentage tax, minimum corporate income tax, regular corporate income tax on proprietary educational institutions and not-for-profit hospitals, pursuant to the CREATE Act.

RMC No. 69-2023 dated 20 June 2023

- ▶ Pursuant to Sections 6,7 and 13 of the CREATE Act, effective 1 July 2023 the following rates shall apply:
 1. The rate of percentage tax (PT) shall now revert to 3% of gross quarterly sales or receipts of the taxpayer. This rate applies to corporations, self-employed individuals and professionals whose gross sales or gross receipts are not exceeding the PhP3 million threshold, except for cooperatives and self-employed individuals and professionals availing of the 8% income tax rate;
 2. The rate of minimum corporate income tax (MCIT) for domestic and resident foreign corporations, including offshore banking units and regional operating headquarters, shall now revert to 2% based on the gross income of such corporations; and
 3. The rate of regular corporate income tax (RCIT) for proprietary educational institutions and hospitals which are non-profit shall now revert to ten percent (10%) of their taxable income.
- ▶ The same circular also provides that the relevant rates for taxable year 2023 shall be computed as follows:

A. Calendar Year

Period	MCIT/RCIT/PT	Tax Due
Gross income/Taxable income/quarterly sales or receipts from 1 January 2023 to 30 June 2023	1%	PhP XXX
Gross income/Taxable income/quarterly sales or receipts from 1 July 2023 to 31 December 2023	2%/10%/3%	PhP XXX
Total Tax Due		PhP XXX

B. Fiscal Year

Period	MCIT/RCIT/PT	Tax Due
Gross income/Taxable income/quarterly sales or receipts from X month to 30 June 2023	1%	PhP XXX
Gross income/Taxable income/quarterly sales or receipts from 1 July 2023 to X month	2%/10%/3%	PhP XXX
Total Tax Due		PhP XXX

RMC No. 71-2023 streamlines the guidelines and mandatory requirements for claims of VAT credit/refund except those under the authority and jurisdiction of the Legal Group.

RMC No. 71-2023 dated 23 June 2023

- ▶ This Circular is being issued to provide uniform guidelines and prescribe the revised mandatory documentary requirements in the processing and grant of VAT refund claims, in line with the latest developments on VAT introduced by the TRAIN and CREATE Laws.
- ▶ Below are the salient General Policies provided under this Circular:
 1. The time frame to process and grant claims for VAT refund is 90 days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Sections 112 (A) and (B) of the Tax Code, as amended, up to the release of the payment for the approved amount of the refund.
 2. The Application for VAT Credit/Refund claims (BIR Form No. 1914) shall be received by the processing offices, to wit:
 - ▶ The VAT Credit Audit Division (VCAD) in the National Office for claims of direct exporters, regardless of percentage of export sales to total sales, pursuant to Sections 106 (A)(2)(a)(1) and 106 (A)(2)(a)(6) for sale of goods and Sections 108 (B)(2), 108 (B)(4) and 108 (B)(6) for sale of services, and whose claims are anchored under Section 112 (A) of the Tax Code, as amended, except for claims with a mix of VAT zero-rated sales emanating from the sale of power or fuel from renewable energy sources pursuant to Section 108 (B)(7) of the Tax Code, as amended, in which case, Item 2(b) of this circular shall apply;
 - ▶ Claims of taxpayer-claimants (1) engaged in other VAT zero-rated activities, other than direct exports mentioned in Section (1)(2)(a) of this circular, such as but not limited to renewable energy developers pursuant to Section 108 (B)(7) of the Tax Code, as amended, and those with indirect exports classified as effectively VAT zero-rated sales, pursuant to Section 112 (A) of the Tax Code, as amended; (2) whose VAT registration has been cancelled or changed in the VAT registration status to non-VAT but with accumulated unutilized input taxes pursuant to Section 112 (B) of the Tax Code, as amended; and (3) those with claims for recovery or erroneously or illegally assessed or collected VAT pursuant to Sections 204 and 229 of the Tax Code, as amended, shall be filed at the following offices which have jurisdiction over the taxpayer-claimant:
 - b.1 The VAT Audit Section (VATAS) in the Regional Assessment Division;
or
 - b.2 The respective RDO if without VATAS; or
 - b.3 The Large Taxpayers VAT Audit Unit (LTVAU) of the Large Taxpayers Service (LTS).

3. Subject to the provisions of Section 4.112-1(b) of RR No. 13-2018, the filing of the claim for VAT refund of a VAT registered person whose registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status under Section 106(C) of the Tax Code shall be at the BIR Office which has jurisdiction over the taxpayer, within two years from the date of issuance of the tax clearance by the BIR.
 4. If upon filing or during the processing of the VAT refund claim, the taxpayer-claimant has outstanding tax liabilities (final and executory) as defined under Section II(1) of RMO No. 11-2014, and evidenced by Delinquency Verification Certificate (DVC) (Annex "B") prescribed in RMC No. 64-2019, the ensuing approved VAT refund shall be referred for garnishment to the collection section of the RDO and Collection Division of the Revenue Region having jurisdiction over the taxpayer-claimant, as may be used or settle to collect either fully or partially the outstanding delinquent tax liability subject to existing tax laws and revenue issuances on the enforcement and settlement of delinquent accounts.
- ▶ This Circular likewise provides for the documents to be submitted by the taxpayer-claimant upon filing of the application for VAT credit/refund.
 - ▶ This Circular shall take effect for VAT refund/credit claims that will be filed starting 1 July 2023.
 - ▶ All revenue issuances and BIR Rulings inconsistent with this Circular are hereby considered amended, modified or revoked accordingly.

Banks and Other Financial Institutions

Amendments to the Implementing Rules and Regulations, and Prudential Reports Relative to the Mandatory Agriculture, Fisheries and Rural Development (AFRD) Financing under RA No. 11901 or "The Agriculture, Fisheries and Rural Development Financing Enhancement Act of 2022"

CIRCULAR NO. 1174 Series of 2023 issued on 9 June 2023

The definition of farmers' and fisherfolk organizations or associations shall refer to farming or fishing cooperatives, associations or corporations duly registered with the Cooperative Development Authority, Department of Trade and Industry, Securities and Exchange Commission or other appropriate government agencies, and which are composed primarily of small agricultural producers, farmers, farmworkers, ARBs, and fisherfolk who voluntarily join together to form business enterprises or non-business organizations which they themselves own, control and patronize.

As to Modes of Compliance, Banks may comply with the mandatory credit requirement through the following modes, which shall be reckoned in accordance with the applicable reference cut-off date as defined under Item "x" in this Section.

The loans to finance activities shall generally benefit ARBs, ARCs, or other priority sectors, as may be determined by the Agricultural Credit Policy Council (ACPC), shall be counted at 10 times their outstanding amount, or as otherwise prescribed by the ACPC, for purposes of determining compliance with the mandatory AFRD financing requirement.

Circular No. 1174 approves the amendments to the rules and regulations, and prudential reports relative to the mandatory agriculture, fisheries and rural development financing under RA No. 11901, otherwise known as "The Agriculture, Fisheries and Rural Development Financing Enhancement Act of 2022."

As to the Computation of total loanable funds, it was amended and shall be computed, as follows:

- a. The net increase from applicable reference cut-off date to date of the report of the individual accounts booked under the Regular Banking Unit (RBU) which represent the following:
 - 1. Total peso deposit (demand, savings, NOW, time and negotiable Certificates of Time Deposit accounts) excluding:
 - d) Other borrowings, in the form of the following:
 - i. Repurchase agreements with the BSP, National Government including its political subdivisions and instrumentalities, and GOCCs;
 - ii. Repurchase agreements with banks;
 - iii. Certificates of assignment/participation with recourse with banks;
 - iv. Securities lending and borrowing agreements with banks; and
 - v Other borrowings with banks.
 - e) Other borrowings from special on-lending programs for AFRD financing;
 - f) Other borrowings from special financing programs other than for AFRD financing;
 - g) Other deposit substitutes in the form of emergency advances from the Philippine Deposit Insurance Corporation (PDIC); and
 - h) Other sustainable debt instruments which are issued in accordance with domestic guidelines or international standards pertaining to green or sustainable finance accepted by the market, the proceeds of which shall be used for sustainable projects or programs that will benefit the country, and;
- 3. Bonds payable, net of unamortized premium or discount excluding:
 - a) Bonds issued by the DBP and LBP, the proceeds of which shall be used exclusively to finance activities under item "j" in this Section (Definition of terms), and
 - b) Sustainable bonds, which are issued in accordance with domestic guidelines or international standards pertaining to green or sustainable projects or programs that will benefit the country.
- b. Less/(Add) the net/increase/(decrease) from applicable reference cut-off date to date of the report of the required reserves against a week ago level of the reservable liabilities booked under the RBU; and

Appendix 81 of the MORB was also amended as follows:

15) Schedule 11f: Schedule of AFRD, Microfinance and SME Loans and Receivables, Classified as to Counterparty

The following indicated sections of the Financial Reporting Package (FRP) as prescribed under Section 172 of the MORB was also amended:

BALANCE SHEET ACCOUNTS

11. Loans and Receivables

c.2) Agriculture, Fisheries and Rural Development (AFRD) Loans

c.2a) Loans that Generally Benefit Agrarian Reform and Other Priority Sectors -

This refers to the amortized cost of loans which qualify as compliance with the mandatory AFRD financing requirement under Section 331 of the Manual of Regulations for Banks (MORB) and generally benefit agrarian reform beneficiaries (ARBs), agrarian reform communities (ARCs) or other priority sectors as may be determined by the Agricultural Credit Policy Council (ACPC).

c.2b) Other AFRD-Eligible Loans - This refers to the amortized cost of loans which qualify as compliance with the mandatory AFRD financing requirement under Section 331 of the MORB, other than those which generally benefit ARBs, ARCs or other priority sectors as may be determined by the ACPC.

INCOME STATEMENT ACCOUNTS

1. Interest Income

h) Loans and Receivables

iii) Loans and Receivables- Others

- 1) Loans to Government
- 2) AFRD Loans

LINE ITEM INSTRUCTIONS

Schedule 3 - Financial Assets Held for Trading

Additional Information

On Debt Securities

1) Data on Utilization of Debt Securities, which shall be reported only for solo reports

- b) Used as Compliance with AFRD Financing- This refers to debt securities that are allowed as mode of compliance with the AFRD financing as provided under Section 331 of the MORB.

Schedule 11 - Loans and Receivables- Others (Net Carrying Amount)

Report the net carrying amount of loans (cost less loan discount less other deferred credits less specific allowance for credit losses) including restructured loans classified primarily based on the reporting bank's compliance with existing regulations, i.e., AFRD, Microfinance and SME Loans. Loans used to comply with both SME and AFRD requirements shall be classified under SME and such amounts shall be disclosed under the line item a.

Schedule 11f - Schedule of AFRD, Microfinance and SME Loans and Receivables Classified as to Counterparty.

Report the net carrying amount of AFRD, Microfinance and SME Loans and Receivables reported under Schedule 11, classified according to the reporting bank's counterparty.

Banks shall also adopt the relevant account names in the FRP consistent with Section 331 of the MORB, as amended by Circular No. 1159:

FRP Schedules	From	To
Schedules 11, 11a to 11e4, 29d, 29d1 to 29d4, and 33	1. Agrarian Reform/ Other Agricultural Loans a. Agrarian Reform Loans b. Other Agricultural Credit Loans	1. Agriculture, Fisheries and Rural Development (AFRD) Loans a. Loans that Generally Benefit Agrarian Reform and Other Priority Sectors b. Other AFRD- Eligible Loans
Schedules 3, 5, 6, 7 and 8	2. Alternative Compliance Agri-Agra	2. Used as Compliance with AFRD
Schedule 11f	3. Agri-Agra	3. AFRD
	4. Agri-Agra Loans	4. AFRD Loans

Banks shall also submit electronically to the Department of Supervisory Analytics (DSA) of the BSP the Report on Compliance with the Mandatory AFRD Financing using the prescribed format and following the new submission timeline below:

Reporting Period Covered	Timeline
18 August 2022 to 30 September 2022	15 th banking day after end-September 2023
1 October 2022 to 31 December 2022	
1 January 2023 to 31 March 2023	15 th banking day after end-October 2023
1 April 2023 to 30 June 2023	15 th banking day after end-November 2023
1 July 2023 to 30 September 2023	15 th banking day after end-December 2023
1 October 2023 to 31 December 2023	
REGULAR SUBMISSION TIMELINE	
Quarterly report from 1 January 2024 to 30 June 2032	15 th banking day after end of reference quarter
1 July 2032 to 27 July 2032	15 th banking day after end-September 2032

Anti-Money Laundering Council (AMLC) Guidance on Sanctions Screening

Circular Letter No. CL-2023-030 Series of 2023 issued on 18 May 2023

The Guidance presents the results of the thematic review conducted on select covered persons to determine the effectiveness of their customer and transaction sanction screening systems in the implementation of TFS. It highlights the common trends and observations as well as supervisory expectations relating to TFS on key areas of (i) senior management oversight and commitment; (ii) risk assessment; (iii) ownership, skills and training; (iv) policies and procedures; (v) technology; (vi) sanctions data; and (vii) testing and audit.

Circular Letter No. CL-2023-030 disseminates the AMLC Guidance on Sanctions Screening-2022-2023 Thematic Review of the Effectiveness of Customer and Transaction Screening Systems of Covered Persons in TFS Implementation.

Circular Letter No. CL-2023-031 approves the revocation of the license of the BATANES GOVERNMENT EMPLOYEES SAVINGS AND LOAN ASSOCIATION, INC. to operate as a non-stock savings and loan association, pursuant to Section 22 of Republic Act No. 8367, otherwise known as the "Revised Non-Stock Savings and Loan Association Act of 1997" and the rules and regulations promulgated thereunder.

Revocation of License to Operate as a Non-Stock Savings and Loan Association of Batanes Government Employees Savings and Loan Association, Inc.

Circular Letter No. CL-2023-031 Series of 2023 issued on 22 May 2023

Circular Letter No. CL-2023-032 gives notice that the Monetary Board decided to prohibit the Rural Bank of San Juan (Southern Leyte), Inc. from doing business in the Philippines pursuant to Section 30 of RA No. 7653 (The New Central Bank Act), as amended.

Prohibition of the Rural Bank of San Juan (Southern Leyte), Inc. From Doing Business in the Philippines

Circular Letter No. CL-2023-032 Series of 2023 issued on 25 May 2023

The PDIC has been designated as Receiver with a directive to proceed with the takeover and liquidation of the aforementioned rural bank in accordance with Section 12 (a) of RA No. 3591 (PDIC Charter), as amended.

Circular Letter No. CL-2023-033 gives notice that the Monetary Board decided in its Resolution No. 694.A dated 01 June 2023, decided to prohibit the Bangko Pangasinan - A Rural Bank, Inc., from doing business in the Philippines pursuant to Section 30 of RA No. 7653 (The New Central Bank Act), as amended.

Prohibition of the Bangko Pangasinan - A Rural Bank, Inc. From Doing Business in the Philippines

Circular Letter No. CL-2023-033 Series of 2023 issued on 1 June 2023

The PDIC has been designated as Receiver with a directive to proceed with the takeover and liquidation of the aforementioned rural bank in accordance with Section 12 (a) of RA No. 3591 (PDIC Charter), as amended.

Memorandum No. M-2023-018 provides the link covering the list of original BSRDs and provisional BSRDs pertaining to registration of investments of non-residents in resident investee-firms, which were cancelled and replaced from April 2020 to December 2022 due to changes/transfers, etc. in these investments pursuant to the provisions of the Manual of Regulations on Foreign Exchange Transactions (FX Manual), as amended, which has been updated as of the first quarter of 2023.

Cancelled and Replaced Bangko Sentral Registration Documents (BSRDs)

Memorandum No. M-2023-018 Series of 2023 issued on 17 May 2023

These previously issued BSRDs in the link https://www.bsp.gov.ph/Price%20Stability/Download%20Section/List_of_Cancelled_and_Replaced_BSRDs.pdf have been cancelled/replaced and should not be honored if presented for purchase of foreign exchange for capital repatriation or remittance of earnings, pursuant to Section 38 of the FX Manual.

Customer Due Diligence (CDD) on Designated Non-Financial Business and Profession (DNFBP) Customers

Memorandum No. M-2023-019 expects all BSFIs to strictly perform CDD on their DNFBP customers, in accordance with Sections 921 and 921-Q of the MORB and MORNBF, respectively.

Memorandum No. M-2023-019 Series of 2023 issued on 29 May 2023

CDD covers among others:

- ▶ Identifying and verifying the true identity of DNFBP customers and beneficial owner/s based on official documents or other reliable, independent source documents, data or information. As disseminated under BSP Circular Letter No. CL-2019-043 dated 19 June 2019, pursuant to Chapter VI, Rule 18 of the 2018 Implementing Rules and Regulations of RA No. 9160 or the Anti-Money Laundering Act, as amended, covered persons dealing with customers who are DNFBPs (e.g., jewelry dealers, dealers in precious metals and dealers in precious stones, company service providers, lawyers and accountants and real estate developers and brokers) should require the presentation of the Provisional Certificate of Registration (PCOR) and/or the Certificate of Registration (COR) with the AMLC as part of the CDD;
- ▶ Understanding and, as appropriate, obtaining information on the purpose and intended nature of the business relationship; and
- ▶ Conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of the relationship.

Under existing regulations, where a covered person is unable to comply with the relevant CDD measures, considering risk-based approach, it shall (a) not open the account, commence business relations, or perform the transaction; or (b) terminate the business relationship; but in both cases, it shall consider filing a suspicious transaction report (STR) in relation to the customer.

All BSFIs are further reminded that violations of Sections 921 and 921-Q of the MORB and MORNBF, respectively, shall be the subject to appropriate enforcement actions under existing applicable laws and regulations.

Monthly Monitoring Report on Sponsored Participation in the Peso Real Time Gross Settlement (RTGS) Payment System

Memorandum No. M-2023-020 requires the submission of the report stated above in order to identify monitor, and manage any material risks to the Peso RTGS Payment System arising from sponsored participation arrangements. This requirement is pursuant to Sections 605 (Participants) and 614 (Reporting Requirements) of Memorandum No. M-2022-049 on the Peso RTGS Rules.

Memorandum No. M-2023-020 Series of 2023 issued on 1 June 2023

Reporting shall be in accordance with the following guidelines:

Covered Participants: All sponsoring participants shall submit the Report on Sponsored Participation in the Peso RTGS Payment System.

Reporting Guide: The report template is found in Annex A. The first sheet of the template shows the Reporting Guide.

Frequency and Deadline of Reporting: The report shall be submitted monthly within 10 calendar days from the end of the reference month beginning June 2023.

Manner of Submission: The accomplished report shall be submitted via email to PSDReports@bsp.gov.ph.

Supporting Documents: The BSP may require submission of supporting documents such as the sponsorship contract/agreement between the sponsoring institution and the sponsored institution.

Penalties and Sanctions: The report shall be complete, accurate, and timely. The failure of a participant to comply with this rule shall be subject to corresponding penalties and sanctions in accordance with Section 621 of Memorandum No. M-2022-049.

This Memorandum shall take effect on 1 July 2023 when the participants shall begin submitting the required report.

SEC Filing, Payments and Other Deadlines

Re-Uploading of Compliance to the MC28 Submission Portal

SEC Notice dated 5 June 2023

MC 28 required Corporations, Partnerships, Associations, and Individuals to Create and/or Designate E-mail Account Address and Cellphone Number for Transactions with the Commission.

Submission of List of Third-Party Service Providers in Compliance with the Financial Products and Service Products and Services Consumer Protection Act of 2022 (RA No. 11765) and its Implementing Rules and Regulations ("SEC FCPA IRR")

SEC Notice dated 8 June 2023

All FINANCING and LENDING COMPANIES listed in the Annex to the Notice are directed to provide within five days from the mailing or publication of the Notice, whichever is applicable, the following information and the necessary documents supporting the same:

- ▶ Names of the Agent(s);
- ▶ Registered mobile phone number/s and email address/es used by employees in-charge of collection;
- ▶ Certification that calls/texts with financial consumers are monitored, if any;
- ▶ Sworn Certification for solidary liability;
- ▶ Collection procedure;
- ▶ Disciplinary actions for violation of procedure;
- ▶ Certificate of trainings on collection process availed by the Agent/s, if any;
- ▶ Incentives received based on the collection; and
- ▶ Sworn Certification stating that all documents submitted and the information provided are true and correct.

The foregoing information and documents shall be submitted through <https://forms.gle/pLFmFJSTjwwWF1We8>, using the official email address that the company provided in its compliance with MC 28.

SEC Notice dated 5 June 2023 requires all corporations which submitted the required forms/notices through electronic mail are directed to re-upload their submission to the MC 28 Submission Portal to facilitate the verification of compliance with SEC Memorandum Circular No. 28, Series of 2020 (MC 28).

SEC Notice dated 8 June 2023 requires all Financial Service Providers (FSPs) to disclose and submit to the Commission a list of their authorized third-party service providers (TPSPs) engaged to perform debt collection, marketing, and/or customer transactions.

For those companies engaging the services of a TPSP, they shall provide the following additional information:

- ▶ Name of the Third-Party Service Provider/s;
- ▶ Business Registration of the TPSP or any proof of registration, if applicable;
- ▶ Address of the TPSP;
- ▶ Name of the President, or Compliance Officer, or any duly authorized representative, and his/her official email address;
- ▶ Registered mobile phone numbers used by the TPSP and its Agents; and
- ▶ Monitoring procedure/initiatives of the company on TPSPs collection method, if any.

Non-compliance with this Order shall be penalized in accordance with the FCPA and its IRR, existing SEC Memorandum Circulars, and other relevant regulations. Such penalties shall include, but is not limited to, suspension and/or revocation of authority to operate as a financing or lending company.

Transition from the Capital Market Participants Registry System (CMPRS) to the Electronic Registry of Application for Market Participant (eRAMP)

SEC Notice dated 8 June 2023

SEC Notice dated 8 June 2023 informs the public that starting 22 June 2023, the SEC CMPRS shall no longer accept and process applications/transactions from capital market participants, both institutions and professionals.

CMPRS is the computerized internet-based real time facility that allows online submission and/or uploading of applications, evaluation and processing of applications, issuance of registration/licenses, payment of annual fees and monitoring of capital market participants.

Beginning 22 June 2023, the SEC shall launch and operationalize the Electronic Registry of Application for Market Participants (eRAMP) along with the Electronic SEC Universal Registration Environment (eSECURE) which is an electronic know-your-customer (eKYC) and credentialing service connected to the SEC systems to provide more efficient transactions. The eRAMP will accept, process, approve, and allow online payment of fees for all applications of the capital market participant.

PEZA

PEZA Memorandum Circular No. 2023 - 036 dated 19 June 2023

DTI-STMO M.C. No. 23-06 requires any entity who engaged or intends to engage in export of certain servomotors to apply for an individual authorization as they are subject to End-Use Catch-all Controls (CAC) under Section 11(a) of the STMA.

Servomotors cover those that are specifically designed, re-engineered or potentially used in unmanned aerial vehicles (UAV) or drones, military robotics, weapon systems, surveillance and targeting systems, autonomous vehicles, ground-based military equipment, and other similar military and/or weapons of mass destruction (WMD) or military end-use.

All PEZA-registered export enterprises engaged in the manufacture, assembly and export of servomotors with the prescribed technical specifications are enjoined to secure their "Individual Authorization" from the DTI-SMO to avoid any delay in their export transactions.

PEZA Memorandum dated 20 June 2023 advises that in line with the implementation of Memorandum Circular 2021-050 and 2021-059, effective 1 August 2023, no payments will be received by Cashiers and Special Collecting Officers.

PEZA Memorandum dated 20 June 2023

Below are the guidelines:

- ▶ Order of Payment (OP) which shall be used in paying online must be properly coordinated with and issued by the PEZA examiner.
- ▶ The payor/processor must access the EPCS client portal to check and confirm the contents of the OP. Payor proceeds to payment gateway by choosing the preferred payment channel.
- ▶ Payor will receive an email containing payment details including payment number for successful payment.
- ▶ Payment transaction may at times fail due to offline bank/merchant, verification failure, insufficient balance, connectivity problems, etc. In this case, the OP status is considered and locked as "pending" and payor may no longer make another payment attempt. If failure is confirmed by the PEZA OP issuer, a new OP may be issued, and payor may pay through a different payment channel.
- ▶ There are maximum limits to the amount of convenience fee rates to be paid per payment channel as provided in Annex A of the Memorandum.
- ▶ Over the counter check payments may be allowed at BDO branches after securing the reference number from the MYEG system. Checks should be made payable to I-PAY MYEG PHILIPPINES.

BUREAU OF CUSTOMS

Additional Commodities Subject to IAS Clearances

Office of the Commissioner (OCOM) Memorandum No. 45-2023 dated 9 May 2023

- ▶ In addition to the commodities subject to Imports and Assessment Service (IAS) Clearance, the importation of (1) Brand New and Used Buses (Tariff Heading: 8702-8703) and (2) Brand New Trucks (Tariff Heading: 8701, 8704, 8705) are required to be forwarded to the IAS prior to their release from customs custody.
- ▶ However, Soda Ash and Titanium Dioxide importations, shall no longer require an IAS Clearance before its release.

(Editor's Note: OCOM Memo No. 45-2023 shall take effect immediately)

Requirement on Submission of Cargo (Reefer) Manifest

OCOM Memorandum No. 43-2023 dated 18 May 2023

- ▶ This requirement is in line with the mandate on the AISL to indicate the temperature of reefer vans in the advance Cargo Manifests to enable the BOC to perform the necessary risk management and analysis before the arrival of goods and help avert possible misdeclaration of commodities.
- ▶ The Cargo (Reefer) Manifest must contain the following details: Container Number, Size, Bill of Lading No., Commodity, Gross Weight (kg), Port of Loading, Port of Discharge, and Temperature Setting.
- ▶ The Cargo (Reefer) Manifest must be submitted not later than the docking vessel to berth.

OCOM Memorandum No. 45-2023 requires that importations of certain commodities be forwarded to the IAS prior to their release from customs custody.

OCOM Memorandum No. 43-2023 requires all Internal Shipping Lines and all members of the AISL to submit a softcopy (in excel format) of the Cargo (Reefer) Manifest to the Office of the Deputy Collector for Operations and to copy furnish the Bay Service or the equivalent office of the concerned port.

OCOM Memorandum No. 41-2023 refers to the authority to inspect shipments classified as food stuff under Republic Act No. 10611 also known as the Food Safety Act of 2013. It directs to strictly observe Section 12(b) of the Food Safety Act whereby all imported foods shall undergo cargo inspection and clearance by the Department of Agriculture.

CMO No. 12-2023 implements Chapter 2 (Trade in Goods) and Chapter 3 (Rules of Origin) of the Regional Comprehensive Economic Partnership (RCEP) Agreement.

Authority to Inspect Containers with FDA-Labeled Imported Goods

OCOM Memorandum No. 41-2023 dated 17 May 2023

- ▶ To determine compliance with national regulations, it is hereby mandated that all imported foods shall undergo cargo inspection and clearance procedures by the Department of Agriculture (DA) and the Department of Health (DOH) at the first port of entry.
- ▶ The inspection by the DA and DOH shall always take place prior to assessment of tariff and other fees by the BOC.
- ▶ All necessary documents such as the Inward Foreign Manifest of Arriving Vessels shall be provided by the BOC to the DA and DOH to enable the latter to identify shipments which require food safety inspection.
- ▶ Shipments which are non-compliant with the national regulations shall be disposed pursuant to the policies established by the DA and DOH.

Guidelines on the Issuance of Proof of Origin, Granting of Preferential Tariff Treatment, and Verification Procedures Under the Regional Comprehensive Economic Partnership (RCEP) Agreement

Customs Memorandum Order (CMO) No. 12-2023 dated 26 May 2023

- ▶ It provides procedures for the following:
 1. Issuance of Proof of Origin;
 2. Grant of preferential tariff treatment for goods that qualify as originating under the RCEP agreement;
 3. Application for refund and post-importation claims; and
 4. Mechanism to accredit exporters as "Approved Exporter" under the RCEP agreement.
- ▶ This CMO also provides those originating goods that shall be eligible for RCEP preferential tariff treatment at the time of importation, pursuant to Executive Order (EO) No. 25, series of 2023. The applicable tariff rate shall be determined based on the RCEP country of origin of the originating goods.
- ▶ The BOC shall only accept the Certificate of Origin (CO) Form RCEP and Declaration of Origin (DO) issued by an Approved Exporter as proof of Origin upon effectivity of this CMO. The DO issued by an exporter or producer shall only be accepted when the Philippines implements subparagraph 1(c), Article 3.16 of the RCEP Agreement. The back-to-back proof of Origin issued by the intermediate party shall only be accepted by the BOC if it was based on a CO form RCEP or DO issued by an Approved Exporter.
- ▶ In cases where the RCEP preferential tariff rate is higher than the applied rate at the time of importation, the importer may apply for a refund of any excess duties and taxes paid for originating goods covered by a Proof of Origin in accordance with CMO No. 25-2020.

- ▶ Where the importer did not make a claim for preferential tariff treatment under the RCEP Agreement at the time of importation, the importer shall be allowed to apply for a refund of any excess duties and taxes paid as the result of good not having been granted preferential tariff treatment upon the submission of the following:
 1. A Proof of Origin and other evidence that the good qualifies as an originating good; and
 2. Such other documentation in relation to the importation as the BOC may require to satisfactorily evidence the preferential tariff treatment claimed.
- ▶ In addition, this CMO provides for the procedures and documentary requirements for the following:
 3. Application for Product Evaluation Report (PER);
 4. Application for issuance of CO;
 5. Application for Approved Exporter Status;
 6. For completing a DO; and
 7. For issuance of/completing a back-to-back proof of origin.
- ▶ It further lays down the Obligations of Approved Exporters as follows:
 1. Allow the BOC to access records and premises for the purposes of monitoring the use of authorization and of the verification of the accuracy of the declarations made;
 2. Complete DO only for goods for which the Approved Exporter has been allowed to do so by the BOC and for which it has all appropriate documents proving the originating status of the goods concerned at the time of completing the declaration;
 3. Take full responsibility for all DO completed, including any misuse;
 4. Promptly inform the BOC of any changes related to the following information:
 - ▶ Legal name and address of the Approved Exporter;
 - ▶ List of goods subject to the authorization, including product description HS in six - digit or AHTN Code/s; and
 - ▶ List of authorized signatories and their respective specimen signatures; and
 5. Cooperate in the verification procedures.
- ▶ An Approved Exporter must keep a copy of the DO and all documents supporting the originating status of the good, in paper or in electronic form, for at least three years from the date of its completion.
- ▶ This CMO likewise provides for the determination of RCEP Country of Origin as follows:
 1. The RCEP Country of Origin is the exporting Party when the good is:
 - a. Not listed in Annex 1 of this CMO, and meets any of the following conditions:
 - i. produced exclusively from originating materials in accordance with Article 3.2 (b) of the RCEP Agreement and processed beyond the minimal operations set out in Article 2.6.5 of the RCEP Agreement;

- ii. wholly obtained or produced in accordance with Article 3.2 (a) of the RCEP Agreement; or
 - iii. satisfies the required Product Specific Rule (PSR) in accordance with Article 3.2 (c) of Chapter 3 (Rules of Origin) of the RCEP Agreement; or
 - b. Listed in Annex 1 of this Order and meet the additional requirement specified therein, i.e., Domestic Value Addition of 20% (DV20).
2. Should the exporting Party fail to meet the conditions set out in a.i and b above, the RCEP Country of Origin is the RCEP Party that contributed the highest value of originating materials used in the production of that good in the exporting Party.
- The import procedures in granting RCEP Preferential Tariff rates are also embodied in this CMO.
1. Imported goods from RCEP Parties that are originating based on Article 3.2 (Originating Goods) of the RCEP Agreement shall be qualified to claim preferential tariff treatment based on the Philippines' Schedule of Commitments under EO No. 25, series of 2023.
 2. For goods where there is tariff differential, the rate to be applied is the rate allocated for the RCEP Country of Origin of that good pursuant to Sections 5.7.1 and 5.7.2 of this CMO.
 3. Notwithstanding Section 5.8.2, the importer is allowed to make a claim for preferential tariff treatment at either:
 - The highest rate of customs duty the RCEP importing Party applies to the same originating good from any of the RCEP Parties contributing originating materials used in the production of such good; or
 - The highest rate of customs duty that the RCEP importing Party applies to the same originating good from any of the RCEP Parties.
 4. An original copy of any Proof of Origin must be submitted along with the other pertinent documents before a claim for preferential tariff treatment under the RCEP Agreement can be made.
 5. In accordance with subparagraph 5(a) of Article 3.16 (Proof of Origin) of the RCEP Agreement, a Proof of Origin may be in electronic format. The relevant conditions can be found in the Status of RCEP Parties and Signatory States Issuance/Acceptance of Proof of Origin which can be accessed at the official RCEP website: <https://rcepsec.org/rules-of-origin/>.
 6. The final determination on the rate of duty shall be based from the assessment of the submitted documents from the importer.

(Editor's Note: CMO No. 12-2023 took effect on 2 June 2023, which is the effectivity date of EO No. 25, series of 2023.)

Court of Tax Appeal Cases

Assessment

Company B vs Commissioner of Internal Revenue

CTA Case No. 10193, promulgated on 29 May 2023

Documentary stamp tax (DST) is, by nature, an excise tax since it is levied on the exercise by persons of privileges conferred by law. It is an excise tax because it is imposed on the transaction rather than the document.

DST may be imposed even in the absence of a debt instrument so long as the transaction is distinctly established.

There is nothing in Sections 173 and 179 of the Tax Code, as amended, requiring that the loan proceeds be located or used in the Philippines. As long as the same arose from transactions involving rights or obligations arising from Philippines sources, then the loan transaction is subject to DST.

Facts:

On 30 October 2018, Company B received an undated Preliminary Assessment Notice (PAN) with attached Details of Discrepancies, assessing it for deficiency expanded withholding tax (EWT), fringe benefits tax (FBT) and DST plus compromise penalties for taxable year (TY) 2015. The DST was assessed on loan and advances to non-resident affiliates.

Issue:

Was Company B liable for the deficiency DST on the subject loan and advances extended by Company B to its non-resident foreign corporation (NRFC) affiliates?

Ruling:

Yes, Company B was liable for the deficiency DST on the subject loan and advances to its NRFC affiliates.

Sections 173 and 179 of the Tax Code, as amended, provide that all loan agreements, whether made or signed in the Philippines or abroad, when the obligation or right arises from Philippine sources or the property or object of the contract is located in the Philippines, shall be subject to the payment of DST. In cases where no formal agreements or promissory notes have been executed to cover credit facilities, the DST shall be based on the amount of drawings or availment of the facilities.

Moreover, all parties to the transaction (i.e., loan transaction) are primarily liable for the DST, not only the person making, signing, issuing, accepting, or transferring the document or facility evidencing the transaction. Any of the parties thereto shall be liable for the full amount of the tax due. However, when one party is exempted from paying tax, the other party who is not exempt would be liable.

Company B's disclosures in Notes 4, 8 and 12 of the Notes to Parent Company Financial Statements attached to the Audited Financial Statements as of 31 December 2015 (2015 AFS) leaves no doubt that loans were extended to the NRFC affiliates and Company B is the principal party to the loan transaction being the lender, creditor or obligee. Its involvement as an obligee made the transaction one that arises from Philippine sources under Section 173. Thus, even if the obligors are NRFCs, since Company B, the obligee, is a domestic corporation organized under Philippine laws, the said loans and advances clearly involve "obligation or right arising from Philippine sources."

Furthermore, DST is, by nature, an excise tax since it is levied on the exercise by persons of privileges conferred by law. It is an excise tax because it is imposed on the transaction rather than the document.

Hence, a DST may be imposed even in the absence of a debt instrument so long as the transaction is distinctly established. This is clear under Section 6 of Revenue Regulations No. 9-94, which provides for the imposition of DST even when no formal agreements or promissory notes have been executed to cover the credit or loan extended to another party.

There is nothing in Sections 173 and 179 of the Tax Code, as amended, requiring that the loan proceeds, referred to by Company B as the "object" of the loans and advances, be located or used in the Philippines. The loan proceeds are not required to be located or used in the Philippines by the NRFC affiliates borrowers. Given that the same arose from transactions involving rights or obligations arising from Philippines sources, as stated in Section 173 of the Tax Code, as amended, these are subject to DST.

In Section 179, the term "debt instrument" shall mean debt instrument representing borrowing and lending transactions, including but not limited to ... loan agreements, including those signed abroad wherein the object of contract is located or used in the Philippines.

The phrase "including those signed abroad wherein the object of the contract is located or used in the Philippines" applies to loan agreements signed abroad, which is not the situation in the instant case.

As for the compromise penalty, it must be stressed that a compromise penalty is imposed to avoid prosecution for violation of the provisions of the Tax Code. In the instant case, there is no showing that Company B consented to the compromise penalty. Hence, its imposition should be removed. The imposition of the compromise penalty without the taxpayer's conformity is illegal and unauthorized.

Refund/Issuance of Tax Credit

Company D vs. Commissioner of Internal Revenue

CTA EB No. 2631, promulgated 26 May 2023

Facts:

Company D filed on 27 September 2018 its Application for Tax Credits/ Refund covering the period from 1 July 2016 to 31 December 2016 (or third and fourth quarters of taxable year 2016). On 22 October 2018, Company D submitted the original copies of sales invoices, billing invoices and official receipts for the said periods.

The BIR later on issued a Tax Verification Notice (TVN).

On 19 February 2019, Company D filed a Petition for Review with the Court of Tax Appeals Division to appeal the deemed denial of the application for refund or tax credit due to inaction on its administrative claim.

The Court of Tax Appeals Division denied the Petition for Review for being filed out of time.

The rule is that for administrative claims filed during the effectivity of the TRAIN Law, the taxpayer is still required to submit all supporting documents together with the administrative claim. Otherwise stated, the reckoning of the 90-day period still coincides with the date of filing of the administrative claim.

Issue:

Was the Petition for Review filed by Company D with the Court of Tax Appeals Division filed out of time?

Ruling:

Yes, the Court of Tax Appeals Division correctly ruled that the judicial claim was filed out of time.

Pursuant to Section 112 of the Tax Code, as amended, certain requisites must be complied with by the taxpayer-applicant to successfully obtain a credit/ refund of input VAT. One of these is the timeliness of the filing of the administrative and judicial claims, which is composed of two parts: (a) the claim is filed with the BIR within two years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made; and (b) that in case of full or partial denial of the refund claim rendered within a period of 90 days from the date of submission of the official receipts or invoices and other documents in support of the application, the judicial claim shall be filed with the Court of Tax Appeals within 30 days from receipt of the decision.

For the first requisite, it is without doubt that Company D was able to file its administrative claim within the two-year period.

As for the second requirement, if the BIR does not act on the claim within the 90-day period, the same is considered deemed denied.

Section 112 of the Tax Code, as amended by TRAIN Law (which became effective on January 1, 2018), states that the reckoning of the 90-day period should be "from the date of submission of the official receipts or invoices and other documents in support of the application". Despite of this, Revenue Memorandum Circular (RMC) No. 54-2014 continues in force.

Under RMC No. 54-2014, which was issued on 11 June 2014, the taxpayer is required to submit complete documents upon the filing of an administrative claim for VAT refund or tax credit, as no other documents shall be accepted thereafter. Moreover, the taxpayer is required to attach the following to the claim upon filing thereof: (a) complete supporting documents, as enumerated in the issuance, and (b) a statement under oath attesting that the documents submitted are in fact complete. Simply put, the regulation ensures that the date of completion of supporting documents coincides with the date of filing of the refund claim.

RMC No. 017-18 as issued in order to bring up to date the provisions of RMC No. 54-2014 in relation to the amendments made by the TRAIN Law. Under such regulation, the following remains unchanged- first, the reckoning date of the prescriptive period is still from the actual date of filing of the application for refund or tax credit, and second, the taxpayer is still required to make a statement under oath attesting that the documents submitted are complete.

The rule is that for administrative claims filed during the effectivity of the TRAIN Law, the taxpayer is still required to submit all supporting documents together with the administrative claim. Otherwise stated, the reckoning of the 90-day period still coincides with the date of filing of the administrative claim.

Applying the foregoing in the instant case, the administrative claim was filed on 27 September 2018. Respondent had 90 days from the filing of the administrative claim, or until 26 December 2018 within which to render his decision. However, since the BIR was not able to render a decision within the 90-day period, Company D had 30 days from 26 December 2018, or until 25 January 2019 within which to file its Petition for Review with the Court of Tax Appeals. Hence, the Petition for Review filed by Company D on 19 February 2019 was beyond the mandatory and jurisdictional 90+30-day periods.

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We welcome your comments, ideas and questions. Please contact Allenierey Allan V. Exclamador via e-mail at allenierey.v.exclamador@ph.ey.com or at telephone number (632) 8894-8398.

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The deadlines and timelines mentioned in this Tax Bulletin are pursuant to our understanding of the existing administrative issuances of the BIR as of the date of writing. These may be subject to change in light of the recently passed Bayanihan 2, which also authorizes the President to move statutory deadlines and timelines for the submission and payment of taxes, fees, and other charges required by law, among others.