

UPDATES

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Supreme Court Issues Rule on Electronic Filing and Service of Pleadings and Other Papers

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On November 26, 2024, the Philippine Supreme Court issued a resolution approving the “Interim Rule on the Electronic Filing and Service of Pleadings, Judgments, and Other Papers in Civil Cases” (“Interim Rule on Electronic Filing and Service”). The Rule on Electronic Filing and Service amends Rule 13 of the 2019 Amendments to the 1997 Rules of Procedure.

The Interim Rule on Electronic Filing and Service mandates that except for complaints and other initiatory pleadings, all pleadings, motions, and other court documents (including annexes, appendices, exhibits) in any civil case governed by the rules of civil procedure and pending before the Municipal/Metropolitan Trial Courts and Regional Trial Courts must be served and filed electronically.

The rule requires parties, through counsel, to submit a notice of appearance in all covered cases containing the valid and professional email address of all counsels, their law firms, if any, and the parties represented. All electronic transmittals must be made only using the email addresses on record of the counsels of record, or that of their law firms. The rule charges parties and counsel with the obligation of regularly and diligently monitoring the inboxes of their email addresses of record.

Documents to be submitted electronically must be saved as digital files electronically generated from a word processing or portable document

format creation program which are then transmitted as direct attachments to the transmittal email and not as external links to cloud storage or file sharing websites.

The rule also provides that parties shall follow the prescribed format for the subject and body of transmittal emails to ensure that sufficient information is provided to enable courts to ascertain the parties filing the pleading, the nature of the pleading, the party against whom relief, if any, is sought, and the nature of the relief sought.

Electronic service of documents is deemed complete at the time of the electronic transmission of the document (unless the party serving the document learns that the email did not reach the addressee) and is proven by the metadata in the email header showing the date of sending and receipt of the email. Electronic filing is proven by the existence of the document in the electronic or physical case record. It may also be proven by an affidavit of electronic filing of the filing party, accompanied by a paper copy of the document transmitted, or electronic acknowledgment of the submissions filing by the clerk of court.

The Interim Rule on Electronic Filing and Service takes effect on December 1, 2024 following its publication in the Official Gazette or in two newspapers of general circulation.



BIR ISSUANCES

REVENUE MEMORANDUM CIRCULARS (RMC)

Clarifications on the guidelines on proper sale and affixture of loose documentary stamps to taxable documents under Revenue Memorandum Circular No. 92-2024

(Revenue Memorandum Circular No. 112-2024, issued on October 15, 2024)

Announcing the availability of update of taxpayer classification, and resumption of business registration and other registration-related transactions in the Online Registration and Update System

(Revenue Memorandum Circular No. 113-2024, issued on October 15, 2024)

Revocation of the implementation of Department Order (DO) No. 062-2024 and filing of refund for taxes erroneously paid

(Revenue Memorandum Circular No. 114-2024, issued on October 18, 2024)

Clarification of certain policies and procedures relative to the implementation of the Risk-Based Approach in the verification and processing of Value-Added Tax (VAT) Refund Claims, as

introduced in Republic Act No. 11976, Otherwise Known as the "Ease of Paying Taxes Act"

(Revenue Memorandum Circular No. 115-2024, issued on October 18, 2024)

Clarifying the provisions of Republic Act No. 11976, or Otherwise Known as the "Ease of Paying Taxes Act", applicable to the Power Industry

(Revenue Memorandum Circular No. 116-2024, issued on October 18, 2024)

Circularizing the availability of the revised BIR Form No. 1900 [Application for Permit to Use Loose-Leaf Books of Accounts/Invoices and Other Accounting Records] October 2024 (ENCS) (Revenue Memorandum Circular No. 117-2024, issued on October 18, 2024)

Circularizing the updated list of accredited Microfinance Non-Government Organizations (Revenue Memorandum Circular No. 118-2024, issued on October 21, 2024)

The BIR circularized the updated list of accredited Microfinance NGOs as of August 12, 2024.

What's Inside?

Bureau of Internal Revenue	
Revenue Memorandum Circulars,	2
Revenue Memorandum Orders,	4
RA No. 12023, VAT on Digital Services,	4
Court of Tax Appeals,	6
Other BIR Rulings,	7
Contributors,	8

Providing Extension of the Deadlines for the Filing of Tax Returns and Payment of Corresponding Taxes Due Thereon, Including Submission of Required Documents for Taxpayers within the Jurisdiction of Revenue District Offices of the Bureau of Internal Revenue that were Affected by Typhoon "Kristine."

(Revenue Memorandum Circular No. 119-2024, issued on October 25, 2024).

Circularizing the Updated List of Accredited Microfinance Non-Government Organizations
(Revenue Memorandum Circular No. 120-2024, issued on November 5, 2024).

This is to circularize the updated list of accredited Microfinance NGOs as of September 30, 2024.

Publishing the full texts of the Memorandum of Agreement and Data Sharing Agreement between the Bureau of Internal Revenue and the Securities and Exchange Commission
(Revenue Memorandum Circular No. 122-2024, issued on November 15, 2024).

Clarification on the validity of a Certificate of Tax Exemption issued to certain corporations
(Revenue Memorandum Circular No. 123-2024, issued on November 15, 2024).

Circularizing ERC Resolution No. 10, Series of 2023, titled "A Resolution Suspending the Inclusion of the National Franchise Tax of the National Grid Corporation of the Philippines in the Total Monthly Transmission Cost Billing of Distribution Utilities"
(Revenue Memorandum Circular No. 124-2024, issued on November 15, 2024).

Amending certain provisions of Revenue Memorandum Circular No. 095-2017, Providing

Guidelines on the Tax Treatment of the Government Securities Repurchase Transactions Governed by the Global Master Repurchase Agreement

(Revenue Memorandum Circular No. 125-2024, issued on November 15, 2024).

Waiver/removal of the certification fee in the processing of application for certificate of exemption for scholarship and job/livelihood programs

(Revenue Memorandum Circular No. 127-2024, issued on November 18, 2024).

Extended deadlines for the filing of tax returns and payment of the corresponding taxes due thereon, including submission of required documents for taxpayers within the jurisdiction of Revenue District Offices of the Bureau of Internal Revenue that were affected by Typhoons "Kristine", "Leon", "Marcel", "Nika", "Ofel" and "Pepito"

(Revenue Memorandum Circular No. 128-2024, issued on November 25, 2024).



Circularizing Republic Act No. 10659, entitled "An Act Promoting and Supporting the Competitiveness of the Sugarcane Industry and for Other Purposes"

(Revenue Memorandum Circular No. 129-2024, issued on November 25, 2024).

REVENUE MEMORANDUM ORDER (RMO)

Amending certain provisions of Revenue Memorandum Order No. 23-2024 regarding VAT refund claims automatically considered as high-risk or requiring full verification, in relation to the risk-based approach in the verification and processing of Value-Added Tax refunds (Revenue Memorandum Order No. 42-2024, issued on 02 October 2024).

The issuance is to amend RMO No. 23-2024 specifically on the list of VAT refund claims automatically considered as high-risk following the risk-based approach in the verification and processing of VAT refund claims.

The VAT refund applications with incomplete or missing information (e.g., no reference details, incomplete/no transaction details, etc.) on the schedule of sales and purchases following the prescribed format shall be automatically considered as high-risk.

Adoption of the New BIR Digital Transformation Roadmap for CY 2025-2028 (Revenue Memorandum Order No. 48-2024, issued on 15 November 2024).



This RMO is issued to implement the new DX Roadmap for CY2025 to CY2028, structured around four strategic pillars and supported by eight core programs designed to improve revenue collections, strengthen governance and elevate taxpayer experience.

The four strategic pillars are the following:

Pillar 1: Strengthening the BIR Organization

Pillar 2: Modernizing the Digital Backbone of BIR

Pillar 3: Enhancing Policies, Governance, and Standards

Pillar 4: Elevating Taxpayer Experience and Innovating BIR Services

The DX Roadmap can be accessed [here](#). The roadmap shall be revisited and reviewed annually.

Republic Act No. 12023, also known as, VAT on Digital Services

There shall be an imposition of the 12% value added tax on digital services provided by resident or non-residents and consumed in the Philippines, pursuant to Republic Act (RA) No. 12023.

Digital service refers to any service that is supplied over the internet or other electronic network with the use of information technology and where the supply of the service is essentially automated. Digital services delivered by nonresident digital service providers (DSPs) shall be considered performed or rendered in the Philippines if the digital services are consumed in the Philippines. Digital services shall include:

(a) Online search engine; (b) Online marketplace or e-marketplace; (c) Cloud service; (d) Online media and advertising; (e) Online platform; or (f) Digital goods.

Digital service provider refers to a resident or non-resident supplier of digital services to a consumer who uses digital services subject to value-added tax in the Philippines. Non-resident DSPs are digital service provider that has no physical presence in the Philippines.

RA No. 12023, VAT on Digital Services

The DSP, whether resident or nonresident, shall be liable or assessing, collecting and remitting the VAT subject to the provisions on withholding VAT.

I. VAT Registration of Nonresident DSPs

DSPs shall be liable to register either electronically or manually, for VAT if:

- a. The gross sales for the past 12 months other than those that are VAT-exempt have exceeded the threshold of P3,000,000; or
- b. There are reasonable grounds to believe that the gross sales for the next 12 months other than those that are VAT-exempt have exceeded the threshold of P3,000,000.

The BIR shall establish a simplified automated registration system for non-resident DSPs, which shall be prescribed by the Secretary of Finance, upon the recommendation of the Commissioner.

In case the DSP is required but failed to register as a VAT taxpayer, the power of the BIR Commissioner to suspend shall include blocking the digital services performed or rendered in the Philippines by the DSP. This shall be implemented by the Department of Information and Communications Technology (DICT), through the National Telecommunications Commission (NTC).

II. Invoicing and Accounting Requirements of VAT-registered Non-resident DSPs

In lieu of the general VAT invoice, digital sales or commercial invoice shall be issued for every sale, barter, or exchange of digital services made by a VAT-registered non-resident DSP. The invoice shall include the following information:

- (1) date of transaction; (2) transaction reference number; (3) identification of consumer; (4) brief description of the transaction; and (5) total amount with indication that such amount includes VAT

The requirement to maintain subsidiary sales journal and purchase journal which daily sales and purchases are recorded shall not apply to VAT-registered non-resident DSPs.

III. Remittance of VAT due on digital services rendered by VAT-registered Non-resident DSPs

Is Customer VAT Registered?	Remittance of VAT
No	The Non-resident DSPs has the obligation to remit 12% VAT on its digital services
Yes	The customer is liable to withhold and remit the VAT via reversed charge mechanism (withholding VAT), within 10 days of the following month.

If a VAT-registered non-resident DSP is classified as an online marketplace or e-marketplace, it shall also be liable to remit the VAT on the transactions of nonresident sellers that go through its platform Provided, that it controls key aspects of the supply and performs any of the following:

- a. It sets, either directly or indirectly, any of the terms and conditions under which the supply of goods is made; or
- b. It is involved in the ordering or delivery of goods, whether directly or indirectly.

Non-resident DSPs shall not be allowed to claim creditable input tax.

IV. Transactions not covered by VAT on digital services

The following digital services are exempt from 12% VAT:

- a. Online courses, online seminars, and online trainings, rendered by private educational institutions, duly accredited by the Department of Education (DepEd), the Commission on Higher Education (CHED), the Technical Education and Skills Development Authority (TESDA), and those rendered by government educational institutions; and sale of online subscription-based services to DepEd, CHED, TESDA, and educational institutions recognized by said government agencies; and
- b. Services of non -bank financial intermediaries performing quasi-banking functions, and other non-bank financial intermediaries rendered through digital platforms.

V. Withholding of Percentage Taxes

The Secretary of Finance may, upon the recommendation of the Commissioner, require the withholding of percentage taxes imposed under Title V – Other Percentage Taxes of the Tax Code.

VI. Transitory Clause

Non-resident DSPs shall immediately subject to VAT after one hundred twenty (120) days from effectivity of implementing rules and regulations.

VII. Implementing Rules and Regulations

The Department of Finance (DOF), upon the recommendation of the BIR, and in coordination with the DICT and the NTC, and upon consultation with the stakeholders, shall issue rules and regulations for the effective implementation of this Act not later than ninety (90) days from the effectivity of this Act.

VIII. Effectivity

The Republic Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation. The Act was published in the Official Gazette last October 3, 2024.



COURT OF TAX APPEALS (CTA).

City of Valenzuela v. NLEX Corp., C.T.A. AC No. 290, 25 November 25, 2024

The LGU, through the City Treasurer, erred when it assessed NLEX with local business tax (LBT) based on its gross sales as reported in its audited financial statements, including VAT in their computation of the same. The Local Government Code, its IRR, and BLGF Memorandum Circular No. 01-001-2017, are quite clear in enumerating the exclusions from gross sales or receipts. If VAT is listed among the exclusions from gross sales or receipts, then the LGU cannot include such in computing the gross sales or receipts of NLEX.

Zuellig Pharma Asia Pacific Ltd. Phils. ROHQ v. Commissioner of Internal Revenue, C.T.A. Case No. 9025 (Resolution), November 18, 2024

While petitioner's remaining reported zero-rated sales were proven to have been paid for in acceptable foreign currency and duly accounted for in accordance with BSP, the supporting ORs, however, are not compliant with the invoicing requirements under the VAT law and regulations, i.e., the nature of the services performed by petitioner was not indicated in the supporting ORs, in clear violation of Section 113 (B) (3) of the NIRC of 1997, as amended.

Compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory. Strict compliance with substantiation and invoicing requirements is necessary considering VAT's nature and VAT system's tax credit method, where tax payments are based on output and input taxes and where the seller's output tax becomes the buyer's input tax that is available as tax credit or refund in the same transaction. The absence of any of the requisites is already a valid ground to deny the refund claim.

Procter & Gamble International Operations SA-ROHQ v. Commissioner of Internal Revenue, C.T.A. EB Case Nos. 2768 & 2775 (C.T.A. Case No. 9897) , October 28, 2024

In refund cases, the Court has no authority to determine possible deficiency tax and assess the claimant on the basis thereof. Verily, the courts have the power to review tax assessments issued by the CIR. However, it has no assessment powers and cannot, by itself, assess a taxpayer for deficiency taxes. The law vests sole authority to the CIR to make such assessments. And, as a matter of due process, an administrative remedial process is mandated as a condition precedent to the judicial determination of liability for deficiency taxes.

Lantro Phils., Inc. v. Commissioner of Internal Revenue, C.T.A. Case No. 10130 (Resolution), October 31, 2024

While the Certificate of Registration proves that the enterprise is duly registered with the PEZA, it is the PEZA VAT Zero-Rating Certificate (PEZA-ERD Form No. 97-01) which confirms that the enterprise is compliant with the conditions stipulated in its PEZA Certificate of Registration and has no outstanding penalties. It is the VAT Zero-Rating Certificate which serves as competent proof that the enterprise seeking VAT refund remains a qualified PEZA-registered enterprise and therefore entitled to the VAT zero-rating incentive.

Other BIR Rulings

BIR RULING NO. OT-061-2024

October 8, 2024

The Central Bank-Board of Liquidators (CB-BOL), established under Section 132(e) of RA No. 7653 (New Central Bank Act), ceased operations in June 2018 and transferred its remaining assets to the national government through the Bureau of Treasury (BTr) via Deeds of Assignment (DOAs) on an "as-is-where-is" basis. Among these were properties under the Comprehensive Agrarian Reform Program (CARP). The BTr argued that these "gratuitous assignments" were not subject to Donor's Tax, Capital Gains Tax (CGT), or Documentary Stamp Tax (DST).

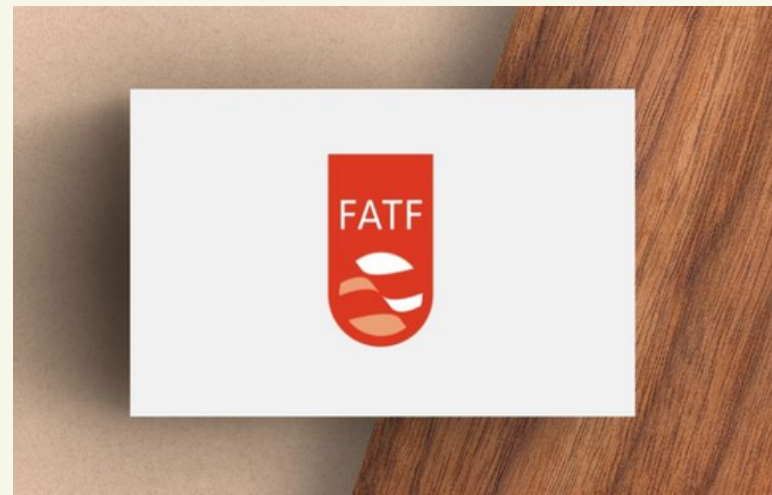
The DOAs cannot be considered gifts or donations as they serve as a partial settlement of CB-BOL's obligations to the national government. Therefore, they are not subject to Donor's Tax. Rather, the DOAs are in the nature of a Dación en Pago, a transaction akin to a sale, which is typically subject to CGT and DST.

Despite this, by transferring its assets through the DOAs to the state as represented by the BTr, it is merely performing its mandated functions as a national government entity under EO No. 169, s. 1994, which was issued in accordance with Section 132 (e) of RA No. 7653. Since the CB-BOL is deemed to be performing a governmental function in the transfer of its assets to the State, even if such acts contemplate a partial settlement of its obligation, the said DOAs are not subject to CGT and DST. As such, the DOAs transferring real properties from CB-BOL to the Republic of the Philippines are exempt from taxes.

BIR Ruling No. OT-049-2024

October 7, 2024

Section 42 (A) (3) and (C) (3) of the Tax Code states that compensation for labor or personal services is derived from sources within the Philippines if the services are performed therein, and outside if the services are performed outside the Philippines. Non-resident alien individuals are subject to income tax only on income derived from all sources within the Philippines. Conversely, they are not subject to income tax on income derived from sources outside the Philippines.



Thus, income payments made for services rendered by non-residents to the AMLC under the Renewal Contract dated February 26, 2021 and the Consultancy Services Agreement dated September 1, 2021, including other subsequent renewals and agreements containing the same terms and conditions, the purpose of which is the removal of the Philippines from the "FATF Grey list" as well as from the European Union's List of Jurisdictions with Strategic AML/CFT Deficiencies (EU List on AML/CFT), are NOT subject to Philippine income tax, withholding tax, and VAT to the extent that the subject services are not performed in the Philippines. Conversely, if the subject services are performed in the Philippines, such in the case of any in-country missions or in-country trainings, these shall be subject to Philippine income tax, withholding tax, and VAT.

Check out the details of tax updates [HERE](#)

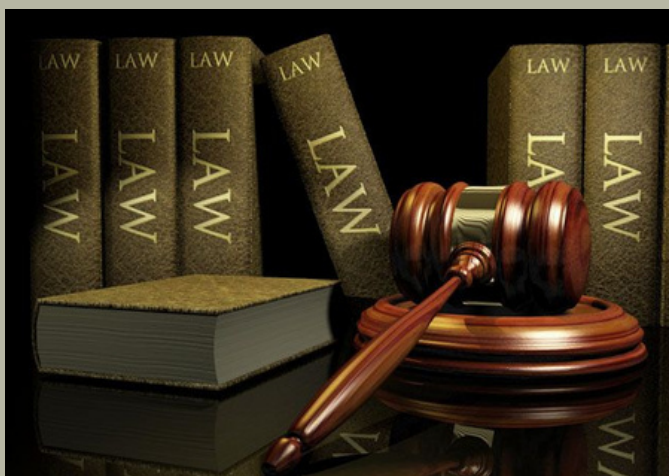


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LEGAL Updates

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