

What's Inside...

INSIGHTS is a monthly publication of BDB LAW to inform, update and provide perspectives to our clients and readers on significant tax-related court decisions and regulatory issuances (includes BIR, SEC, BSP and various government agencies).

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COURT DECISIONS

- The two-year prescriptive period to claim refund of illegally or erroneously paid income taxes commences from the time the final adjustment return or the annual income tax return was filed. (*Premiumleisure and Amusement, Inc. v. Commissioner of Internal Revenue*, CTA Case No. 9798 dated September 2, 2020)
- The CTA has jurisdiction over cases directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance. (*Light Rail Manila Corporation v. City of Caloocan et al.*, CTA AC No. 224 dated September 2, 2020)
- Erroneous payment of input taxes by a VAT zero-rated taxpayer will not entitle it to a claim for a refund. (*Taganito Mining Corporation v. Commissioner of Internal Revenue*, CTA EB No. 1972 dated September 3, 2020)
- Deposit on future subscription is not a loan agreement subject to DST. (*Leadway Holdings, Inc. v. Commissioner of Internal Revenue*, CTA Case No. 9835 dated September 9, 2020)
- Good faith of the taxpayer may justify the deletion of interest and surcharge. (*Leadway Holdings, Inc. v. Commissioner of Internal Revenue*, CTA Case No. 9835 dated September 9, 2020)
- Condominium corporations are not subject to local business tax. (*Taguig City Government v. Serendra Condominium Corporation*, CTA AC No. 229 dated September 10, 2020)
- The court which has jurisdiction over a claim for refund of local business taxes depends on the amount of claim. (*Swedish Match Philippines, Inc. v. The City Treasurer of the City of Manila*, CTA EB No. 2043 dated September 11, 2020)
- Whenever one party to the taxable document enjoys exemption from DST, the other party who is not exempt shall be the one directly liable for the tax. (*North Negros Biopower, Inc. v. Commissioner of Internal Revenue*, CTA Case No. 9920 dated September 21, 2020)
- All revenue officers ordered to conduct investigation/audit through manually issued LOA prior to July 1, 2010 should be authorized by an electronic LOA. (*Medical Center Trading Corporation v. Commissioner of Internal Revenue*, CTA Case no. 9412 dated September 23, 2020)
- The CTA has jurisdiction over denial of application for compromise. (*Commissioner of Internal Revenue v. WPP Marketing Communications, Inc.*, CTA EB No. 2034 dated September 23, 2020)
- Prior knowledge of the new address of the taxpayer is sufficient to inform the BIR. No written notice is required. (*Commissioner of Internal Revenue v. Unisphere International, Inc.*, CTA EB No. 2121 dated September 23, 2020)
- The LOA is valid even though issued by a Regional Director who is only an "Officer-in-Charge (OIC)." (*First Philippine Utilities Corporation v. Commissioner of Internal Revenue*, CTA Case no. 9431 dated September 29, 2020)

HIGHLIGHTS for SEPTEMBER 2020

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BIR ISSUANCES

- **RMC No. 92-2020, September 1, 2020** – The deadline for business registration of those into digital transactions was extended from August 31, 2020 to September 30, 2020.
- **RR No. 21-2020, September 4, 2020** – This provides for the policies, procedures and guidelines in the implementation of the Voluntary Assessment and Payment Program (VAPP) for the collection of additional tax revenues.
- **RMC No. 96-2020, September 7, 2020** – Taxpayers in the NCR, Bulacan, Cavite, Rizal and Laguna who adopted the temporary measures during the MECQ period are required to comply with the provisions under RMC No. 47-2020.
- **RMC No. 97-2020, September 9, 2020** – This limits the purposes for which the use of BIR Form No. 0605 is allowed for excise tax purposes.
- **RMC No. 98-2020, September 15, 2020** – This further extends the submission of BIR Form No. 1709 and its required documents.
- **RR No. 22-2020, September 16, 2020** – A Notice of Discrepancy will now be issued, instead of Notice of Informal Conference.
- **RMC No. 99-2020, September 16, 2020** – This circularizes RA No. 11448 which provides for the taxation of Transnational Higher Education Institutions (TNHEIs).
- **RMC No. 101-2020, September 25, 2020** – This supplements RMC No. 62-2020 which published the initial list of VAT-exempt drugs for hypertension, diabetes and high cholesterol.
- **RMC No. 102-2020, September 25, 2020** – This revises the format of the Notice of Discrepancy.
- **RR No. 23-2020, September 30, 2020** – Sale or any other disposition of shares of stock through IPO shall no longer be subject to percentage tax.
- **RR No. 24-2020, September 30, 2020** – This implements Section 4 (uu) of Bayanihan to Recover as One Act which covers all extensions of payments and/or maturity periods of all loans.
- **RR No. 25-2020, September 30, 2020** – The business or enterprise which incurred net operating loss for taxable years 2020 and 2021 shall be allowed to carry over the same as a deduction from its gross income for the next five (5) consecutive taxable years immediately following the year of such loss.

HIGHLIGHTS for SEPTEMBER 2020

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SEC ISSUANCES

- **SEC Notice, September 21, 2020** – This implements the mandatory 60-day grace period for all loans provided under Section 4 (uu) of Bayanihan to Recover as One Act.
- **SEC CDO Case No. 09-20-068, September 23, 2020** – An investment contract, to be a security subject to regulation by the SEC, must be proved to be (1) an investment of money; (2) in a common enterprise; (3) with expectation of profits, and (4) primarily from efforts of others.

BSP ISSUANCES

- **BSP Circular No. 1096, September 16, 2020** – The Reconciliation Statement by banks and quasi-banks on their Demand Deposit Account maintained with the BSP will be submitted every semester.
- **BSP M-2020-068, September 18, 2020** – This informs BSP-supervised financial institutions (BFIs) on the implementation of Section 4 (uu) of the Bayanihan to Recover as One Act.
- **BSP Circular No. 1098, September 24, 2020** – This amends some provisions of the MORB and MORNBFIs on the ceiling on interest or finance charges for credit card receivables.
- **BSP M-2020-070, September 21, 2020** – This notifies all Third Party Payment Service Providers participating in Philpass and all BSP-Supervised Financial Institutions regarding the e-Submission of Documents to the Payments and Settlements Office.
- **BSP M-2020-075, September 27, 2020** – Additional regulatory reliefs to Non-Stock Savings and Loan Associations (NSSLAs) were granted.
- **BSP M-2020-074, September 28, 2020** – This clarifies the Implementing Rules and Regulations and Frequently Asked Questions on Section 4 (uu) of the Bayanihan to Recover as one Act.
- **BSP M-2020-077, September 28, 2020** – All BSFIs are required to conduct an eligibility test and assessment before submitting to the BSP an application for license or a special authority.
- **BSP M-2020-078, September 30, 2020** – This provides the guidelines on the electronic submission of the Financial Reporting Package for NSSLAs.

IC ISSUANCES

- **IC Circular Letter 2020-89, September 3, 2020** – This provides the guidelines in the treatment of CWT of all insurance and reinsurance companies authorized to transact business in the Philippines.
- **IC Circular Letter 2020-90, September 7, 2020** – This prescribes the submission of quarterly reports on Negative List of Officers and Employees.

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- **IC Circular Letter 2020-92, September 14, 2020** – This provides the guidelines on documentary requirements for processing claims in motor insurance.
- **IC Circular Letter 2020-93, September 22, 2020** – Imposition of penalty for the non-filing, late filing and failure to comply with compulsory notification and other reportorial requirements during the period of community quarantine is suspended.
- **IC LO-2020-12, September 29, 2020** – Data servers of non-life insurance companies may be located abroad when the same is done for purposes of engaging in E-Commerce.

COURT OF TAX APPEALS

DECISION HIGHLIGHTS

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The two-year prescriptive period to claim refund of illegally or erroneously paid income taxes commences from the time the final adjustment return or the annual income tax return was filed.

The two-year prescriptive period in Section 229 of the Tax Code should be computed from the time of filing the final adjustment return or Annual Income Tax Return and final payment of income tax, and not from the payment of quarterly income taxes, which are considered as mere installments of the annual tax due. It is only in the filing of the final adjustment return that it can be determined whether there has been an overpayment by the taxpayer. (*Premiumleisure and Amusement, Inc. v. Commissioner of Internal Revenue, CTA Case No. 9798 dated September 2, 2020*)

The CTA has jurisdiction over cases directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance.

The CTA has jurisdiction over cases directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance.

In this case, the CTA upheld its jurisdiction. Despite the City Treasurer's contention that the main issue in this case is the taxpayer's status as a common carrier, the CTA found the same intertwined inherently with the issue of its exemption from the imposition of percentage taxes on its gross receipt. After all, the case appealed from as well as the present petition prays for reliefs that seek to prevent taxpayer's continuous assessment for local business taxes. Therefore, the issue of whether taxpayer is a common carrier is but a necessary incident that must be tackled in determining its entitlement to the reliefs prayed for. (*Light Rail Manila Corporation v. City of Caloocan et al., CTA AC No. 224 dated September 2, 2020*)

Erroneous payment of input taxes by a VAT zero-rated taxpayer will not entitle it to a claim for a refund.

Local sales of goods and services made to VAT zero-rated customers requires that no output tax shall be shifted to the purchaser, and consequently, no input tax shall be paid by it to the suppliers. If input taxes were erroneously charged and paid, the taxpayer's recourse is to seek reimbursement from the supplier who shifted the output tax. The VAT zero-rated taxpayer shall be entitled to a claim for refund. (*Taganito Mining Corporation v. Commissioner of Internal Revenue, CTA EB No. 1972 dated September 3, 2020*)

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Deposit on future subscription is not a loan agreement subject to DST.

A deposit on future subscription has been characterized as "merely an amount of money received by a corporation with a view of applying the same as payment for additional issuance of shares in the future, an event which may or may not happen. It is described as money which the corporation will hold in trust for the subscribers.

A loan agreement, on the other hand, is a contract where one of the parties delivers to another money or other consumable thing, upon the condition that the same amount of the same kind and quality shall be paid.

A deposit on future subscription, unlike a loan agreement, is not subject to DST. (*Leadway Holdings, Inc. v. Commissioner of Internal Revenue, CTA Case No. 9835 dated September 9, 2020*)

Good faith of the taxpayer may justify the deletion of interest and surcharge. void.

In this case, the taxpayer relied in good faith on BIR rulings and existing judicial pronouncement at the time of transaction that the advances from stockholders evidenced by instructional letters, memos or vouchers are not subject to DST.

This reliance in good faith is a sufficient justification to cancel the imposition of surcharge and interests. (*Leadway Holdings, Inc. v. Commissioner of Internal Revenue, CTA Case No. 9835 dated September 9, 2020*)

Condominium corporations are not subject to local business tax.

Condominium corporations are generally exempt from local business taxation under the Local Government Code, irrespective of any local ordinance that seek to declare otherwise. Condominium corporations are not engaged in business when they collect assessments or dues from unit owners. Therefore, they are exempt from local business tax. (*Taguig City Government v. Serendra Condominium Corporation, CTA AC No. 229 dated September 10, 2020*)

COURT OF TAX APPEALS

DECISION HIGHLIGHTS

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The court which has jurisdiction over a claim for refund of local business taxes depends on the amount of claim.

The court which has jurisdiction over a claim for refund of local business taxes is dependent on the amount of claim which may fall under the Regional Trial Court (RTC), Metropolitan Trial Court, Municipal Trial Court, or Municipal Circuit Trial Courts pursuant to Section 19(8) and 33 of B.P. Big. 129, as amended, taking into consideration Section 5 of Republic Act No. 7691.

In this case, since the amount being claimed does not exceed P400,000.00, the RTC had no jurisdiction. (*Swedish Match Philippines, Inc. v. The City Treasurer of the City of Manila, CTA EB No. 2043 dated September 11, 2020*)

Whenever one party to the taxable document enjoys exemption from DST, the other party who is not exempt shall be the one directly liable for the tax.

Taxpayer entered into an Omnibus Loan Agreement among other parties, including the International Finance Corporation (IFC). By virtue of the agreement, the taxpayer paid the corresponding DST. Subsequently, however, it filed with the BIR a claim for refund for erroneous payment of DST. It alleged that it is exempt from payment of DST because IFC was granted tax exemption by the Philippines from all internal revenue taxes. BIR denied such claim alleging that the tax exemption cannot extend to the taxpayer and the liability to DST is for any party not exempted from payment thereof. Thus, the taxpayer.

The CTA ruled against the taxpayer's favor, holding that whenever one party to the taxable document enjoys exemption from DST, the other party who is not exempt shall be the one directly liable for the tax, which in this case is the taxpayer. (*North Negros Biopower, Inc. v. Commissioner of Internal Revenue, CTA Case No. 9920 dated September 21, 2020*)

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All revenue officers ordered to conduct investigation/audit through manually issued Letters of Authority (LOA) prior to July 1, 2010 should be authorized by an electronic LOA (eLOA).

Under Revenue Memorandum Order No. 69-10, manually issued LOAs authorizing all revenue officers to conduct investigation/audit prior to July 1, 2010 shall be retrieved and replaced by eLOAs, before the revenue officers could continue to conduct the tax assessment.

In the present case, there is no showing that the present LOA, which was issued after March 1, 2010, but prior to July 1, 2010, has been retrieved and replaced by an eLOA.

Apparently, the revenue officers named in the said LOA, and any other BIR personnel who examined the taxpayer, were not authorized through an eLOA to proceed with the BIR's tax audit. Thus, not having the requisite eLOA to continue the examination of the taxpayer's records in the first place, the subject tax assessments issued by the BIR are inescapably void. (*Medical Center Trading Corporation v. Commissioner of Internal Revenue*, CTA Case no. 9412 dated September 23, 2020)

The CTA has jurisdiction over denial of application for compromise.

The CTA has jurisdiction on decisions of the Commissioner of Internal Revenue in cases involving other matters arising under the Tax Code or other law or part of law administered by the BIR, which includes decisions denying taxpayer's application for compromise. (*Commissioner of Internal Revenue v. WPP Marketing Communications, Inc.*, CTA EB No. 2034 dated September 23, 2020)

Prior knowledge of the new address of the taxpayer is sufficient to inform the BIR. No written notice is required.

In a tax assessment, the taxpayer alleged that it should be set aside because it did not receive a FAN from the BIR. On the other hand, the latter claimed that the failure to do so was due to the fact that the former did not inform the BIR in writing of the change of address.

The CTA ruled in favor of the taxpayer and held that prior knowledge of the taxpayer's new address requires no further written notification from the latter, if the BIR has prior knowledge of the change address of the taxpayer. (*Commissioner of Internal Revenue v. Unisphere International, Inc.*, CTA EB No. 2121 dated September 23, 2020)

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The LOA is valid even though issued by a Regional Director who is only an “Officer-in-Charge (OIC).”

Taxpayer was assessed by the BIR for deficiency taxes. It alleged that the assessment was invalid due to BIR’s lack of authority founded on an LOA which was signed by the OIC-Regional Director.

The CTA did not rule in favor of the taxpayer and held that under Section 13(c), Rule IV of the Civil Service Commission’s 2017 Omnibus Rules on Appointments and other Human Resource Actions (Revised July 2018), officials designated as OIC may enjoy limited powers which are confined to functions of administration and ensuring that the office continues its usual activities. Accordingly, issuing LOAs is one of those functions of administration of a Regional Director. Thus, a LOA issued by an OIC-Regional Director is valid. (*First Philippine Utilities Corporation v. Commissioner of Internal Revenue, CTA Case no. 9431 dated September 29, 2020*)

BIR ISSUANCES HIGHLIGHTS

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RMC No. 92-2020, September 1, 2020

The deadline for business registration of those into digital transactions was extended from August 31, 2020 to September 30, 2020.

All those engaged in digital or online transactions who will register their business activity on or before the said extended deadline shall not be imposed penalty for late registration. Taxpayers who have prior transactions subject to pertinent taxes are encouraged to voluntarily declare said transactions and pay the taxes due thereon, with no penalty for late filing and late payment, provided the same is done on or before the said extended due date.

All those who will be found later doing business without complying with the registration/update requirements, and those who failed to declare past due taxes/unpaid taxes shall be imposed with the applicable penalties under the law and existing revenue rules and regulations.

Revenue Memorandum Circular No. 80-2020, August 6, 2020 - This amends the RDO covered by RMC No. 79-2020 by including RDO Nos. 55 to 57.

This Circular amends the RDO covered by RMC No. 79-2020 by including RDO Nos. 55 to 57.

RR No. 21-2020, September 4, 2020

This provides for the policies, procedures and guidelines in the implementation of the Voluntary Assessment and Payment Program (VAPP) for the collection of additional tax revenues, which could otherwise be collected through audit and enforcement effort:

- It applies to all internal revenue taxes covering the taxable year ending December 31, 2018, and fiscal year 2018 ending on the last day of the months of July 2018 to June 2019, including taxes on One-Time Transactions (ONETT) such as estate tax, donor's tax, capital gains tax, as well as ONETT-related CWT/EWT and DST.

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- Any person, natural or juridical, including estates and trusts, liable to pay internal revenue taxes for the above specified period/s who, due to inadvertence or otherwise, erroneously paid his/its internal revenue tax liabilities or failed to file tax returns/pay taxes, may avail of the benefits under VAPP, except:
 - Taxpayers who have already been issued a FAN that have become final and executory, on or before the effectivity of this Regulations;
 - Persons under investigation as a result of verified information filed by a tax informer under Section 282 of the Tax Code, with respect to the deficiency taxes that may be due out of such verified information;
 - Those with cases involving tax fraud filed and pending in the DOJ or in the courts; and
 - Those with pending cases involving tax evasion and other criminal offenses under Chapter II of Title X of the Tax Code.
- Qualified persons can avail of the benefits of the VAPP until December 31, 2020, unless extended by the Secretary of Finance, upon submission of the mandatory and additional requirements.
- A Certificate of Availment shall be issued by the concerned LT Office/RDO within three (3) working days from approval of the application.
- Taxpayers whose availment is found to be invalid, deficient or defective are not entitled to the privilege under the Regulations. However, they may apply the voluntary payments made against any deficiency tax liability for taxable year 2018 in case of audit/investigation.
- The amount of taxes to be paid as a condition to avail the privilege shall be determined in accordance with the following schedule:

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- a. For income tax, VAT, percentage tax, excise tax and DST other than DST on ONETT

Increase/Decrease in the Total Taxes Due from 2017 to 2018 (A)	Amount of Voluntary Tax Payment whichever is the higher of – (B)	Minimum Amount (C)
Net increase of not more than 10%	3% of 2018 gross sales or 7% of 2018 taxable net income	Individuals, estates and trusts – ₱75,000.00 Corporations –
Net increase of more than 10% up to 30%	2% of 2018 gross sales or 6% of 2018 taxable net income	a. With subscribed capital of more than ₱50 million – ₱1,000,000.00
Net increase of more than 30%	1% of 2018 gross sales or 5% of 2018 taxable net income	b. With subscribed capital of more than ₱20 million up to ₱50 million – ₱500,000.00
Net decrease of not more than 10%	4% of 2018 gross sales or 8% of 2018 taxable net income	c. With subscribed capital of more than ₱5 million up to ₱20 million – ₱250,000.00
Net decrease of more than 10%	5% of 2018 gross sales or 9% of 2018 taxable net Income	d. With subscribed capital of ₱5 million and less – ₱100,00.00 Other juridical entities, including but not limited to cooperatives, foundations, general professional partnerships – ₱75,000

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- The amount to be paid must be the higher amount in Column B, but in no case should be less than the amount in Column C. Total taxes due in 2017 and 2018, for purposes of the above schedule, refer to the sum of all tax due per tax return (income tax, percentage tax, EWT and DST) and net VAT payable before deducting any CWT, quarterly payment or advance payment. Gross sales and taxable net income shall be based on the Annual Income Tax Return for the taxable year ending December 31, 2018, and fiscal year 2018 ending on the last day of July 2018 to June 2019.
- In cases where any non-ONETT tax deficiency covering the taxable period has already been paid, the basic deficiency tax paid shall be added to the tax due of the applicable tax returns for 2018 in computing the amount of voluntary payment required provided, that, such payment did not arise from the cases excluded from the coverage of the VAPP.
- b. For final withholding taxes (on compensation, fringe benefits, *etc.*) and CWT other than CWT on ONETT, the amount to be paid shall be five percent (5%) of the total basic withholding tax remittance for the taxable year 2018.

For purposes of VAPP availment, taxpayers must apply for all registered taxes indicated therein in order to avail of the privilege set forth. For taxpayers with claims for tax credit/refund, this shall constitute a waiver of such claims, unless they exclude in their availment the specific tax type for which they are pursuing the claim for tax credit/refund.

- c. For taxes on ONETT, such as estate tax, donor's tax, CGT, ONETT-related CWT/EWT and DST, the amount to be paid shall be the basic tax due of the unfiled tax return/unpaid tax due plus 5%.
- A taxpayer with a duly issued Certificate of Availment shall not be audited for 2018 for the tax types covered by the availment. In case the taxpayer's tax returns for the covered taxable period are currently being audited, the conduct of the audit shall be suspended upon the availment of the VAPP while the availment is under evaluation. It shall resume if the availment has been found invalid. If the taxpayer's availment has been determined to be valid, a Certificate of the Availment shall be issued, and

consequently, the issued Letter of Authority, Tax Verification Notice, Discrepancy Notice, Notice for Informal Conference, Preliminary Assessment Notice, Final Assessment Notice for pending cases shall be withdrawn and cancelled.

However, despite the issuance of a Certificate of Availment, the taxpayer's availment shall be rendered invalid and shall be subject to audit or investigation following the prescribed procedures under existing rules and regulations, upon prior authorization and approval of the Commissioner of Internal Revenue, in the following instances:

- When there is strong evidence or findings of under-declaration of sales, receipts or income or overstatement of deductions by more than 30% based on a written report of the appropriate revenue official stating the facts with supporting documents; and/or
- When there is verifiable information that the taxpayer has withheld but failed to remit withholding taxes.

Any voluntary payment may be applied against the deficiency tax due, if any, that may be assessed against the taxpayer after the audit/investigation.

- Taxpayers who failed to file tax returns and/or pay their taxes for the taxable year 2018 can apply for VAPP, provided that the unfiled tax returns shall first be filed and/or unpaid taxes plus corresponding penalties for late filing and payment shall first be paid by the taxpayer.
- Any payment made is construed as a waiver of the taxpayer's right to claim for refund or credit, notwithstanding the collection thereof from an erroneous payment. The act of voluntary payment under this program shall not be deemed as an admission on the part of the taxpayer that there was fraud in the declaration of its taxes and/or there was an intention to pay the tax erroneously.

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**RMC No. 96-2020,
September 7, 2020**

Taxpayers in the NCR, Bulacan, Cavite, Rizal and Laguna who adopted the temporary measures during the MECQ period are required to comply with the provisions under RMC No. 47-2020, including the submission of Summary of Temporary Receipts/Invoices Issued to their respective Revenue District Offices within ninety (90) days from the date of the lifting of MECQ.

**RMC No. 97-2020,
September 9, 2020**

This prescribes the use of BIR Form No. 0605 for excise tax purposes only for the following:

- a. Payment on export products pursuant to Product Replenishment Scheme under RR No. 3-2008;
- b. Payment for Excise Tax on Non-Essential Services for Excisable Cosmetic Procedures until such time that BIR Form No. 2200-C will be available for use; and
- c. Payment for deficiency excise tax.

All other excise tax payments on domestic removals of excisable articles shall use their corresponding Excise Tax Returns (BIR Form 2200 series).

**RMC No. 98-2020,
September 15, 2020**

This further extends the submission of BIR Form No. 1709 and its required documents, as follows:

Annual Income Tax Return	Extended Deadline
For Fiscal Year Ending March 31, 2020 and April 30, 2020	December 29, 2020
For Fiscal Year Ending May 31, 2020 and June 30, 2020	January 31, 2021
For Fiscal Year Ending July 31, 2020 and August 31, 2020	March 1, 2021
For Fiscal Year Ending September 30, 2020 and October 31, 2020	March 31, 2021
For Fiscal Year Ending November 30, 2020 and Calendar Year Ending December 31, 2020	April 30, 2021

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***RR No. 22-2020,
September 16, 2020***

Section 3 of RR No. 12-1999, as amended by RR No. 18-2013 and RR No. 7-2018, is further amended by providing the preparation of a Notice of Discrepancy' instead of a Notice of Informal Conference.

***RMC No. 99-2020,
September 16, 2020***

This circularizes RA No. 11448 which provides:

- All revenues and assets of non-stock, non-profit Transnational Higher Education Institutions (TNHEIs) which are used actually, directly and exclusively for educational purposes shall be exempt from taxes and duties.
- All grants, bequest, endowments, donations and contributions made to the TNHEI to be used actually, directly and exclusively by the TNHEI shall be exempt from donor's tax, and the same shall be allowed as allowable deduction from the gross income of the donor for purposes of computing the taxable income of the donor.
- Further, all lands, buildings and improvements actually, directly, and exclusively used by a TNHEI for educational purposes shall be exempt from taxation. All non-stock, non-profit TNHEIs shall also be entitled to all tax incentives granted to such entities in accordance with the provisions of the Tax Code.

***RMC No. 101-2020,
September 25, 2020***

This supplements RMC No. 62-2020 which published the initial list of VAT-exempt drugs for hypertension, diabetes and high cholesterol provided by the said government agency in its letter dated March 2, 2020.

***RMC No. 102-2020,
September 25, 2020***

This prescribes the revised format for the Notice of Discrepancy to afford taxpayers with an opportunity to present and explain their side on the discrepancies found as a result of the audit/investigation of their tax liabilities.

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**RR No. 23-2020,
September 30, 2020**

Pursuant to Section 6 of RA No. 11494 (Bayanihan to Recover as One Act), tax on shares of stocks sold, bartered, exchanged, or disposed through Initial Public Offering (IPO) is repealed. Thus, every sale, barter, exchange or other disposition through IPO of shares of stock in closely held corporations shall no longer be subject to the tax imposed under Section 127(B) of the Tax Code, upon the effectivity of Bayanihan to Recover as One Act.

**RR No. 24-2020,
September 30, 2020**

This implements Section 4 (uu) of Bayanihan to Recover as One Act which covers all extensions of payments and/or maturity periods of all loans, including, but not limited to, salary, personal, housing, commercial and motor vehicle loans, amortizations, financial lease payments and premium payments, as well as credit card payments, falling due, or any part thereof, on or before December 31, 2020 contemplated under Section 4 (uu) of Bayanihan to Recover as One Act, including the extension of maturity periods that may result from the grant of grace periods for these payments, whether or not such maturity period originally fall due on or before December 31, 2020.

It also covers credit restructuring, micro-lending, including those obtained from pawnshops, and extensions thereof made on or before December 31, 2020.

No additional DST, including those imposed under Sections 179, 195 and 198 of the tax Code, shall apply to term extensions and credit restructuring, micro-lending, including those obtained from pawnshops and extensions thereof granted by covered institutions for loans falling due, or any part thereof, on or before December 31, 2020.

Interbank loans and bank borrowings shall be subject to the DST imposed under Sections 179, 195 and 198 of the Tax Code.

**RR No. 25-2020,
September 30, 2020**

This implements Section 4 (bbbb) of Bayanihan to Recover as One Act which covers the deductions from gross income of the NOLCO incurred by businesses or enterprises for taxable years 2020 and 2021.

Unless otherwise disqualified from claiming the deduction, the business or enterprise which incurred net operating loss for taxable years 2020 and 2021 shall be allowed to carry over the same as a deduction from its gross income for the next five (5) consecutive taxable years immediately following the year of such loss. The net operating loss for said taxable years may be carried over as a deduction even after the expiration of

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Bayanihan to Recover as One Act provided the same are claimed within the next five (5) consecutive taxable years immediately following the year of such loss.

The NOLCO shall be separately shown in the taxpayer's Income Tax Return as well as in the Reconciliation Section of the Tax Return while the unused NOLCO shall be presented in the Notes to the Financial Statements showing, in detail, the taxable year in which the net operating loss was sustained or incurred, and any amount thereof claimed as NOLCO deduction within five (5) consecutive years immediately following the year of such loss. The NOLCO for taxable years 2020 and 2021 shall be presented in the Notes to the Financial Statements separately from the NOLCO for other taxable years. Failure to comply with this requirement will disqualify the taxpayer from claiming the NOLCO.

SEC ISSUANCES HIGHLIGHTS

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SEC Notice, September 21, 2020

This implements the mandatory grace period for all loans provided under Section 4 (uu) of Bayanihan to Recover as One Act.

As such, all financing companies (FCs), lending companies (LCs), and microfinance NGOs (MF-NGOs) are required to implement a one-time 60-day grace period for all loans that are existing, current and outstanding, falling due or any part thereof on or before December 31, 2020. The mandatory one-time 60-day grace period shall apply to each loan, whether the borrower has a single loan or multiple loans with the subject FC, LC, or MF-NGO.

FCs, LCs, and MF-NGOs shall not charge or apply interest on interest, penalties, fees or other charges during the mandatory one-time 60-day grace period to future payments or amortizations of the borrowers. They are also prohibited from requiring their clients to waive the application of the provisions of the said Act and no waiver previously executed by borrowers covering payments falling due until December 31, 2020 shall be valid.

The accrued interest for the one-time 60-day grace period may be paid by the borrower on a staggered basis until December 31, 2020 but the borrower may opt to pay such interest in full on the new due date. Further, the parties may agree on a grace period longer than 60 days, and/or the payment of accrued interest on a staggered basis beyond December 31, 2020.

SEC CDO Case No. 09-20-068, September 23, 2020

This case involves filing of a Motion for Issuance of Cease and Desist Order a smart contract which partakes of the nature of securities being sold/offered to the public in the form of investment contracts without the necessary license from the SEC.

In *Power Homes Unlimited Corporation v. Securities and Exchange Commission*, the Supreme Court ruled that an investment contract in our jurisdiction, to be a security subject to regulation by the Commission, must be proved to be (1) an investment of money; (2) in a common enterprise; (3) with expectation of profits, (4) primarily from efforts of others. Here, the investment contract consists of a scheme or transactions whereby the referral, solicited by unregistered individuals, invests his money in the common enterprise, and expects profits therefrom with minimal or without any effort at all.

SEC ISSUANCES HIGHLIGHTS

UPDATES

MC NO. 22 S. 2020, August 18, 2020 – This provides for the guidelines on corporate term, under Section 11 of the Revised Corporation Code of the Philippines (RCC).

The corporate term of a corporation with certificate of incorporation issued prior to the effectivity of the RCC and which shall continue to exist shall be deemed perpetual upon the effectivity of the RCC, without any action on the part of the corporation. The corporation may, however, amend the Articles of Incorporation to reflect its perpetual corporate term subject to the payment of filing fees and voting requirements required by law and regulations. If the corporation elects to continue with its corporate term as provided in the Articles of Incorporation, it shall file and submit a Notice with attached Director's Certificate to the SEC within a period of two years from February 23, 2019 otherwise, it shall be treated as perpetual after the lapse of the two-year period.

Corporations that were incorporated prior to the effectivity of the RCC and those incorporated under the RCC may extend or shorten the corporate term or change the specific corporate term to perpetual corporate term or vice versa by amending their Articles of Incorporation subject to the voting requirements provided by law and regulations.

BSP ISSUANCES HIGHLIGHTS

UPDATES

***BSP Circular No. 1096,
September 16, 2020***

The Monetary Board, in its Resolution No. 1151 dated September 10, 2020, approved the amendments to the Manual of Regulations for Banks (MORB) and the Manual of Regulations for Non-Bank Financial Institutions (MORNBFII) to implement the semestral submission of the Reconciliation Statement by banks and quasi-banks on their Demand Deposit Account maintained with the BSP.

***BSP M-2020-068,
September 18, 2020***

This informs BSP-supervised financial institutions (BFIs) on the implementation of Section 4 (uu) of the Bayanihan to Recover as One Act.

Section 4 (uu) of RA No. 11494 requires all covered institutions to implement a mandatory one-time 60-day grace period to all loans that are existing, current and outstanding failing due, or any part thereof, on or before December 31, 2020. The mandatory one-time 60-day period shall apply to each loan of individuals and entities with multiple loans.

BFIs shall not charge or apply interest on interest, penalties, fees, or charges during the mandatory one-time 60-day grace period to future payments/amortizations of the borrowers. They are likewise prohibited from requiring their clients to waive the application of the provisions of the Bayanihan to Recover as One Act. No waiver previously executed by borrowers covering payments failing due until December 31, 2020 shall be valid. The accrued interest for the one-time 60 day period may be paid by the borrower on staggered basis until December 31, 2020. Nonetheless, this shall not preclude the borrower from paying the accrued interest in full on the new due date.

The parties may agree to: (1) a grace period longer than 60 days, and/or (2) payment of accrued interest on staggered basis beyond December 31, 2020.

BSP ISSUANCES HIGHLIGHTS

UPDATES

BSP Circular No. 1098, September 24, 2020

The Monetary Board, in its resolution dated 17 September 2020 approved the following amendments to MORB and MORNBFI on the ceiling on interest or finance charges for credit card receivables.

Sec. 1	Sec.2	Sec. 3	Sec.4	Sec.5
Section 312 of the MORB is hereby amended to read, as follows:	Section 107-CC of the MORNBFI is hereby amended to read, as follows:	Section 115-CC of the MORNBFI is hereby amended to read, as follows:	Section 305 of the MORB is hereby amended to read, as follows:	Section 304-Q of the MORNBFI is hereby amended to read, as follows:
312 CREDITCARD OPERATIONS	107-CC IMPOSITION OF INTEREST OR FINANCE CHARGES	115-CC INFORMATION TO BE DISCLOSED	305 INTERESTAND OTHER CHARGES	304-Q INTERESTAND OTHER CHARGES
xxx <i>Information to be disclosed xxx</i>	Credit card issuers shall impose an interest or finance charge on all credit card transactions not to exceed an annual interest rate of 24 percent, except	Credit card issuers shall disclose to each of their existing and potential credit cardholders the following information: a. xxx i. to the extent practicable, a detailed explanation and a clear	The rate of interest, including commissions, premiums, fees and other charges, on any loan, or forbearance of any money, goods or credits regardless of maturity and whether secured or	xxx <i>Rate Ceilings.</i> The rate of interest, including commissions, premiums, fees and other charges, on any loan, or forbearance of any money, goods or credits
Banks shall notify the cardholder at least ninety (90) calendar days prior to any change in the manner of computation of the outstanding balance and				

BSP ISSUANCES HIGHLIGHTS

UPDATES

Sec. 1	Sec. 2	Sec. 3	Sec. 4	Sec. 5
<p>the amount of fees to be imposed on the cardholder.'</p> <p>xxx</p> <p>xxx</p> <p><i>Method of computing and imposition of interest or finance charges</i></p> <p>Banks shall impose an interest or finance charge on all credit card transactions not to exceed an annual interest rate of 24 percent, except credit card installment loans which shall be</p>	<p>credit card installment loans which shall be subject to monthly add-on rate not exceeding one (1) percent:</p> <p><i>Provided,</i> That in the case of credit card cash advances, aside from the foregoing applicable maximum interest rate caps, no other charge or fee shall be imposed or collected apart from the processing fee in the maximum amount of Php200.00 per transaction. Such maximum</p>	<p>illustration of the manner by which all interest, charges and fees are computed.</p> <p>The credit card issuer shall notify the cardholder at least ninety (90) calendar days prior to any change in the manner of computation of the outstanding balance and the amount of fees to be imposed on the cardholder.</p>	<p>unsecured, shall not be subject to any regulatory ceiling, except for the interest or finance charges imposed on credit card receivables, including cash advances and installment purchases and for the maximum processing fee for credit card cash advances, as provided under Sec. 312 (<i>Method of computing and imposition of interest or finance charges</i>)</p>	<p>regardless of maturity and whether secured or unsecured, shall not be subject to any regulatory ceiling, except for the interest or finance charges imposed on credit card receivables, including cash advances and installment purchases and for the maximum processing fee for credit card cash advances, as provided under Sec. 107-CC (<i>Method of computing and imposition of</i></p>

BSP ISSUANCES HIGHLIGHTS

UPDATES

Sec. 1	Sec. 2	Sec. 3	Sec. 4	Sec. 5
<p>subject to monthly add-on rate not exceeding one (1) percent: <i>Provided,</i></p> <p>That in the case of credit card cash advances, aside from the foregoing applicable maximum interest rate caps, no other charge or fee shall be imposed or collected apart from the processing fee in the maximum amount of Php200.00 per transaction. Such maximum processing</p>	<p>processing fee and interest rates or finance charges shall be subject to review by BSP every six (6) months.</p> <p>Credit card issuers shall only charge interest or finance charges arising from the non-payment in full or on time of the outstanding balance based on the unpaid amount of the outstanding balance as of statement cut-off date, xxx:</p>			<p><i>interest or finance charges).</i></p>

BSP ISSUANCES HIGHLIGHTS

UPDATES

Sec. 1	Sec. 2	Sec. 3	Sec. 4	Sec. 5
<p>fee and interest rates or finance charges shall be subject to review by BSP every six (6) months.</p> <p>Banks shall only charge interest or finance charges arising from the non-payment in full or on time of the outstanding balance based on the unpaid amount of the outstanding balance as of statement cut off date, xxx:</p> <p>xxx</p> <p>only apply to the change in interest or</p>				

BSP ISSUANCES HIGHLIGHTS

UPDATES

Sec. 1	Sec. 2	Sec. 3	Sec. 4	Sec. 5
finance charges and the change in processing fees brought about by the imposition of the cap on interest or finance charges on all credit card transactions and the imposition of the maximum amount of processing fee on credit card cash advances which will take effect on 03 November 2020 in accordance with the said MB Resolution.				

BSP ISSUANCES HIGHLIGHTS

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**BSP M-2020-070,
September 21,
2020**

This notifies all Third Party Payment Service Providers participating in Philpass and all BSP-Supervised Financial Institutions regarding the e-Submission of Documents to the Payments and Settlements Office.

This supersedes the previous advisories on the procedures of submitting documents and requests to the PSO. Original copies of the documents shall no longer be required to be submitted after the e-submission.

However, the submission of the board resolution on the list of authorized signatories of the institution is still required to be submitted in original and hard copy.

**BSP M-2020-073,
September 25,
2020**

Banks shall submit their supervisory reports through the BSP Financial Institution Portal, with the following guidelines:

1. The BSP FI Portal can be accessed at <https://fiportal.bsp.gov.ph> using compatible version of web browser.
2. The implementation of the FI Portal will entail a parallel run period to be followed by live submission as provided in the table below.

Type of Report	Industry	Frequency of Report	Coverage of Parallel Run	Start of Live Submission
Reserves Reports	All banks	Weekly	Reference weeks ending October 8 to October 29, 2020	Reference week ending November 5, 2020
FRP	UKBs/TBs	Monthly	Reference periods ending September 30, and October 31, 2020	Reference period ending November 30, 2020
MRS	All banks			

BSP ISSUANCES HIGHLIGHTS

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3. Updated Data Entry Templates (DETs) of PBS, RCBP and Stress Testing Reports to be used in FI Portal submission should be downloaded at http://www.bsp.gov.ph/ses/reporting_templates. There is no need to download DETs of other reports to be submitted through the FI Portal.
4. During the parallel-run, e-mail submissions shall continue to be considered as the official submission of the bank. Upon live implementation, the submission to the FI Portal shall be considered official, thus, e-mail submissions shall be discontinued. Amendments to reports that are due prior to the parallel run shall still be submitted through e-mail.
5. Penalties for reporting violations as provided under Section 171 of the Manual of Regulations for Banks shall not be imposed during the period of the parallel run. A grace period for non-imposition of penalties for reporting violation shall also be observed for the first two reporting periods for live submissions, as well as for cases of new or enhanced reports moving forward.
6. Among the officially registered e-mail address/es of authorized officers of the bank pursuant to BSP Memorandum No. M-2017-028 dated September 11, 2017, a maximum of three (3) e-mail addresses for universal/commercial banks (U/KBs) and two (2) e-mail addresses for thrift banks (TBs) and rural and cooperative banks (RCBs) shall be allowed to access the BSP FI Portal. The said accounts must register for Two Factor Authentication (2FA) following the User Guide for 2FA registration. An advisory for the access to the FI Portal of the remaining registered email addresses shall be covered by a separate announcement.
7. Report submissions should continue to comply with the prescribed BSP reporting standards for the particular report in order to be considered compliant with Section 171 of the MORB. It likewise follows that only files prescribed by the BSP for the report shall be accepted as compliant with the existing reportorial requirements subject to validation and applicable penalties for reporting violations.
8. Banks will be advised accordingly on the actions they need to take, if any, in cases of temporary inability to access the BSP FI Portal due to periodic maintenance, unscheduled downtime and other similar situations.

BSP ISSUANCES HIGHLIGHTS

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BSP M-2020-075, September 27, 2020

This provides that the Monetary Board, in its Resolution No. 1182 dated September 17, 2020, approved the grant of the following additional regulatory reliefs to Non-Stock Savings and Loan Associations (NSSLAs), in addition to the existing regulatory relief measures provided to all BSFIs under BSP Memoranda Nos. M-2020-008 dated March 14, 2020 (as amended by M-2020-032 dated April 27, 2020) and M-2020-011 dated March 19, 2020 (as amended by M-2020-049 dated June 9, 2020), and subject to the same requirements prescribed in BSP Memoranda Nos. M-2020-008 and M-2020-011:

1. For purposes of net income distribution to members for 2020, to allow NSSLAs to recognize as income the accrued interest earned during the 30-day mandatory grace period and subsequent extensions thereon as provided under RA No. 11469 (The Bayanihan to Heal as One Act) and pertinent issuances thereon, on the members' unclassified loans, net of general allowance for credit losses (ACL) of one percent (1%) of outstanding accrued interest receivable, subject to the following conditions:
 - a. Submission of a Board of Trustees' (BOTs) certification as to accuracy and integrity of income recognition which will be subject to Bangko Sentral ng Pilipinas (BSP) verification in the next on-site examination;
 - b. That the distribution of accrued interest income, net of ACL, will not result in: (i) insufficiency of funds caused by the use of accrued interest income as part of net amount available for net income distribution; (ii) borrowing of funds in order to finance the net income distribution; (iii) curtailment of the lending operations; or (iv) liquidity problems; and
 - c. That the availing NSSLA does not have deficiency in ACL on loans and other risk assets based on its latest approved Report of Examination; and
2. For purposes of net income distribution to members for 2020, to allow NSSLAs with adequate office premises, furniture, fixtures and equipment necessary for the conduct of its business, as certified by its BOT, to revert to surplus free, reserves set for said purpose, as well as other amounts set aside voluntarily by the NSSLA for anticipated projects/expenses.

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**BSP M-2020-074,
September 28, 2020**

This clarifies the Implementing Rules and Regulations and Frequently Asked Questions on Section 4 (uu) of the Bayanihan to Recover as one Act.

The mandatory one-time 60-day grace period shall apply only to loans that are existing, current and outstanding upon the effectivity of the Bayanihan to Recover as One Act, which is on September 15, 2020. Only loans in current status and not past due are covered under Section 4 (uu). For this purpose, "existing" loans shall refer to loans granted, or transactions made, in the case of credit cards, prior to the effectivity of the Bayanihan to Recover as one Act.

The mandatory one-time 60-day grace period shall apply to multiple loans of individuals and entities, with principal and/or interest, including amortizations, falling due on or before December 31, 2020. The grace period shall apply to each loan.

For loan accounts with issued post-dated checks, and those with auto debit or auto deduct arrangements, the covered institutions shall coordinate with their clients and secure the clients' consent to proceed with the transaction or arrangement.

Banks and NBFIs that agree to further loan term extensions or restructuring pursuant to Section 4 (uu) of the Bayanihan to Recover as One Act shall be entitled to regulatory relief, as may be determined, which may include, but is not limited to: (1) staggered booking of allowances for credit losses; (2) exemption from loan-loss provisioning; (3) exemption from the limits on real estate loans, when applicable; (4) exemption from related party transaction restrictions; and (5) non-inclusion in the bank's or NBFIs reporting on non-performing loans.

**BSP M-2020-077,
September 28, 2020**

All BSFIs are required to conduct an eligibility test and assessment before submitting to the BSP an application for license or a special authority.

In this regard, all BSFIs shall accomplish an SAQ, which may be accessed in the BSP website through the following link:

http://www.bsp.gov.ph/SES/reporting_templates.

BSFIs applying for Type A and B licenses under of Circular Nos. 1031, 1033, 1036 and 1086 dated February 7, 2019, February 22, 2019, March 21, 2019 and May 6, 2020, respectively, shall accomplish the SAQ at least five (5) banking days before submission of an application to the department concerned of the Financial

BSP ISSUANCES HIGHLIGHTS

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Supervision Sector (FSS). The accomplishment of the SAQ, which has a validity period of thirty (30) days, shall be one of the requirements in the submission of BSFIs' application.

**BSP M-2020-078,
September 30, 2020**

This provides the guidelines on the electronic submission of the Financial Reporting Package for NSSLAs:

Submission Procedures

1. NSSLAs shall use the prescribed *Data Entry Template (DET)*, the corresponding *Control Prooflist (CP)*, and the reconciliation rules for the FRPNSSLA. These can be downloaded from http://www.bsp.gov.ph/SES/reporting_templates.
2. NSSLAs shall electronically transmit reports for submission to this e-mail address – dsanssla-frp@bsp.gov.ph.
3. NSSLAs shall use only *email addresses officially registered with the DSA* when electronically submitting reports. This is in line with BSP Memorandum No. M-2017-028 dated September 11, 2017. The same registered e-mail address/es shall be used by the DSA in electronically acknowledging the submitted report and transmitting the corresponding validation and reconciliation results.
4. NSSLAs shall apply the prescribed format for the Subject – “FRPNSSLA<space><Name of NSSLA>,<space><Reference Period in dd monthname ccyy>”

For Example,

To : dsanssla-frp@bsp.gov.ph

Subject: FRPNSSLA <Name of NSSLA>, 30 September 2020

5. NSSLAs shall use the following prescribed file names and file format:

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File	File Name	File Format
Data Entry Template	FRP-NSSLA	xls
Control Proof list	FRPNSSLA-CP	pdf

6. The FRPNSSLA shall be submitted *within thirty (30) calendar days after the end of reference quarter*. If the 30th calendar day falls on a Saturday, Sunday, or holiday, or on a day which business operations of BSP is suspended, the following business day shall apply.
7. NSSLAs that are unable to transmit via e-mail may submit the DET and its accompanying scanned CP using any portable storage device (e.g., USB flash drive) through messengerial or postal services within the prescribed deadline to:

The Director
Department of Supervisory Analytics (DSA) Bangko Sentral ng Pilipinas
11th Floor, Multi-Storey Building
BSP Complex, A. Mabini Street, Malate
1004 Manila

IC ISSUANCES HIGHLIGHTS

IC Circular Letter 2020-89, September 3, 2020

This provides the guidelines in the treatment of CWT of all insurance and reinsurance companies authorized to transact business in the Philippines.

Only those insurance companies with income payment declared as part of the gross income in their income tax return and have submitted their withholding tax statement or Tax Credit Certificate are qualified.

The amount of CWT which should be considered as admitted asset shall depend on the following options chosen by the insurance company:

- To be refunded – up to the amount of CWT refunded.
- To be carried over as tax credit in the next year/quarter – up to the amount of CWT declared for the current reporting year.

The company shall submit the following documents:

1. Original copy of its ITR for the current taxable year duly filed with the BIR;
2. For those who have chosen any of the following options:
 - To be refunded – proof of refund (*i.e.*, check);
 - To be carried over as tax credit – original copies of Certificate of Creditable Tax Withheld at Source or BIR Form 2307 or any Withholding Tax Return duly signed by the payor or its authorized representative bearing the following information:
 - The amount of tax withheld and paid by the withholding agent;
 - Date of remittance;
 - Name of payor and payee;
 - Description of transaction;
 - Determination of taxable base; and
 - The rate applied.

CWT credits not claimed within the same period when related income was earned may be considered as after date transaction, provided that these are supported by BIR Form No. 2307, showing the amount of tax paid and withheld therefrom.

IC ISSUANCES HIGHLIGHTS

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IC Circular Letter 2020-90, September 7, 2020

All covered entities shall submit the quarterly reports on Negative List of Officers and Employees duly certified by a responsible officer, with a rank of at least Vice-President, through the Insurance Commission (IC) Anti-Money Laundering and Corporate Governance (AMLCG) Division Online Submission Portal.

The report shall include the complete name, specify the violation/s committed and/or be accompanied by supporting documents. In case the company has no officer or employee to be reported, it has to submit a certification as provided under CL No. 21-2006 dated 23 May 2006.

Online Submission of Reports on Negative List of Officers and Employees shall be due every 15th day of the month following the end of every quarter.

Failure to submit the required report or certification within the prescribed deadline shall cause the imposition of a penalty of ₱5,000.00 per day of delay, but in no case shall the total penalty exceed ₱50,000.00, provided that such late submission has been made within thirty (30) days from said deadline. Otherwise, late submission beyond the deadline shall be deemed as non-submission.

Non-submission by covered entities of the required report or certification shall be meted by the Insurance Commission with a penalty amounting to ₱100,000.00.

Failure to (a) submit the necessary/complete information, certification or documents; and/or (b) conform to the guidelines prescribed by this circular shall be considered non-submission.

IC ISSUANCES HIGHLIGHTS

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IC Circular Letter 2020-92, September 14, 2020

This provides the guidelines on documentary requirements for processing claims in motor insurance to lessen the burden on the part of the insured to secure police reports which are not easily accessible and to provide an alternative to police reports as a requirement in the processing of motor insurance claims.

For Third Party Property Damage/Own Damage	For Third Party Bodily Injury	For Third Party Death Claim	For No Fault Indemnity	For Carnapping /Total Loss
For Motor:	Accomplished Claim Form	Accomplished Claim form	Accomplished Claim Form	Accomplished Claim Form
Accomplished Claim Form	Police Report or Traffic Incident Investigation Report	Police Report	Police Report	Police Report
Affidavits	Affidavits	Affidavits	Affidavits	Affidavits
Photographs of the damaged portion and full view of the vehicle showing its plate number	Photocopy of Driver's License Identity Card with OR	Photocopy of Driver's License Identity Card with OR	Photographs of the damaged portion and full view of the vehicle showing its plate number	Photographs of the damaged portion and full view of the vehicle showing its plate number (in case of total loss)
Estimate of repair	Photocopy of Car Registration with MVR	Photocopy of car registration with MVR	Estimate of Repair	Estimate of repair (in case of total loss)

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For Third Party Property Damage/Own Damage	For Third Party Bodily Injury	For Third Party Death Claim	For No Fault Indemnity	For Carnapping/Total Loss
Photocopy of Driver's License Identity Card with OR	Photocopy of Identification (if of legal age) or photocopy of Birth Certificate (if minor)	Photocopy of identification of claimant/heirs	Photocopy of Driver's License Identity Card with O.R.	Photocopy of Driver's License identity Card with OR
Photocopy of Car Registration with MVRR	Original Copy of Medical Certificate	Photocopy of Birth Certificate	Photocopy of Car Registration with MVRR	Photocopy of Car Registration with MVRR
Original Copy of Certification of No claim from third-party insurer	Original Copy of medical receipts with prescription	Photocopy of Marriage Certificate (if applicable)		Original Copy of Complaint Sheet from the Traffic Management Group (TMG) (in case of carnapping)
For Non-Motor:	Copy of Income Tax Return (as proof for loss of income)	Certified True Copy of Death Certificate		Original Copy of Alarm Sheet from TMG (in case of carnapping);
Accomplished Claim form		Original copy of funeral bills/receipts		Original Copy of Certificate of Non-Recovery from TMG (in case of carnapping)

IC ISSUANCES HIGHLIGHTS

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For Third Party Property Damage/Own Damage	For Third Party Bodily Injury	For Third Party Death Claim	For No Fault Indemnity	For Carnapping/Total Loss
Affidavits				Full set of keys to vehicle
Photographs of the damaged portion and full view of the vehicle showing its plate number		Photocopy of Birth Certificate		Original copy of Insurance Policy
Estimate of repair				Letter of Release from financial institution (if applicable)
Photocopy of Driver's License Identity Card with OR				Original copy of Cancellation of Chattel Mortgage (if applicable)
Photocopy of Car Registration with MVR				Secretary's Certificate, authorizing the person who will sign the Deed of Absolute Sale and Release of Claim (only in the case of corporations)
Proof of Ownership				

IC ISSUANCES HIGHLIGHTS

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IC Circular Letter 2020-93, September 22, 2020

This provides for the suspension of the imposition of penalty for the non-filing, late filing and failure to comply with compulsory notification and other reportorial requirements during the period of community quarantine. This supersedes CL No. 2020-87.

It applies to penalties imposed under Item No. VII. paragraph B of CL No. 2014-15 and other circular letters subsequently issued by the Insurance Commission which require the regulated entities' submission of reportorial requirements and impose penalty for any delay in the filing and/or submission thereof for filing and/or submission of reportorial requirements to the Commission which are due on or before December 31, 2020.

IC LO-2020-12, September 29, 2020 (AFS).

Data servers of non-life insurance companies may be located abroad when the same is done for purposes of engaging in E-Commerce as provided under CL No. 2014-47, as amended by CL No. 2016-15, otherwise known as "Amendment to the Guidelines on Electronic Commerce of Insurance Products."



TAX PROVISIONS UNDER THE BAYANIHAN TO RECOVER AS ONE ACT

By

Fulvio D. Dawilan

The Bayanihan to Recover as One Act (“Bayanihan 2”) was passed to strengthen the government’s efforts in mitigating the effects of COVID-19. Among the response and recovery interventions provided in the act are tax reliefs that would somehow help ease the burdens of taxpayers. There are also exemptions from tax effects of some of these interventions which would otherwise be imposed under normal circumstances. And there are incentives granted to specific transactions. I will discuss two of these tax provisions.

First is on the carry-over of net operating loss carry-over (“NOLCO”) to the succeeding years. Ordinarily, the NOLCO can be carried over to the next three (3) consecutive taxable years immediately following the year of such loss. As part of mitigating the costs and losses stemming from the disruption of economic activities, Bayanihan 2 extends the carry-over of the NOLCO as deductions to the next succeeding five (5) consecutive taxable years immediately following the year of the loss.

Note that this extended carry-over shall pertain only to the net losses incurred by businesses or enterprises for the taxable years 2020 and 2021. As defined by Revenue Regulations 25-2020 (RR 25-2020), a taxable year shall be understood to mean the calendar year or the fiscal year ending during such calendar year, upon the basis of which the taxable net income is computed by the concerned taxpayer.

By

Fulvio D. Dawilan

The five-year carry-over should therefore cover losses sustained by taxpayers using the calendar years ending on December 31, 2020 and December 31, 2021. Likewise, taxpayers whose fiscal years falling within said periods are covered. As clarified by RR 25-2020, the fiscal years 2020 and 2021 shall include all those corporations with fiscal years ending on or before June 30, 2021 and June 30, 2022, respectively. Thus, losses incurred by taxpayers using fiscal year ending on June 30, 2021 can be carried over to the next five years. The same applies to losses incurred by taxpayers whose fiscal years will end on June 30, 2022. Similarly, taxpayers using fiscal years in between these dates are allowed the same period of carry-over.

The taxable year entitled to the five-year NOLCO carry-over likewise includes a fractional part of a year, in case a return is made for such period. For instance, a taxpayer who changes its taxable year is required to file a short period return. I believe the loss incurred in that part of a year, provided that period falls within the taxable years 2020 and 2021, shall be allowed to be carried over to the next five years.

In essence, losses incurred by taxpayers for the years 2020 to 2021 may be carried over as deductions by the same taxpayer within next three taxable years, following the usual rules on carry-over. If the loss is not utilized or fully utilized as deduction within that three-year period, the taxpayer may still utilize the same within the next two taxable years.

Another tax provision in the Bayanihan 2 relates to the one-time sixty (60)-day grace period to be granted for the payment of all existing, current and outstanding loans falling due, or any part thereof, on or before December 31, 2020, and thereby extending the maturity of the said loans.

Ordinarily, any alteration of any evidence of obligation or indebtedness, including the extension of maturity dates, are subject to another round of documentary stamp taxes. Accordingly, with the one-time 60-day grace period effectively altering the maturity period of existing loans, the extension should be subject to the documentary stamp taxes. This is, however, addressed by the Bayanihan 2 by providing that the resulting loan term extensions or restructuring arising from this requirement shall be exempt from the documentary stamp taxes. This exemption is made clearer by the implementing regulations (RR 24-2020), which provides that no additional DST shall apply to term extensions and credit restructuring, micro-lending including those obtained from pawnshops and extensions thereof granted by covered institutions for loans falling due, or any part thereof, on or before December 31, 2020. Thus, while extensions or restructuring of loans may necessarily result from the grant of grace period in the payment of amounts due, the DST shall not accrue on the extended or restructured loans.

Compared to similar exemption provided in Bayanihan 1, the coverage and the implementation of the DST exemption under Bayanihan 2 is more straightforward. And I hope the tax authority will do away with the requirement for submission of certain reports as prescribed in the implementing rules of Bayanihan 1. The law does not require such submission, and so creditors should not be penalized for non-compliance with a requirement that is not provided in the law.

TAX PROVISIONS UNDER THE BAYANIHAN TO
RECOVER AS ONE ACT

By

Fulvio D. Dawilan

Aside from these two, there are other tax exemption/incentive provisions provided in the Bayanihan 2, such as the exemption of compensation provided to public and private health workers who contract the COVID-19 disease in the line of duty, incentives on the manufacture and importation of certain critical equipment, among others. I hope the tax authority will also provide implementing rules on these matters for the guidance of those concerned.

For inquiries on the article, you may call or email

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