
QUALITY ASSURANCE BULLETIN MARCH 2024



TAX COMPLIANCE

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QUALITY ASSURANCE BULLETIN



REVENUE MEMORANDUM CIRCULAR (RMC) NO. 36-2024

Clarifies the manner of computing the Minimum Corporate Income Tax (MCIT) for Taxable Year 2023

RMC NO. 36-2024 DATED MARCH 11, 2024

The Republic Act No. 11534, also known as the Corporate Recovery and Income Tax Incentives for Enterprises Act, implements a one percent Minimum Corporate Income Tax (MCIT) for the period July 1, 2022 to June 30, 2023. On July 1, 2023, the MCIT reverts to its original rate of two percent, calculated based on the gross income of the corporation.

For ease of computation, please refer to the table below:

Annual Accounting Period	MCIT 1% or 2%	Annual Accounting Period	MCIT 1% or 2%
FY 7-31-23	1.08	FY 1-31-24	1.58
FY 8-31-23	1.17	FY 2-28-24	1.67
FY 9-31-23	1.25	FY 3-31-24	1.75
FY 10-31-23	1.33	FY 4-30-24	1.83
FY 11-31-23	1.42	FY 5-31-24	1.92
CY 12-31-23	1.50	FY 6-30-24	2.00



SEC MEMORANDUM CIRCULAR (MC) NO. 6-2024

Clarifies the updated fines and penalties on the Late and Non-Submissions of audited Financial Statements (AFS), General Informal Sheet (GIS), Non-Compliance with Sec Memorandum Circular 28, Series of 2020 (SEC MC28)

In accordance with SEC Memorandum Circular No. 6-2024, the Securities and Exchange Commission (SEC) provides for the updated fines and penalties on the Late and Non-submission of Audited Financial Statements (AFS), General Information Sheet (GIS), Non-compliance with SEC Memorandum Circular No. 28, Series of 2020 (MC28).

DEFINITION OF TERMS

A. For One Person, Stock, and Non-Stock Domestic Corporations

a) Filed/Submission on Time

Reportorial Requirements	Period to File / Register
GIS ¹	<p>Within thirty (30) calendar days from the date of the actual meeting.</p> <p>For Financing and Lending Companies, the reckoning period for the filing of the GIS is from the date of actual meeting or within seven (7) calendar days from the date of change, as the need arises.</p>
AFS	<p>Within one hundred twenty (120) calendar days from fiscal year-end or as prescribed by the Commission.</p>
SEC MC 28	<p>Upon filing of the registration forms or within thirty (30) calendar days from the issuance of the certificate of registration, license, or authority.</p>

b) Late Filing/Submission of Reportorial Requirements

I. Filing after the due date but still within a year of the prescribed deadline of filing;
 II. Filing beyond one (1) year from the prescribed period, in which the penalty shall be the base fine for “Non-Filing” and the computation of the monthly penalty should not exceed twelve (12) months; or

III. In case of SEC MC 28, submitting beyond thirty (30) calendar days from the issuance of the certificate of registration, license, or authority.

c) Non-Filing

I. Failed submission of the reportorial requirements.

B. For Stock and Non-Stock Foreign Corporations

a.) Filed on time



SCALE OF FINES AND PENALTIES

A. Late Filing of Reportorial Requirements for Domestic Stock and One Person Corporation

B. Late Filing of Reportorial Requirements for Domestic Non-Stock Corporation

VIOLATION	BRACKET	IMPOSABLE FINES – PER REPORT				
		First Offense ³	Second Offense	Third Offense	Fourth Offense	Fifth Offense
Late Filing of GIS and/or AFS	Capital Deficiency	P5,000	P6,000	P7,000	P8,000	P9,000
	Negative Retained Earnings (Deficit)	Plus P500 per month ⁴ of delay	Plus P500 per month of delay	Plus P500 per month of delay	Plus P500 per month of delay	Plus P500 per month of delay
	P0 to P100,000	P5,000	P6,000	P7,000	P8,000	P9,000
		Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay
	P100,001 to P500,000	P10,000	P12,000	P14,000	P16,000	P18,000
		Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay
	P500,001 to P5,000,000	P15,000	P18,000	P21,000	P24,000	P27,000
		Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay
	P5,000,001 to P10,000,000	P20,000	P24,000	P28,000	P32,000	P36,000
		Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay
Above P10,000,000	P25,000	P30,000	P35,000	P40,000	P45,000	
	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	

VIOLATIONS	BRACKET	IMPOSABLE FINES – PER REPORT				
		First Offense	Second Offense	Third Offense	Fourth Offense	Fifth Offense
Late Filing of GIS and/or AFS	Negative Fund Balance/ Equity (Deficit)	P5,000	P6,000	P7,000	P8,000	P9,000
	P0 to P100,000	Plus P500 per month of delay	Plus P500 per month of delay	Plus P500 per month of delay	Plus P500 per month of delay	Plus P500 per month of delay
		P5,000	P6,000	P7,000	P8,000	P9,000
	P100,001 to P500,000	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay
		P7,500	P9,000	P10,500	P12,000	P13,500
	P500,001 to P5,000,000	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay
		P10,000	P12,000	P14,000	P16,000	P18,000
	P5,000,001 to P10,000,000	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay
		P12,500	P15,000	P17,500	P20,000	P22,500
	Above P10,000,000	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay	Plus P1,000 per month of delay
P15,000		P18,000	P21,000	P24,000	P27,000	

C. Non-Filing of Reportorial Requirements for Domestic Stock Corporation and One Person Corporation

VIOLATIONS Non-Filing of Reportorial Requirements (GIS and/or AFS)	BRACKET Based on Retained Earnings / Fund Balance / Equity	IMPOSABLE FINES - PER REPORT				
		First Offense	Second Offense	Third Offense	Fourth Offense	Fifth Offense
Stock Corporations and One Person Corporation	Capital Deficiency	₱10,000	₱12,000	₱14,000	₱16,000	₱18,000
	Negative Retained Earnings (Deficit)	₱10,000 Plus ₱500 per month of delay	₱12,000 Plus ₱500 per month of delay	₱14,000 Plus ₱500 per month of delay	₱16,000 Plus ₱500 per month of delay	₱18,000 Plus ₱500 per month of delay
	₱0 to ₱100,000	₱10,000 Plus ₱1,000 per month of delay	₱12,000 Plus ₱1,000 per month of delay	₱14,000 Plus ₱1,000 per month of delay	₱16,000 Plus ₱1,000 per month of delay	₱18,000 Plus ₱1,000 per month of delay
	₱100,001 to ₱500,000	₱15,000 Plus ₱1,000 per month of delay	₱18,000 Plus ₱1,000 per month of delay	₱21,000 Plus ₱1,000 per month of delay	₱24,000 Plus ₱1,000 per month of delay	₱27,000 Plus ₱1,000 per month of delay
	₱500,001 to ₱5,000,000	₱20,000 Plus ₱1,000 per month of delay	₱24,000 Plus ₱1,000 per month of delay	₱28,000 Plus ₱1,000 per month of delay	₱32,000 Plus ₱1,000 per month of delay	₱36,000 Plus ₱1,000 per month of delay
	₱5,000,001 to ₱10,000,000	₱25,000 Plus ₱1,000 per month of delay	₱30,000 Plus ₱1,000 per month of delay	₱35,000 Plus ₱1,000 per month of delay	₱40,000 Plus ₱1,000 per month of delay	₱45,000 Plus ₱1,000 per month of delay
	Above ₱10,000,000	₱30,000 Plus ₱1,000 per month of delay	₱36,000 Plus ₱1,000 per month of delay	₱42,000 Plus ₱1,000 per month of delay	₱48,000 Plus ₱1,000 per month of delay	₱54,000 Plus ₱1,000 per month of delay

C. Non-Filing of Reportorial Requirements for Domestic Non-Stock Corporation

VIOLATIONS Non-Filing of GIS and/or AFS	BRACKET Based on Retained Earnings / Fund Balance / Equity	IMPOSABLE FINES - PER REPORT				
		First Offense	Second Offense	Third Offense	Fourth Offense	Fifth Offense
Non-Stock Corporations	Negative Fund Balance/ Equity (Deficit)	₱10,000 Plus ₱500 per month of delay	₱12,000 Plus ₱500 per month of delay	₱14,000 Plus ₱500 per month of delay	₱16,000 Plus ₱500 per month of delay	₱18,000 Plus ₱500 per month of delay
	₱0 to ₱100,000	₱10,000 Plus ₱1,000 per month of delay	₱12,000 Plus ₱1,000 per month of delay	₱14,000 Plus ₱1,000 per month of delay	₱16,000 Plus ₱1,000 per month of delay	₱18,000 Plus ₱1,000 per month of delay
	₱100,001 to ₱500,000	₱12,500 Plus ₱1,000 per month of delay	₱15,000 Plus ₱1,000 per month of delay	₱17,500 Plus ₱1,000 per month of delay	₱20,000 Plus ₱1,000 per month of delay	₱22,500 Plus ₱1,000 per month of delay
	₱500,001 to ₱5,000,000	₱15,000 Plus ₱1,000 per month of delay	₱18,000 Plus ₱1,000 per month of delay	₱21,000 Plus ₱1,000 per month of delay	₱24,000 Plus ₱1,000 per month of delay	₱27,000 Plus ₱1,000 per month of delay
	₱5,000,001 to ₱10,000,000	₱17,500 Plus ₱1,000 per month of delay	₱21,000 Plus ₱1,000 per month of delay	₱24,500 Plus ₱1,000 per month of delay	₱28,000 Plus ₱1,000 per month of delay	₱31,500 Plus ₱1,000 per month of delay
	Above ₱10,000,000	₱20,000 Plus ₱1,000 per month of delay	₱24,000 Plus ₱1,000 per month of delay	₱28,000 Plus ₱1,000 per month of delay	₱32,000 Plus ₱1,000 per month of delay	₱36,000 Plus ₱1,000 per month of delay





E. Late Filing of Reportorial Requirements for Foreign Stock Corporation

VIOLATIONS	BRACKET Based on Accumulated Income (AI) / Fund Balance / Members' Equity	IMPOSABLE FINES - PER REPORT				
		First Offense	Second Offense	Third Offense	Fourth Offense	Fifth Offense
Late Filing of Reportorial Requirements (GIS and/or AFS)	Capital Deficiency	₱10,000	₱12,000	₱14,000	₱16,000	₱18,000
	Negative Accumulated Income (Deficit)	₱10,000	₱12,000	₱14,000	₱16,000	₱18,000
		Plus ₱500 late penalty*	Plus ₱500 late penalty*	Plus ₱500 late penalty*	Plus ₱500 late penalty*	Plus ₱500 late penalty*
		*if filed after thirty (30) calendar days				
	₱0 to ₱100,000	Plus ₱6,000 penalty**	Plus ₱6,000 penalty**	Plus ₱6,000 penalty**	Plus ₱6,000 penalty**	Plus ₱6,000 penalty**
		** if filed after sixty (60) calendar days				
		₱10,000	₱12,000	₱14,000	₱16,000	₱18,000
	₱100,001 to ₱500,000	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*
		*if filed after thirty (30) calendar days				
		Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**
	₱500,001 to ₱5,000,000	** if filed after sixty (60) calendar days				
		₱15,000	₱18,000	₱21,000	₱24,000	₱27,000
		Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*
	₱5,000,001 to ₱10,000,000	*if filed after thirty (30) calendar days				
		Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**
** if filed after sixty (60) calendar days						
Above ₱10,000,000	₱20,000	₱24,000	₱28,000	₱32,000	₱36,000	
	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	
	*if filed after thirty (30) calendar days					
Stock Corporations (Branch, Representative Office, ROHQ)	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	
	** if filed after sixty (60) calendar days					
	₱25,000	₱30,000	₱35,000	₱40,000	₱45,000	
Above ₱10,000,000	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	
	*if filed after thirty (30) calendar days					
	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	
Above ₱10,000,000	** if filed after sixty (60) calendar days					
	₱30,000	₱36,000	₱42,000	₱48,000	₱54,000	
	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	Plus ₱1,000 late penalty*	
Above ₱10,000,000	*if filed after thirty (30) calendar days					
	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	Plus ₱12,000 penalty**	
	** if filed after sixty (60) calendar days					

F. Late Filing of Reportorial Requirements for Foreign Non-Stock Corporation

VIOLATIONS	BRACKET Based on Accumulated Income (AI) / Fund Balance / Members' Equity	IMPOSABLE FINES - PER REPORT				
		First Offense	Second Offense	Third Offense	Fourth Offense	Fifth Offense
Non-Stock (Branch, Representative Office, RHQ)	Negative Accumulated Income (Deficit)	P5,000	P6,000	P7,000	P8,000	P9,000
		Plus P500 late penalty*	Plus P500 late penalty*	Plus P500 late penalty*	Plus P500 late penalty*	Plus P500 late penalty*
		** if filed after thirty (30) calendar days				
		Plus P6,000 penalty**	Plus P6,000 penalty**	Plus P6,000 penalty**	Plus P6,000 penalty**	Plus P6,000 penalty**
		** if filed after sixty (60) calendar days				
		Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**
	P0 to P100,000	P5,000	P6,000	P7,000	P8,000	P9,000
		Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*
		** if filed after thirty (30) calendar days				
		Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**
		** if filed after sixty (60) calendar days				
		Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**
P100,001 to P500,000	P10,000	P12,000	P14,000	P16,000	P18,000	
	Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*	
	** if filed after thirty (30) calendar days					
	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	
	** if filed after sixty (60) calendar days					
	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	
P500,001 to P5,000,000	P15,000	P18,000	P21,000	P24,000	P27,000	
	Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*	
	** if filed after thirty (30) calendar days					
	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	
	** if filed after sixty (60) calendar days					
	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	
P5,000,001 to P10,000,000	P20,000	P24,000	P28,000	P32,000	P36,000	
	Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*	
	** if filed after thirty (30) calendar days					
	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	
	** if filed after sixty (60) calendar days					
	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	
Above P10,000,000	P25,000	P30,000	P35,000	P40,000	P45,000	
	Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*	Plus P1,000 late penalty*	
	** if filed after thirty (30) calendar days					
	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	
	** if filed after sixty (60) calendar days					
	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	Plus P12,000 penalty**	

G. Non-Filing of Reportorial Requirements for Foreign Stock Corporation

VIOLATIONS	BRACKET Based on Accumulated Income (AI) / Fund Balance / Members' Equity	IMPOSABLE FINES - PER REPORT				
		First Offense	Second Offense	Third Offense	Fourth Offense	Fifth Offense
Stock Corporations (Branch, Representative Office, ROHQ)	Capital Deficiency	P10,000	P12,000	P14,000	P16,000	P18,000
	Negative Accumulated Income (Deficit)	P10,000	P12,000	P14,000	P16,000	P18,000
		Plus P6,000 penalty	Plus P6,000 penalty	Plus P6,000 penalty	Plus P6,000 penalty	Plus P6,000 penalty
	P0 to P100,000	P10,000	P12,000	P14,000	P16,000	P18,000
		Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty
	P100,001 to P500,000	P20,000	P24,000	P28,000	P32,000	P36,000
		Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty
	P500,001 to P5,000,000	P30,000	P36,000	P42,000	P48,000	P54,000
		Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty
	P5,000,001 to P10,000,000	P40,000	P48,000	P56,000	P64,000	P72,000
		Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty
	Above P10,000,000	P50,000	P60,000	P70,000	P80,000	P90,000
Plus P12,000 penalty		Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	

H. Non-Filing of Reportorial Requirements for Foreign Non-Stock Corporation

VIOLATIONS	BRACKET Based on Accumulated Income (AI) / Fund Balance / Members' Equity	IMPOSABLE FINES - PER REPORT				
		First Offense	Second Offense	Third Offense	Fourth Offense	Fifth Offense
Non-Stock Corporations (Branch, Representative Office, RHQ)	Negative Accumulated Income (Deficit)	P10,000	P12,000	P14,000	P16,000	P18,000
	P0 to P100,000	P10,000	P12,000	P14,000	P16,000	P18,000
		Plus P6,000 penalty	Plus P6,000 penalty	Plus P6,000 penalty	Plus P6,000 penalty	Plus P6,000 penalty
	P100,001 to P500,000	P15,000	P18,000	P21,000	P24,000	P27,000
		Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty
	P500,001 to P5,000,000	P20,000	P24,000	P28,000	P32,000	P36,000
		Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty
	P5,000,001 to P10,000,000	P25,000	P30,000	P35,000	P40,000	P45,000
		Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty
	Above P10,000,000	P30,000	P36,000	P42,000	P48,000	P54,000
		Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty	Plus P12,000 penalty

I. Late and Non-Compliance with MS 28, s. 2020

VIOLATION	IMPOSABLE FINES
Late Filing and Non-Compliance with MC 28, s. 2020	P20,000

- Failure to submit reportorial requirements three (3) times, consecutively or intermittently, within five (5) years will lead the SEC to declare a corporation under delinquent status.
- Upon notification of delinquent status, a sixth (6th) offense may result in the revocation of the corporation's Certificate of Registration/License to Transact Business in the Philippines or Secondary License. Additionally, monetary fines equivalent to the fifth (5th) offense plus a one hundred percent (100%) surcharge will be imposed.
- This Memorandum Circular allows corporations facing higher fines, i.e., second to fifth offense, may be penalized at the scale of penalty for the first offense, provided, they are found to be compliant with the submission of GIS and AFS for three (3) consecutive years, following the imposition of higher imposable penalties, i.e., due reports for the periods 2023 to 2025.
- Corporations who previously availed of the amnesty and were issued corresponding Confirmation of Payment of Amnesty Fees (COPs) but subsequently committed the same offense will see their penalty reverted to that applicable for the first offense.

REVENUE MEMORANDUM CIRCULAR (RMC) NO. 38-2024

Clarifies the issues raise on Revenue Memorandum Circular No. 5-2024

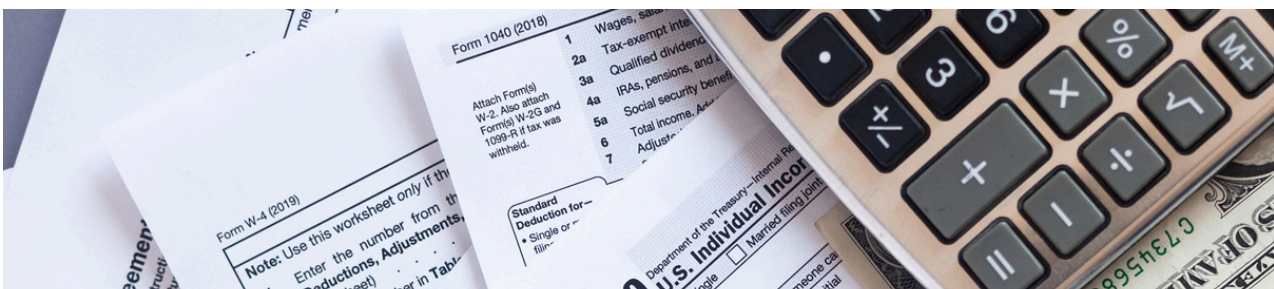
RMC NO. 38-2024 DATED MARCH 15, 2024

This RMC clarifies the concerns raised on RMC No. 5-2024 regarding the proper treatment of cross-border services in light of the Supreme Court decision in Aces Philippines case.

The BIR clarified that the list of international or cross-border services in Q&A no. 2 of RMC No. 5-2024 is only to highlight that these services are performed, delivered, or supplied by a non-resident foreign corporation (NRFC) to a domestic entity, and not to automatically subject these services to Final Withholding Tax and Final Withholding VAT.

The determination of the source of income involves an examination of all the components of the cross-border service agreements involving two taxing jurisdictions, considering the services to be performed in its entirety, and not singled out or compartmentalized on a particular activity as the income producing activity. Crucial factors to such determination are on whethe

- The cross-border services are dependent on the successful use, consumption, or utilization by the Philippine purchaser of the service for income to be accrued; or
- The performance of the service depends on the facilities located in the Philippines; or
- The particular stages of the service that occurred in the Philippines are so integral to the overall transaction that the business activity would not have been accomplished without it.



The RMC further mentioned that while Section 42(A)(3) and (C)(3) of the Tax Code, as amended, considers the labor or personal services as income sourced in the Philippines if the same are performed in the Philippines, the Supreme Court held in the Aces case that the subject may only be regarded as an income source if the particular property, activity or service causes an increase in economic benefits. Thus, the BIR concluded that the situs of the source of income for labor or personal services is not just the location where it is performed, but also the location of the service that produces the income or where the inflow of wealth originates.

Once the source of income is established to be within the Philippines following the above-mentioned conditions, the affected taxpayer may invoke the application of the tax treaty.

If the source of income of the cross-border services is in the Philippines; the 12% Final Withholding VAT will also apply.



SERVICES OFFERED

TAX ASSESSMENT AND REPRESENTATION

We specialize in guiding clients through BIR and LGU audits, ensuring proper documentation and protecting taxpayers' rights to prevent unjust assessments.

BUSINESS SET-UP AND REGISTRATION

We assist in establishing businesses in the Philippines by liaising with regulatory agencies such as SEC, BIR, CDA, and LGU, and help secure employer registrations with SSS, PHIC, and HDMF.

BUSINESS CLOSURE

We assist clients in smoothly ceasing their businesses by coordinating with LGUs for retirement, securing tax clearance from the BIR, and obtaining dissolution approval from the SEC.

TAX CONSULTANCY AND ADVISORY

We conduct tax studies, offering clients guidance on transaction-specific tax consequences based on applicable laws, regulations, court judgments, and relevant issuances.

CORPORATE RESTRUCTURING

We help implement various corporate restructuring arrangements such as increase or decrease of capital stock, conversion of debt to equity, and any other amendments to an entity's Articles of Incorporation and By-Laws.

EDITORIAL BOARD



Paguio, Floyd

Chairman
floyd.paguio@pdaccpa.com



Dumayas, Emmanuel

Chief Executive Officer
emman.dumayas@pdaccpa.com



Asadon, Ken John

Partner/ Head of Operations-SBCI
ken.asadon@sbc-pdacgroup.com



Dorongon, Emmanuel

Tax Supervisor
agreed.upon@sbc-pdacgroup.com



Tantoco, Cristel

Executive Assistant
ea.kba@sbc-pdacgroup.com



Adante, Rica Mae
Experienced Tax Associate
reg.amend@sbc-pdacgroup.com



Ramirez, Maria Cristina
Experienced Tax Associate
closures@sbc-pdacgroup.com



Zagala, Kristine
Tax Associate
tax.cases@sbc-pdcagroup.com



Dizon, Ryan Christian
Tax Associate
agreed.upon@sbc-pdacgroup.com