

## **TAX ALERT**

August 1-31, 2021

### **Court of Tax Appeals Decisions**

**IN A MEMORANDUM OF ASSIGNMENT IDENTIFYING THE REVENUE OFFICERS WHO WILL CONDUCT THE AUDIT OF A LARGE TAXPAYER, THE ABSENCE OF THE SIGNATURE OF THE ASSISTANT COMMISSIONER OR THE HEAD REVENUE EXECUTIVE ASSISTANT OF THE LARGE TAXPAYERS SERVICE ON THE DOCUMENT RENDERS THE ASSESSMENT NULL AND VOID.** Revenue Officers (“RO”) may be authorized to conduct the audit based on a Memorandum of Assignment (“MOA”) and that no new Letter of Authority (“LOA”) is required in case of reassignment. The new ROs who conducted the examination may be deemed authorized to do so without need for a new LOA if the letter or notice or memorandum was signed by the Assistant Commissioner/Head Revenue Executive Assistant of the Large Taxpayers Service. In the instant case, the MOA was signed by the Revenue District Officer who has no power to authorize the examination of taxpayer’s accounts. Therefore, the new ROs were without authority to continue the audit. *Commissioner of Internal Revenue v. BASF Philippines, Inc., CTA EB Case No. 2323, CTA Case No. 9747 dated August 2, 2021.*

### **BIR Issuances**

**FURTHER AMENDING THE PERTINENT PROVISIONS OF REVENUE REGULATIONS (RR) NOS. 2-2006 AND 11-2011, AS AMENDED BY RR NO. 2-2015, MORE PARTICULARLY ON THE MANNER OF SUBMISSION OF COPIES OF BIR FORMS NOS. 2307 AND 2316.** RR No. 16-2021 prescribes the storage of soft copies of BIR Form Nos. 2307 and 2316 using the file format and naming conventions prescribed under the available modes or submission facilities of the BIR and the submission of the same in accordance with the revenue issuances governing the selected modes or submission facilities of the BIR. *Revenue Regulations No. 16-2021 dated June 11, 2021 issued on August 3, 2021.*

**AMENDING CERTAIN PROVISIONS OF RR NO. 6-2019 TO IMPLEMENT THE EXTENSION OF THE ESTATE TAX AMNESTY PURSUANT TO REPUBLIC ACT (R.A.) NO. 11569, WHICH AMENDED R.A. NO. 11213, OTHERWISE KNOWN AS THE “TAX AMNESTY ACT”.** The availment of the estate tax amnesty is extended until June 14, 2023. Moreover, proof of settlement of estate, whether judicial or extra-judicial, if not yet available, need not yet be submitted at the time of the availment of the amnesty. However, the electronic Certificate Authorizing Registration will only be issued upon proof of final settlement. *Revenue Regulations No. 17-2021 dated July 26, 2021 issued on August 3, 2021.*

**PRESCRIBES THE REVISED BIR FORM NO. 0036 (UPDATE SECURITY AND ACCESS MATRIX FORM) RELATIVE TO REVENUE PERSONNEL AND/OR REVENUE OFFICIALS RESPONSIBLE FOR ACCOMPLISHING THE SAID BIR FORM.** *Revenue Memorandum Order No. 22-2021 issued on August 10, 2021.*

**PRESCRIBES THE GUIDELINES FOR THE DIGITAL/ONLINE LEARNING IN THE BUREAU OF INTERNAL REVENUE AND PROCEDURES IN THE CONDUCT OF ONLINE COURSES IN THE PHILIPPINE TAX ACADEMY ELEARNING AND BIR ELEARNING PLATFORMS.** *Revenue Memorandum Order No. 23-2021 issued on August 10, 2021.*

**CREATES THE ALPHANUMERIC TAX CODE EXB10 FOR EXCISE TAXES ON EXPORTS OF SWEETENED BEVERAGES PRODUCTS PAID THROUGH PAYMENT FORM (BIR FORM NO. 0605), IN RELATION TO REVENUE REGULATIONS (RR) NO. 10-2021 AND IN ACCORDANCE WITH THE PROVISIONS OF RR NO. 3-2008.** *Revenue Memorandum Order No. 24-2021 issued on August 13, 2021.*

**PROVIDES THE GUIDELINES IN THE FILING OF RETURNS AND PAYMENT OF THE CORRESPONDING TAXES DUE THEREON, AND SUBMISSION OF REPORTS AND ATTACHMENTS FALLING WITHIN THE PERIOD FROM AUGUST 6 TO AUGUST 20, 2021 FOR TAXPAYERS UNDER ENHANCED COMMUNITY QUARANTINE (ECQ) AND MODIFIED ENHANCED COMMUNITY QUARANTINE (MECQ).** The deadline for filing of returns and payment of the corresponding taxes falling within the abovementioned dates are extended for a period of fifteen (15) calendar days from August 20, 2021. However, if the ECQ and/or MECQ will be extended, then filing and payment of the corresponding taxes due thereon, and submission of reports and attachments falling within the period shall also be extended by fifteen (15) calendar days from the lifting of the ECQ and/or MECQ. Taxpayers during the said period may:

- a) Pay internal revenue taxes at the nearest Authorized Agent Banks (AABs), notwithstanding RDO jurisdiction;
- b) File and pay the corresponding tax due thereon to the concerned Revenue Collection Officers (RCOs) of the nearest RDO, even in areas where there are AABs. Provided that payment of internal revenue taxes in cash should not exceed Twenty Thousand Pesos (₱ 20,000.00), while a check payment will have no limitation if the same is made with RCO in the district office. Provided further that all checks shall be made payable to Bureau of Internal Revenue (with or without “IFO Name and TIN of the taxpayer” written on the check as previously required) and that the name and branch of the receiving AAB need no longer be indicated therein; and
- c) Pay taxes through the following online payment facilities:
  - Land Bank of the Philippines (LBP) Link.Biz Portal - for taxpayers who have ATM account with LBP and/or for holders of Bancnet ATM/Debit/Prepaid Card and taxpayers utilizing PesoNet facility (depositors of RCBC, Robinsons Bank and Union Bank);

- Development Bank of the Philippines (DBP) Pay Tax Online - for holders of Visa/Mastercard, Credit Card and/or Bancnet ATM/Debit Card;
- Union Bank Online Web and Mobile Payment Facility - for taxpayers who have an account with Union Bank of the Philippines; and
- Mobile Payment (GCash/PayMaya).

If the extended deadline falls on a non-working holiday or a holiday, the same shall be on the next working day. *Revenue Memorandum Circular No. 91-2021 issued on August 3, 2021.*

**EXTENDS THE DEADLINE FOR FILING OF POSITION PAPERS, REPLIES, PROTESTS, DOCUMENTS AND OTHER SIMILAR LETTERS AND CORRESPONDENCES IN RELATION TO THE ONGOING BIR AUDIT INVESTIGATION AND FILING OF VALUEADDED TAX (VAT) REFUND WITH THE VAT CREDIT AUDIT DIVISION (VCAD) FALLING DUE ON AUGUST 6, 2021 AND DURING THE ECQ AND MECQ PERIOD, INCLUDING EXTENSIONS THEREOF, FOR TAXPAYERS REGISTERED WITH THE REVENUE DISTRICT OFFICES (RDOS) IN AREAS COVERED BY THE ECQ AND MECQ DECLARATION OR FOR REGISTERED TAXPAYERS FILING THE SAID PAPERS, LETTERS AND DOCUMENTS WITH THE APPROPRIATE BIR OFFICES LOCATED IN AREAS COVERED BY THE ECQ AND MECQ DECLARATIONS.** The extension is as follows:

Letter/Correspondence	Extended Deadline
Position Paper and Supporting Documents in Response to Notice of Discrepancy	30 days from lifting of the ECQ and/or MECQ
Reply and Supporting Documents in Response to the Preliminary Assessment Notice (PAN)	15 days from lifting of the ECQ and/or MECQ
Protest Letter in Response to the Final Assessment Notice/Formal Letter of Demand (FAN/FLD)	30 days from lifting of the ECQ and/or MECQ
Transmittal Letter and Supporting Documents in relation to Request for Reinvestigation	30 days from lifting of the ECQ and/or MECQ
Request for Reconsideration to the Commissioner of Internal Revenue (CIR) on Final Decision on Disputed Assessment (FDDA)	30 days from lifting of the ECQ and/or MECQ
Submission of Documents in Response to Subpoena Duces Tecum	15 days from lifting of the ECQ and/or MECQ
Submission of Documents in relation to First, Second, and Final Notice	10 days from lifting of the ECQ and/or MECQ
Other Similar Letters and Correspondences	30 days from lifting of the ECQ and/or MECQ
Filing of VAT Refund with VCAD	30 days from lifting of the ECQ and/or MECQ

Face to face meetings of BIR officials and employees with taxpayers and/or their authorized representatives in the areas covered by the ECQ and MECQ declarations are deferred and re-scheduled until the lifting of ECQ and/or MECQ.

In case of any future declarations of ECQ and/or MECQ by the government in any area/s of the country, thereby restricting movement in the said area/s, the deadline of submission of the aforementioned papers, letters and documents falling within the ECQ and/or MECQ period shall likewise be extended, following the extended deadlines identified above. Furthermore, face to face meetings of BIR officials and employees with taxpayers shall likewise be deferred and re-scheduled until the lifting of any future declarations of ECQ and/or MECQ. *Revenue Memorandum Circular No. 92-2021 issued on August 9, 2021.*

**CLARIFIES THE COMPUTATION OF DONOR'S TAX IN CASE THE HEIR WAVES/RENOUNCES HIS SHARE FROM THE SPECIFIC PROPERTY FORMING PART OF THE ESTATE OF THE DECEDENT.** General renunciation by an heir of his/her share in the inheritance is not subject to Donor's Tax. However, there are instances where in the settlement of the estate of the decedent, instead of all the heirs receiving their respective share in all the properties of the decedent, the heirs will agree among themselves on a specific property that each one of them will receive. In this scenario, there will be an heir who will receive a share lower or higher than the value of what should have been his rightful share in all the properties of the decedent. In this case, there is actually a partial renunciation of inheritance since the heir is waiving his share to only identified properties but not to the entire properties of the decedent. Hence Donor's Tax shall be imposed on the value forgone as a result of such waiver/renunciation. *Revenue Memorandum Circular No. 94-2021 issued on August 10, 2021.*

**CIRCULARIZES THE CONSOLIDATED PRICE OF SUGAR AT MILLSITE FOR THE MONTH OF JUNE 2021 CONTAINED IN OPERATIONS MEMORANDUM (OM) NOS. 39-2021, 40-2021, 42-2021 AND 43-2021.** While the weekly Price of Sugar at Millsite issued by the Sugar Regulatory Administration reflects the comparative prices of sugar between the previous year and current year, the consolidated schedule on the said weekly OMs contains only that of the current year for purposes of imposing the one percent (1%) Expanded Withholding Tax on sugar prescribed under the provisions of Revenue Regulations (RR) No. 2-98, as amended by RR No. 11-2014. *Revenue Memorandum Circular No. 96-2021 issued on August 13, 2021.*

**CLARIFIES THE TAX OBLIGATIONS OF ALL SOCIAL MEDIA INFLUENCERS, INDIVIDUAL OR CORPORATION.** The BIR through RMO No. 97-2021 clarified that social media influencers are subject to income tax and business tax on their revenues from the following sources: a) You Tube Partner Program; b) sponsored social and blog posts; c) display advertising; d) becoming a brand representative/ambassador; e) affiliate marketing; f) co-creating product lines; g) promoting own products; h) photo and video sales; i) digital courses, subscriptions, e-books; and j) podcasts and webinars. In computing their tax liabilities, they may deduct business expenses from their gross income via the itemized deduction or Optional Standard Deduction. They may also avail of tax treaty benefits to avoid the risk of double-taxation. *Revenue Memorandum Circular No. 97-2021 issued on August 16, 2021.*

**CLARIFIES ISSUES RELATIVE TO THE VALUE-ADDED TAX (VAT) EXEMPTION OF CERTAIN MEDICINES AND OTHER MEDICAL DEVICES FOR COVID-19 UNDER SECTIONS 109 (1) (AA) AND 109 (1) (BB) (II) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED BY REPUBLIC ACT (R.A.) NOS. 10963**

**(TRAIN LAW), 11467 AND 11534 (CREATE ACT).** The BIR clarified the following: 1) the effectivity of the VAT exemption started last June 17, 2021; 2) only the items in the consolidated list of VAT-Exempt Products submitted by the FDA to the BIR shall be VAT exempt, previous circularized lists are rendered nugatory; and 3) the treatment of unutilized input VAT on the now VAT exempt on hand inventories. *Revenue Memorandum Circular No. 99-2021 issued on August 16, 2021*

Note: The information provided herein is general and may not be applicable in all situations. It should not be acted upon without specific legal advice based on particular situations. If you have any questions, please feel free to contact us at any of the indicated e-mail address:

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