Agenda

1. BIR Issuances
2. BIR Rulings and ITAD Rulings
3. Other topics
4. Other issuances (SEC, PEZA)
5. Tax reform program
BIR issuances
Revised guidelines for the execution of waiver

Revenue Memorandum Order No. 14-2016 dated 4 April 2016

- The waiver may be, but not necessarily, in the form prescribed by RMO No. 20-90 or RDAO No. 05-01. The taxpayer's failure to follow the aforesaid forms does not invalidate the executed waiver, for as long as the following are complied with:
  
a. The Waiver of the Statute of Limitations under Section 222 (b) and (d) shall be executed before the expiration of the period to assess or to collect taxes (or before the previously executed waiver expires). The date of execution shall be specifically indicated in the waiver.
  
b. The waiver shall be signed by the taxpayer himself or his duly authorized representative. In the case of a corporation, the waiver must be signed by any of its responsible officials.
  
c. The expiry date of the period agreed upon to assess/collect the tax after the regular three-year period of prescription should be indicated.
Revised guidelines for the execution of waiver

Revenue Memorandum Order No. 14-2016 dated 4 April 2016

• The waiver need not specify the particular taxes to be assessed nor the amount thereof. It may simply state “all internal revenue taxes”.

• The taxpayer is charged with the burden of ensuring that the waivers of statute of limitation are validly executed by its authorized representative.

• The waiver may or may not be notarized. It shall take legal effect and be binding on the taxpayer upon its execution.

• It shall be the duty of the taxpayer to submit its duly executed waiver to the appropriate BIR officer, who shall then indicate acceptance by signing the same. Such waiver shall be executed and duly accepted prior to the expiration of the period to assess or to collect. The taxpayer shall have the duty to retain a copy of the accepted waiver.
Supplemental Guidelines for Tax-free exchange Transactions

Revenue Memorandum Order 17-2016 dated 5 May 2016

- Value of the shares to be issued should be equal to the FMV property transferred.
- No APIC allowed
- Transferee corporation’s audited financial statements should include disclosure note about the tax-free exchange transaction
- Reiterated the need to have a ruling
Revenue Memorandum Order No. 42-2016 dated 21 July 2016

• The BIR’s PERA Processing Office shall accept only Applications for Accreditation filed by pre-qualified PERA Administrator based on “Qualification Certificate” issued by the concerned Regulatory Authority (i.e., BSP, SEC or the Insurance Commission).

• The accreditation of a PERA Administrator shall be valid from the date of issuance of the Certificate of Accreditation until it is suspended or revoked.

• The PERA Administrator shall be designated by the contributor to handle the administration of PERA established by the employee which, together with the contribution made by the employer, if any, shall not exceed the employee’s qualified PERA contribution.
Put money in PERA

Revenue Memorandum Order No. 42-2016 dated 21 July 2016

• Contributions to PERA can come from employees and/or their employers or self-employed individuals which shall not exceed ₱100,000 per calendar year, or ₱200,000 per calendar year if the contributor is an overseas Filipino.

• A contributor may create and maintain a maximum of five PERAs at any one time, provided that each account shall be confined to only one category of PERA Investment Product.

• A contributor shall be entitled to a 5% tax credit of the aggregate qualified PERA contributions made in a calendar year which shall be allowed to be credited only against their income tax liabilities.
Put money in PERA

Revenue Memorandum Order No. 42-2016 dated 21 July 2016

• An Overseas Filipino contributor with taxable income in the Philippines shall be entitled to a 5% tax credit to be claimed against any internal revenue tax liabilities excluding his/her withholding tax liabilities as a withholding agent.

• Tax credits arising from PERA contributions can be used as payment for delinquent accounts but in no case be refundable or convertible into cash or transferable to any other party. A separate issuance will be released for the detailed procedure on the processing and utilization of tax credit.

• A qualified employer’s contribution to the employee’s PERA can be claimed as a deduction from its gross income, subject to certain conditions.
Put money in PERA

Revenue Memorandum Order No. 42-2016 dated 21 July 2016

• Income earned from the investments and re-investments of PERA assets in accredited PERA investment products shall be exempt from income taxes but subject to other taxes applicable to the investment income.

• Qualified PERA Distributions shall be excluded from the gross income of the contributor and shall not be subject to income tax nor estate tax in the hands of the heirs or beneficiaries of the contributor.
Use of Non-thermal Paper extended

Revenue Regulations No. 6-2016 dated 16 August 2016

- Existing taxpayers with CRM/POS/other similar machines/software using thermal paper for their daily transactions are subject to the staggered implementation dates prescribed below:

<table>
<thead>
<tr>
<th>For machines registered starting:</th>
<th>Staggered Implementation Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 July 2014 onwards</td>
<td>On or before 1 July 2018</td>
</tr>
<tr>
<td>1 July 2013 - 30 June 2014</td>
<td>On or before 1 July 2017</td>
</tr>
<tr>
<td>Prior 1 July 2012 - 30 June 2013</td>
<td>On or before 1 December 2016</td>
</tr>
</tbody>
</table>
Use of Non-thermal Paper extended

Revenue Regulations No. 6-2016 dated 16 August 2016

- Procurement and reconfiguration of machines and systems to comply with the required adjustments under Section 5 of RR No. 10-2015 should be undertaken on or before **31 December 2016**.

- Any extension due to enhancements of systems required to be undertaken abroad shall seek approval from the concerned Regional Director or ACIR, Large Taxpayer Service which shall not be longer than six months from the effectivity of these Regulations.
BIR rulings and ITAD rulings
Corporate death and resurrection

BIR Ruling No. 234-2015 dated 8 July 2015

Old corporation needs to liquidate before it could reincorporate

Facts:

- The 50-year life span of domestic company has expired with its officers inadvertently failing to file a request of extension with the SEC.

- Almost 4 years later, it was issued a new COR and tax identifications numbers with a sworn statement by the CFO stating that the corporation has not, in any form or means conducted distribution or liquidation of assets as a result of the expiration of its corporate existence as of the date of the execution of this document.

- They are under the notion that there is no tax consequence to such and asked that the automatic issuance of the SEC of a new TIN to the corporation be revoked and withdrawn.
Corporate death and resurrection

BIR Ruling No. 234-2015 dated 8 July 2015
Old corporation with expired life needs to liquidate before it could reincorporate

Ruling
• If the corporation’s life expired, without an approved extension of corporate life before the expiration of its term, the corporation shall ipso facto cease to exist and dissolved.
• According to the BIR, the dissolved corporation has to undergo liquidation and recognize the tax consequences (e.g. VAT for transactions deemed sale with respect to all goods on hand as of the date of retirement of business; taxes on liquidating dividends) thereof.
• To effect the re-incorporation, the assets, properties, and rights distributed to the stockholders as liquidating dividends shall be recontributed to the new company in exchange for shares of stock.
• There is no automatic transfer even if the business is continued as usual.
Corporate death and resurrection

BIR Ruling No. 234-2015 dated 8 July 2015

The re-incorporated entity needs to obtain a new TIN

• Re-incorporation requires the application for a new TIN even if the re-incorporated company bears the same corporate name, incorporators, and stockholders as the dissolved corporation.

• The re-incorporated corporation shall only use its new TIN after the full and complete liquidation of the dissolved corporation pursuant to Section 122 of the Corporation Code.
Increasing de minimis

BIR Ruling No. 293-2015 dated 27 August 2015

Performance-based bonus of PHP10,000 is a de minimis benefit

Facts

• In 2009, the Senate and the House of Representatives approved Joint Resolution No. 4 s. 2009 which institutionalized the grant of the Collective Negotiation Agreement (CNA) Incentive, to motivate the public employees toward higher productivity.
• The DBM issued circulars which set the maximum CNA incentive to PHP25,000 per employee.
• DBM requested confirmation from BIR that such CNA incentive is exempt from tax.
Increasing de minimis

BIR Ruling No. 293-2015 dated 27 August 2015

Performance-based bonus of PHP10,000 is a de minimis benefit

Ruling

• Productivity Incentive Scheme benefit such as performance-based bonus and those agreed upon under a Collective Negotiation Agreement, not exceeding PHP10K per employee per year, shall be considered de minimis benefit (RR 1-2015).

• Productivity Incentive Schemes are benefits accorded by management to its employees based on certain economic factors. These benefits are exempted from income tax on compensation and FBT.

• Any excess of P10K shall be treated as “Other Benefits” under the Tax Code and may still be excluded from the employee’s gross income subject to PHP82,000 threshold.
**Matter of trust: tax me not**

**BIR Ruling No. 8-2016 dated 8 January 2016**

*Tax exemption of employees’ trust fund extends to interest income from bank deposits*

**Facts**

- A company’s retirement plan was maintained to provide retirement, pension, disability and death benefits to its employees. The plan was approved and qualified as exempt from income tax by the BIR in accordance with RA No. 4917.
- The plan made investments and earned therefrom interest income which was subjected to final withholding tax.
- The plan filed a claim for refund for the final tax withheld arguing that it is an entity fully exempt from income tax.
Matter of trust: tax me not

BIR Ruling No. 8-2016 dated 8 January 2016

Tax exemption of employees’ trust fund extends to interest income from bank deposits

Ruling

• Employees’ trust is exempt from income tax under the Tax Code. Final withholding tax is embraced within the title on “Income Tax” - it follows that said trust is exempt from withholding tax.

• Thus, interest income derived from currency bank deposit, deposit substitutes, trust funds and/or similar engagements/investments in money market placements by an employees’ trust are exempt from the final withholding tax.

• The tax exemption applies provided that in its investment activities, no part of the income of the fund shall be used for or diverted to purposes other than for the exclusive benefit of the member/officials or their beneficiaries.
**Government does not pay tax**

**BIR Ruling No. 178-2016 dated 16 May 2016**

**Facts**

- The taxpayer, a foreign government investment institution, requested for the confirmation of its exemption from Philippine income tax and consequently from withholding tax on any income from investments in the Philippines.

- All funds managed by the taxpayer are coming solely from the foreign government. Most of the taxpayer’s equity investments are in publicly listed equities where it owns less than 5%; thus, it has no control with regard to the management of the companies in which it invests.
Government does not pay tax

BIR Ruling No. 178-2016 dated 16 May 2016

Ruling

- BIR confirmed the taxpayer’s exemption from Philippine income tax and consequently, from withholding tax. This is based on Section 32(B)(7)(a) of the Tax Code stating that income derived from investments in the Philippines, or from interest on deposits in banks in the Philippines by foreign governments shall not be included in gross income and shall be exempt from tax.

- The exemption will continue to be valid subject to the condition that the taxpayer remains as a financial institution owned, controlled and financed by the foreign government.
**Absent but present**

**BIR Ruling No. 305-2016 dated 28 June 2016**

**Facts**

- An official of DSWD was appointed for the post of Deputy Secretary General for the ASEAN Secretariat.

- Based on the MOA executed between the DSWD and the ASEAN Secretariat, the official remained as an employee of DSWD during her secondment in the ASEAN Secretariat based in Indonesia.

- However, she was considered on leave without pay in DSWD during the said period.

- Her remunerations and other benefits were shouldered by the ASEAN Secretariat.
**Absent but present**

**BIR Ruling No. 305-2016 dated 28 June 2016**

**Ruling**

- Secondment abroad does not necessarily make the employee a non-resident citizen.

- Section 22(E) of the Tax Code provides the following (among others) scenario where a citizen can be considered a non-resident citizen:
  - Fact of his physical presence abroad with a definite intention to reside therein;
  - Resides abroad, either as an immigrant or for employment on a permanent basis;
  - Works and derives income from abroad and whose employment thereat requires him to be physically present abroad most of the time during the taxable year;
Absent but present

BIR Ruling No. 305-2016 dated 28 June 2016

Ruling

• In this case, the official’s secondment was temporary; she continued to be employed with DSWD and she has no intention to reside in Indonesia. Thus, she is still considered a resident citizen during the period of her secondment, in which case, she is taxable on all income derived from within and without the Philippines, including her salaries received from the secondment.
Effective connection

BIR Ruling No. ITAD 269-15 and 274-15 dated 11 September 2015

A foreign corporation may be treated as an NRFC even if it has a branch or RO

Facts:

- A Japanese corporation, with a representative office in the Philippines, has 40% equity investment in a Philippine company.
- The Japanese company received dividends from the Philippine entity.
- The BIR was asked to confirm if the dividend payment is eligible for tax treaty relief.
Effective connection

BIR Ruling No. ITAD 269-15 and 274-15 dated 11 September 2015

A foreign corporation may be treated as an NRFC even if it has a branch or RO

Ruling

- **General rule:** The Philippines-Japan tax treaty provides that if the dividends are paid to a company that has a PE in the Philippines, and the same is **effectively connected with the permanent establishment**, the treaty rate shall not apply. Thus, the dividends shall be subject to **30% income tax rate**.

- In this case, the BIR held that the dividends came from transactions that are separate and independent from the Philippine branch and RO of the foreign company. Thus, the dividends are covered by the **preferential treaty rates**.
Subcontracting a PE

BIR Ruling No. ITAD 7-2016 dated 4 March 2016

Subcontracting triggers a PE

Facts

- An NRFC entered into a full service and maintenance contract with the BSP for a continuous period of at least 12 months for regular service and maintenance activities for the operation of 2 units of Banknote Processing System at the BSP Complex.
- Such NRFC contracted a local company to provide local engineers in connection with servicing said units.
Subcontracting a PE

BIR Ruling No. ITAD 7-2016 dated 4 March 2016

Subcontracting triggers a PE

General rule:

- Under the PH-DE tax treaty protocol, if an enterprise of a contracting state carries out activities in the other contracting state by furnishing services, through an employee or other personnel, it shall be considered to have a PE in that contracting state if such services are rendered for a period aggregating more than six months within any twelve-month period.
Subcontracting a PE

BIR Ruling No. ITAD 7-2016 dated 4 March 2016

Subcontracting triggers a PE

Ruling:

• The NRFC is deemed to have a PE in the Philippines regardless of the fact that it subcontracted the said services to a domestic company to provide the required engineers on-site.

• The subcontracted engineers are constituted as the NRFC’s “other personnel”.

• Hence, the service fees paid by the BSP to the NRFC shall be subject to income tax and VAT.

• Furthermore, as a PE of the NRFC, the domestic company subcontracted should file the former’s quarterly and annual ITR as required under the Tax Code.
Look through

BIR ITAD Ruling No. 118-16 dated 29 June 2016

A HK branch was allowed to use tax residency of its Japan HO to access PH tax treaty

Facts:

- A Philippine company entered into a Credit Agreement with a number of lenders, one of which is a Japanese Bank through its Hong Kong branch.
- The Japanese Bank has also a Philippine branch.
- The Philippine Co. filed a tax treaty relief application (TTRA) requesting confirmation its interest payments to the Japanese Bank - Hong Kong branch are subject to the 10% preferential rate under the PH-Japan tax treaty.
- The Philippine Co. submitted a certification of tax residence of the Bank from the Japan tax office.
Look through

BIR ITAD Ruling No. 118-16 dated 29 June 2016

A HK branch was allowed to use tax residency of its Japan HO to access PH tax treaty

Ruling:

• The BIR confirmed that the interest paid by the Philippine Co. to the Japanese Bank - Hong Kong branch is subject to the preferential tax treaty rate of 10% under the PH-Japan Tax Treaty.

• Moreover, the ITAD ruled that although the Japanese Bank has a PE in the Philippines (i.e., manila branch), the subject interest payments it receives from the Philippine Co. under a credit agreement are not connected with said permanent establishment.

• The credit agreement was entered into by the Japanese Bank, through its Hong Kong branch, in its own capacity.
BIR ITAD Ruling No. 118-16 dated 29 June 2016

A branch was allowed to use tax residency of head office for tax treaty purposes

Ruling:

Under Article 11(2) of the tax treaty, if the recipient of such interest is also the beneficial owner, then the foreign corporation may avail of the lower interest rate of 10% on the gross amount of income.
Other topics

APIC as donation
Donor’s tax on sale
Redemption of shares
Nature of Additional Paid-In Capital

SEC Memorandum Circular No. 11-2008

Paid-in capital is defined as the amount of outstanding capital stock and additional paid-in capital or premium paid over the par value of shares.

Ordinarily, APIC is created through stock subscription where the subscription price is greater than the par value of the shares. When shares of stock are sold by the issuing corporation, the proceeds of the sale shall be credited to the capital stock account to the extent of the par value or stated value of the shares and the excess, if any, shall be reflected as APIC. (Statement of Financial Accounting Standards No. 18)
**Nature of Additional Paid-In Capital**

**RR No. 2-40 dated 10 February 1940**

Where a corporation requires additional funds for conducting its business and obtains such needed money through voluntary pro rata payments by its shareholders, the amounts so received being credited to its surplus account or to a special capital account, will not be considered income, although there is no increase in the outstanding shares of stock of the corporation. The payments in such circumstances are in the nature of voluntary assessments upon, and represent an additional price paid for, in shares of stock held by the individual shareholders, and will be treated as an addition to and as a part of the operating capital of the company.
**No DST on Additional Paid-In Capital**

**BIR Ruling [DA-221-02]**

- In order to augment its working capital, a company called for the infusion by its shareholders of additional capital contributions into the company coffers without increasing the authorized capital stock, and neither issue additional shares from the unissued portion thereof. Hence, there will be no increase in the outstanding shares of stock of the company.

- The BIR ruled that infusion of APIC will not result in issuance of shares of stocks, hence, the same shall not be subject to documentary stamp tax.
**Donor’s Tax Risks on Additional Paid-In Capital**

**Donation**

Donation is an act of liberality whereby a person gratuitously disposes of a thing or right in favor of another, who accepts it.

Elements:

1. reduction in the patrimony of the donor;
2. increase in the patrimony of the donee; and
3. intent to do an act of liberality or *animus donandi*. 
Donor’s Tax Risks on Additional Paid-In Capital

APIC as donation possible scenarios

• Only one stockholder contributing APIC (others do not invest pro-rata APIC); the non-contributing stockholders would effectively get pro-rata right over the APIC.
Donor’s Tax Risks on Additional Paid-In Capital

CTA Case No. 8653 date 27 January 2016

• In this case, the BIR attempted to assess donor's tax against the investee company for the capital infusion, in the form of contribution as additional paid-in capital (APIC), made by a non-resident corporation.

• While the CTA did not rule on whether or not an APIC is a donation, it held that even assuming that the same is a donation, the investee company is considered the donee.

• The burden to pay the donor's tax is imposed upon the donor and not upon the donee.

• Moreover, the liability for the payment of donor's tax is not transferrable. Consequently, the taxpayer is not liable to pay the donor's tax.
Gift without giving
Donor’s tax on sale transactions

Transfer for less than adequate and full consideration

- Section 100 of Tax Code: Selling price < FMV = donor’s tax on difference
  - Sales of shares – applies regardless if shares are held as capital or ordinary asset (RR No. 6-2008)
  - Sale of real property – applies only to real property held as ordinary asset (Section 100 of Tax Code)
- Absence of donative intent does not exempt the sale from donor’s tax (Philamlife vs. Finance Secretary, GR No. 210987 dated 24 Nov 2014)
- Filing of CGT returns reckons prescription of donor’s tax (Velasco vs. BIR, CTA Case No. 8497 dated 17 May 2016)
Redeem and be tax free

Redemption of share is not a dividend payment

- RR No. 6-2008: Redemption of shares where the issuing corporation continues to be a “going concern” and the shares are recorded as treasury shares is subject to CGT (5%/10% on net capital gains)
  - BIR treated the gains from redemption as dividends (BIR ITAD Ruling No. 016-09)
  - Both CTA and SC held that redemption of shares is not a dividend payment (Keppel Philippines vs. CIR, CTA Case No. 8908 dated 19 July 2016; CIR vs. Goodyear, GR No. 216130 dated 03 Aug 2016)
Other issuances (SEC, PEZA)
PEZA Memorandum Order No. 2016-003 dated 4 August 2016

• The Deputy Director General of PEZA now requires all PEZA-registered enterprises and ecozone developers/operators that are entitled to tax incentives, including those entitled only to duty and tax exemption on importations and/or VAT zero-rating of local purchases, to submit to PEZA their first Annual Tax Incentives Report of Registered Business Entity on or before 15 September 2016.

• The Annual Tax Incentives Report of Registered Business Entity shall consist of the following reports:
  - Annex A.1 – Annual Tax Incentives Report: Income Based Tax Incentives
  - Annex A.2 – Annual Tax Incentives Report: VAT, Excise Tax and Duty-Based Incentives
“Taxparency” report

PEZA Memorandum Order No. 2016-003 dated 4 August 2016

• All PEZA-registered enterprises which availed of the ITH and/or the 5% GIT incentive in 2015 are required to accomplish Annex A.1 report, which shall cover any and all taxable years ending in any month of 2015.

  - For projects which availed of ITH incentive, the enterprise should be able to present the amount of ITH claimed on a per project basis.

  - For projects which availed of the 5% GIT incentive, the enterprise may consolidate the computation of the amount of incentive claimed for all projects that availed of the GIT.
SEC registration made easy

SEC Memorandum Circular No. 11-2016 dated 5 August 2016

Consistent with the objectives of the Anti-Red Tape Act, the SEC resolved to dispense with the following requirements in registration activities:

- Bank Certificate of Deposit - for registration of the AOI of new corporations where the subscription to the authorized capital stock is paid in cash; if a portion of the subscription is other than cash, the non-cash subscription shall be proven by appropriate supporting documents;
SEC Memorandum Circular No. 11-2016 dated 5 August 2016

- Special Audit Report - for applications to increase the authorized capital stock of corporations where the subscription to increase is paid in cash except:
  - Listed companies;
  - Public companies defined in the Securities Regulation Code;
  - Companies that offer or sell securities to the public; and
  - Where the payment to the subscription to increase is more than PHP 50,000,000.

- Primary Entry - for Deed of Assignment in the registration of new corporations or increase in the authorized capital stock where land or real estate property is offered as consideration for the subscription of shares of stock.
One is enough

SEC-OGC Opinion No. 2015-13 dated 3 November 2015

More than one company president is not allowed

• The position of a corporate president is reposed with duties and responsibilities which can be further expanded by the company’s by-laws. It serves as a basis for its stockholders and other persons/entities transacting with it to determine whether such person is clothed with authority to perform the duties conferred by law and functions given by the by-laws.

• The by-laws must be crafted in such a way that the SEC can determine who the president is, for purposes of compliance.

• Allowing three officers who would each be called “president” could mislead and create confusion as to who should perform the duties of the position as enumerated by law.
Holding companies are subject to the minimum capitalization

SEC-OGC Opinion No. 2015-15 dated 3 November 2015

• Under the FIA, a **domestic market enterprise** is an entity that produces goods for sale, or renders service or otherwise engages in any business in the Philippines. Doing business includes participating in the management, supervision or control of any domestic business or entity in the Philippines.

• Holding companies fall under the definition of domestic market enterprises since the act of owning and acquiring interests in other corporations by purchasing their shareholdings is considered “doing business”.

• Hence: A holding company, deemed as a domestic market enterprise, is subject to the minimum capitalization requirements and foreign equity limitation under the FIA.
Teleconferencing for stockholders’ meetings not allowed

SEC Opinion No. 16-01 dated 19 January 2016

• Appearance and voting in a stockholders’ meeting cannot be conducted via teleconferencing or videoconferencing.

• Section 51 of the Corporation Code requires that the stockholders are in the same place during the meeting. The Commission maintained that in cases where the law requires a duly called meeting to carry out a corporate transaction, ‘constructive’ or ‘electronic presence’ is not a substitute for ‘actual presence’.

• However for board of directors (BOD) or trustees’ meeting, teleconferencing is allowed since Section 47 of the Code permits the “place” of the directors’ meeting to be stipulated in the corporations’ by-laws, which may be held anywhere in or outside the Philippines. Thus, the SEC issued Memorandum Circular No. 15, s. 2001, providing the guidelines for the conduct of BOD meetings through teleconferencing.
Hotel restaurants are not considered retail trade

SEC-OGC Opinion No. 16-06 dated 1 April 2016

- Although hotel restaurant and gift shop also cater to the public in general, this does not modify the primary purpose of their establishment, i.e. mainly to make access to dining and shopping services more convenient for the hotel guests.

- In this regard, restaurants and gift shops operated by the hotel within its premises and engaged in the selling of merchandise, as an *incident to its primary purpose as a hotel business*, do not fall within the definition of retail trade under the Retail Trade Liberation Act.
Tax to come… hopefully

- Individual income tax
- Value-added tax
- Excise tax on petroleum products
**Individual Income Tax**

**Proposed income tax schedule for 2018**

<table>
<thead>
<tr>
<th>Income bracket</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over PHP250,000</td>
<td>0%</td>
</tr>
<tr>
<td>PHP250,000 – PHP400,000</td>
<td>20% of the excess over PHP250,000</td>
</tr>
<tr>
<td>PHP400,001 – PHP800,000</td>
<td>PHP30,000 + 25% of the excess over PHP400,000</td>
</tr>
<tr>
<td>PHP800,001 – PHP2,000,000</td>
<td>PHP130,000 + 30% of the excess over PHP800,000</td>
</tr>
<tr>
<td>PHP2,000,001 – PHP5,000,000</td>
<td>PHP490,000 + 32% of the excess over PHP2,000,000</td>
</tr>
<tr>
<td>Over PHP5,000,000</td>
<td>PHP1,450,000 + 35% of the excess over PHP5,000,000</td>
</tr>
</tbody>
</table>
**Individual Income Tax**

**Other proposed amendments**

- After 2019, taxable income levels will be adjusted every 5 years.
- The provision on the income tax exemption of minimum wage earners shall be removed.
- Taxes shall be removed specifically on alien individual employees of the following:
  - Regional or area headquarters or ROHQs of multinational companies
  - Offshore banking units
  - Petroleum service contractor and subcontractor
Individual Income Tax

Exclusions from Gross Income

- The following benefits excluded from gross income are proposed to be omitted:
  - 13th Month pay and other benefits
  - Annual Christmas bonus received by national and local government officials and employees
  - Those received by employees pursuant to P.D. 851
  - Productivity incentives and Christmas bonus
  - Personal exemptions shall be removed
Individual Income Tax

Special treatment of fringe benefit

- Fringe benefit tax shall still be 32% effective 1 January 2018, and lowered 30% effective 1 January 2019 and thereafter.
Individual Income Tax

Deductions from Gross Income

- The Optional Standard Deduction rate shall be lowered to 20% of the gross sales.
Value-Added Tax

VAT on Export Sales

• The following shall cease to be considered as ‘export sales’:
  - Sale of raw materials or packaging materials to export-oriented enterprise whose export sales exceed 70% of total annual production

• Sale of good, supplies, equipment and fuel to persons engaged in international shipping or international air transport operations shall only be considered ‘export sales’ if the same shall be used specifically for international shipping and air transport operations.

• Direct exports by a registered export producer of export products or the sales of export products to another producer or export trader shall also be considered ‘export sales’.
Value-Added Tax

Zero-rated transactions

- The following transactions shall cease to be zero-rated:
  - Services rendered to persons or entities whose exemption is based on international agreements to which the Philippines is a signatory
  - Services rendered to persons engaged in international shipping or international air transport operations, including leases of property
  - Services performed by subcontractors and/or contractors in processing, converting, or manufacturing goods for an enterprise whose export sales exceed 70% of total annual production
  - Sale of power or fuel generated through renewable sources (this shall be tax-exempt)
**Value-Added Tax**

**Exempt transactions**

- The following transactions shall no longer be VAT-exempt:
  - Importation of professional instruments and implements, wearing apparel, domestic animals, and personal household effects of persons coming to settle in the Philippines
  - Sales by agricultural cooperatives duly registered with the Cooperative Development Authority (CDA) their members, their importations of direct farm inputs, machineries and equipment
  - Gross receipts from lending activities by credit or multi-purpose cooperatives duly registered with the CDA
  - Sales by non-agricultural, non-electric and non-credit cooperatives duly registered with the CDA
Value-Added Tax

Exempt transactions

- Sale of real property utilized for low-cost and socialized housing, residential lot valued at PHP 1,500,000 and below, house and lot and other residential dwellings valued at PHP 2,500,000 and below
- Lease of residential unit with a monthly rental not exceeding PHP 10,000
- Importation of fuel, goods and supplies by persons engaged in international shipping or air transport operations
- Sale or lease of goods or properties or the performance of services where the gross annual sales and/or receipts do not exceed PHP 3,000,000
Value-Added Tax

Excess Output or Input Tax

• Excess input tax at the end of the first three taxable quarters shall be carried over to the succeeding quarter.

• Any excess input tax at the end of the last quarter of the year shall **not** be carried over to the succeeding year but may be **refunded**.

• Accumulated excess input taxes carried over from prior years to 2017 may be carried over to the succeeding quarter or quarters of 2017, provided that such accumulated input tax shall not be carried over to 2018 but may be refunded at the end of the last taxable quarter of 2017.
## Excise Tax on Petroleum products

### Increased in excise tax

- The following changes on excise taxes are sought for:

<table>
<thead>
<tr>
<th>Product Description</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lubricating oils and greases</td>
<td>PYP10</td>
</tr>
<tr>
<td>Processed gas (per liter)</td>
<td>PHP6</td>
</tr>
<tr>
<td>Waxes and petrolatum (per kg)</td>
<td>PYP10</td>
</tr>
<tr>
<td>Denatured alcohol used for motive power (per liter)</td>
<td>PHP6</td>
</tr>
<tr>
<td>Naphtha, regular gasoline and other similar products of distillation (per liter)</td>
<td>PYP10</td>
</tr>
<tr>
<td>Leaded premium gasoline (per liter)</td>
<td>PYP10</td>
</tr>
<tr>
<td>Aviation turbo jet fuel (per liter)</td>
<td>PYP10</td>
</tr>
</tbody>
</table>
Excise Tax on Petroleum products

Increased in excise tax

<table>
<thead>
<tr>
<th>Product</th>
<th>Rate (PHP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kerosene</td>
<td>6</td>
</tr>
<tr>
<td>Diesel fuel oil, and other similar fuel oils having more or less the same generating power</td>
<td>6</td>
</tr>
<tr>
<td>Liquefied petroleum gas</td>
<td>6</td>
</tr>
<tr>
<td>Asphalts</td>
<td>6</td>
</tr>
<tr>
<td>Bunker fuel oil and on similar fuel oils having more or less the same generating power</td>
<td>6</td>
</tr>
</tbody>
</table>
Excise Tax on Petroleum products

Excisable articles

- Excise taxes paid on the purchased feedstock used in the manufacture of excisable article shall be credited against the excise tax due.

- Lubricating oils and greases produced from basestocks and additives with paid excise tax shall no longer be subject to excise tax.

- Locally-produced or imported oils previously taxed but are subsequently reprocessed, rerefined or recycled shall likewise be subject to tax.

- Tax rates shall be increased by 10% every year after effectivity on 1 January 2018.
Isla Lipana & Co. is the Philippine member firm of the PwC (PricewaterhouseCoopers) global network. PwC refers to the Philippine member firm, and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see www.pwc.com/structure for further details.