

ADVISORY ON TAX EXEMPTION OF FOREIGN-SOURCED DIVIDENDS

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BIR REVENUE REGULATION NO. 5-2023

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Amending Revenue Regulations No. 5-2021 on the Requirements in Availing the Income Tax Exemption of Foreign-Sourced Dividends Received by a Domestic Corporation.

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**Amending Revenue Regulations No. 5-2021 on the Requirements in Availing the
Income Tax Exemption of Foreign-Sourced Dividends Received by a Domestic
Corporation.**

I. Rule to determine the income tax exemption of foreign-sourced dividends received by domestic corporations

General Rule: Foreign-sourced dividends received by domestic corporations are subject to income tax.

Exemption: The foreign-sourced dividends received by domestic corporations are **exempt if all of the following conditions concur:**

- a. The dividends actually received or remitted into the Philippines are **reinvested in the business of the domestic corporation within the next taxable year** from the time the foreign-sourced dividends were received or remitted;
- b. The dividends received shall be used to fund the **working capital requirements, capital expenditures, dividend payments, investment in domestic subsidiaries and infrastructure project;** and
- c. The domestic corporation holds directly at least **twenty (20%) in value of the outstanding shares of the foreign corporation and has held the shareholdings uninterrupted for a minimum of two (2) years** at the time of the dividends distribution. In case of the foreign corporation has been in existence for less than two (2) years at the time of dividends distribution, then the domestic corporation must have continuously held directly at least twenty (20%) in value of the foreign corporation's outstanding shares during the entire existence of the corporation.

II. *Consequence if any one of the abovementioned conditions is absent*

The foreign-sourced dividends shall be **considered as taxable income** of the domestic corporation in the year of actual receipt or remittance, subject to surcharge, interest, and penalties, as applicable.

III. *Requirements to avail of the income tax exemption*

The domestic corporation shall:

1. Attach a "Sworn Statement" to the Annual Income Tax Return (AITR) pertaining to the taxable year in which the foreign-sourced dividends were received; and
2. Attach to the AITR pertaining to the year immediately following the year of receipt of the foreign-sourced dividends a "Sworn Declaration".

Templates for the above "Sworn Statement" and "Sworn Declaration" are attached as annexes in the Revenue Regulations.

IV. *Rule in case of partial or non-utilization of the foreign-sourced dividends*

The domestic corporation shall **pay the corresponding income tax** due thereon, inclusive of surcharge, interest and penalties, by amending the AITR filed for the particular period. In the event that the amendment is already prohibited due to existence of audit, the income tax shall be paid using payment form (BIR Form 0605).

V. *Rule for any taxes of foreign countries paid or incurred by the domestic corporation in relation to the exempt foreign-sourced dividends*

No credit or deduction under shall be allowed for said taxes. Finally, the same taxes shall be disregarded in computing the limitations on foreign tax credits.

Source:

Revenue Regulation No. 5-2023