# Doing business in the Philippines

2021

# Content

"Beyond technical proficiency and bottom-line figuring, we do our best to engender among our people a deeply moral dimension, that what we do as a professional services firm has something vital to do with improving society, with ensuring the rule of honesty and integrity.

During our regular training courses, and through the various community outreach programs organized by staff with full support from the firm, we keep alive the motivation to achieve high standards in the fulfilment of our corporate social responsibility."

- **Ma. Victoria C. Españo,**
Chairperson and CEO

# Foreword

P&A Grant Thornton, the Philippine member firm of Grant Thornton International Ltd, is a leading public accounting firm in the Philippines with a proven track record of providing high-quality professional services. P&A Grant Thornton provides value-added services to clients using leading-edge systems in a culture demanding the highest standards of quality, integrity, and competence.

Grant Thornton is one of the world's leading organizations of independently owned and managed accounting and consulting firms. These firms help dynamic organizations unlock their potential for growth by providing meaningful, forward-looking advice. Proactive teams, led by approachable partners, use insights, experience, and instinct to understand complex issues for privately owned, publicly listed, and public sector clients and help them to find solutions. More than 53,000 Grant Thornton people in 135 countries are focused on making a difference to clients, colleagues, and the communities in which they live and work.

If you require any further information, please do not hesitate to contact your nearest Grant Thornton member firm.

This guide has been prepared for the assistance of those interested in doing business in the Philippines. It does not cover the subject exhaustively, but is intended to answer some of the important, broad questions that may arise. When specific problems occur in practice, it will often be necessary to refer to the laws and regulations of the Philippines and to obtain appropriate accounting and legal advice. This guide only contains brief notes and includes legislation in force as of June 30, 2021.

"Grant Thornton" refers to the brand under which the Grant Thornton member firms provide assurance, tax, and advisory services to their clients and/or refers to one or more member firms, as the context requires. Grant Thornton International Ltd (GTIL) and the member firms are not a worldwide partnership. GTIL and each member firm is a separate legal entity. Services are delivered by the member firms. GTIL does not provide services to clients. GTIL and its member firms are not agents of, and do not obligate, one another and are not liable for one another's acts or omissions.

# Country profile

### Summary
The **Philippines** is a unique mosaic of East and West. Filipinos are basically of Malay descent, although, over the centuries, the population has been enriched by infusions of Chinese, Arabic, Spanish, and American blood. This varied ancestry can be discerned in the physical features of the people and in their cultural values, customs and traditions, songs, dances, food, and festivals. The Philippines is an officially secular state, although Christianity is the dominant faith. 80.58% of the population professed Catholicism.

### Geography and population
Situated in Southeast Asia, the Philippines is one of the largest archipelagos in the world, composed of some 7,641 islands grouped into three geographic regions: Luzon in the north, Visayas in the center, and Mindanao in the south. Manila, the national capital, is on the island of Luzon. The population of the Philippines is 109.6 million as of 2020, according to the latest United Nations estimates. It is equivalent to 1.41% of the total world population. Population density is estimated at 365.3 per square kilometer of land.

### Political and legal system
The constitution provides for a presidential system of government composed of three separate and equal branches: the bicameral legislative branch composed of the House of Representatives and the Senate; the executive branch headed by the President; and the judicial branch headed by the Supreme Court. The three branches of government operate independently under a system of checks and balances.

The country consists of regions, provinces, chartered cities, municipalities, and barangays (villages). The Philippines has 18 regions, 81 provinces, 146 cities, 1,488 municipalities, and 42,046 barangays. The barangays are the smallest political unit. Local governments are responsible for these smaller political units and are similar to the executive branch in structure and function. A province is headed by a governor, while a city or municipality is headed by a mayor. A city or municipality is composed of *barangays*, each headed by a *barangay captain*. All heads of local government are assisted by a board of councilors.

Entities doing business in the Philippines must operate under laws at the national and local levels. These laws govern antitrust and securities matters, labor relations, banking and finance, insurance, product safety and quality requirements, advertising and sales practices, and environmental standards. National laws also govern such matters as corporation and partnership structures and operations.

### Language
The country's official national language is Filipino, although English is almost universally understood and is the medium of communication in business, schools, and government. There are eight major dialects spoken by the majority of Filipinos: Bicol, Cebuano, Hiligaynon (Ilonggo), Ilocano, Kapampangan, Pangasinan, Tagalog, and Waray. There are about 76 to 78 major language groups, with more than 500 dialects. Spanish, Chinese, and Arabic are also spoken by small minorities. Dates are written MM/DD/YY. A full stop (period) is used for the decimal point, and long numbers are written with a comma (99,999,999.00).

### Business hours / time zone
Normal business hours are for eight hours, generally from 8:00 a.m. to 5:00 p.m., Monday to Friday, with a lunch break from noon to 1:00 p.m. Some private enterprises are open on Saturdays. Commercial banks are generally open for client transactions from 9:00 a.m. to 5:00 p.m., from Monday to Friday, while there are some banks that are open on weekends. Technology has also enabled certain services to be available 24 hours a day, seven days a week. Philippine time is eight hours ahead of Greenwich Mean Time (GMT) and 13 hours ahead of United States Eastern Standard Time (EST).

# Country profile

### Public holidays

The Philippines observes the following public holidays:

| | | |
|---|---|---|
| New Year's Day | Regular holiday | January 1 |
| Chinese New Year | Special non-working day | Variable |
| EDSA Revolution Anniversary | Special non-working day | February 25 |
| Araw ng Kagitingan | Regular holiday | April 9 |
| Maundy Thursday | Regular holiday | Variable |
| Good Friday | Regular holiday | Variable |
| Black Saturday | Special non-working day | Variable |
| Labor Day | Regular holiday | May 1 |
| Independence Day | Regular holiday | June 12 |
| Ninoy Aquino Day | Special non-working day | August 21 |
| National Heroes Day | Regular holiday | (Last Monday of August) |
| All Saints Day | Special non-working day | November 1 |
| All Souls Day | Special non-working day | November 2 |
| Bonifacio Day | Regular holiday | November 30 |
| Feast of the Immaculate Conception of Mary | Special non-working day | December 8 |
| Additional day | Special non-working day | December 24 |
| Christmas Day | Regular holiday | December 25 |

# Country profile

| | | |
|---|---|---|
| Rizal Day | Regular holiday | December 30 |
| Last Day of the Year | Special non-working day | December 31 |

The exact dates for the observance of Eid'l Fitr (End of Ramadan) and Eidul Adha (Feast of Sacrifice) are variable and are, therefore, proclaimed annually.

### Economy

The economy of the Philippines is the 33rd largest in the world in terms of Gross Domestic Product (GDP), according to 2019 World Bank figures. It is the 3rd largest economy in Southeast Asia after Indonesia and Thailand, also according to the World Bank's rankings.

The Philippines has a free market economy with an active private sector and is considered a newly industrialized country with an economy transitioning from one based on agriculture to one based more on services and manufacturing. The government has privatized most government-owned or -controlled corporations and continues to pursue structural reforms liberalizing imports, deregulating vital industries, and relaxing investment rules. The country believes in strengthening its industries to compete globally. The country has also been actively attracting investments, largely through legislation that aims to invite foreign participation in key areas of the domestic economy. The government is pursuing policies to integrate the Philippines more closely into the regional and world economies, while recognizing the need to provide safety nets for displaced workers.

The Philippine economy is projected to continue in its expansionary path. To continue its growth trajectory, the government is investing in physical and human capital essentials, as well as implementing a public investment/infrastructure program. The government has also begun a tax reform agenda aimed at securing the country's fiscal sustainability.

### Economic growth

According to the World Bank, in 2019, the country's gross national income (GNI) based on purchasing power parity (PPP) (current international dollars) was US$1.143.48 trillion. GNI per capita, based on PPP (current international dollars), was US$10,740. The country's GDP grew by 6.0% for 2019.

### Employment levels

The annual employment rate in 2020 is estimated at 89.7%, with total employed persons numbering to approximately 39.4 million. Workers were grouped into three broad sectors: agriculture, industry, and services. Workers in the services sector comprised the largest portion of the population who are employed. These workers made up 56.9% of the total employed in 2020. Among them, those engaged in the wholesale and retail trade and the repair of motor vehicles and motorcycles accounted for the largest percentage 34.5% of workers.

Workers in the agriculture sector comprised the second largest group, making up 24.8% of the total employed in 2020, while workers in the industry sector made up the smallest group registering 18.3% of the total employed.

# Country profile

### Living standards
According to the 2017 HSBC Expat Explorer Survey, the Philippines ranks 24th in the overall Expat Explorer league table that consists of 46 countries ranked based on their attractiveness using various metrics, such as opportunities in disposable income, wages, savings, economic confidence, entrepreneurship, politics, career progression, work/life balance, job security, quality of life, culture, health, making friends, integration, safety, finance, healthcare, property and closeness with partner, school quality, and childcare quality.

### Cost of living
Living costs vary widely; the cost of living in Metro Manila is the highest in the entire country. But no matter where you are in the Philippines, the cost of living will be dramatically lower than in a comparable area in a Western nation. Based on the 2017 Cost of Living Survey by Mercer, Manila is among the cheaper cities, ranking 80th out of 209 major cities, with the costliest cities ranked higher. Asian cities in the survey include Hong Kong (1st), Tokyo (3rd), Singapore (5th), Shanghai (7th), and Seoul (11th), which are among the costliest cities in the region.

According to the Bangko Sentral ng Pilipinas, Residential real estate prices of various types of new housing units in the Philippines contracted by 0.4 percent year-on-year (y-o-y) in Q3 2020 based on the Residential Real Estate Price Index (RREPI).

**Expats find the Philippines to be among the top five countries in the world in relation to personal happiness, according to our Expat insider survey results. Expats also find it relatively easy to settle into the country and make friends and the country does well for families, too, with affordable and easily available childcare and education options for expat kids.**

# Regulatory environment

### Restrictions on foreign ownership

Investments have been substantially liberalized in the past few years. The few restrictions that remain are based on constitutional limitations and, for reasons of security, the risk to public health and morals, and the protection of small and medium-sized enterprises. Under the amended Foreign Investments Act of 1991 (FIA), domestic enterprises may be 100% foreign-owned, provided that the enterprise's activity does not appear on the FIA's Negative List. Full foreign ownership is also allowed in cases of corporations that enter into "financial and technical assistance agreements" (FTAAs) with the government in relation to large-scale mining exploration and utilization under the Philippine Mining Act of 1995 [Republic Act (RA) No. 7942).

The most recent iteration of the Negative List further consolidates recent legislative attempts to liberalize foreign ownership laws in the Philippines. Adjustment companies, lending companies, financing companies, and investment houses are no longer subject to the former restrictions on foreign equity ownership. While foreign investors are still prohibited from participating in mass media, the internet business has been opened to foreign participation. The Negative List defined "internet business" as internet access providers that merely serve as carriers for transmitting messages, rather than being the creator of messages/information.

The limits of foreign ownership in certain sectors have also been amended. Enterprises running private radio communications network and those dealing with contracts for the construction and repair of locally funded public works are now allowed up to 40% foreign ownership, where before, they were only allowed 20% and 25%, respectively.

The practice of profession is generally reserved for Filipinos, but practice by foreign nationals are allowed under principles of reciprocity. Also, under the $11^{th}$ FINL, foreign nationals may now teach at higher education levels if the subject being taught is not a professional subject (included in a government board or bar examination).

### Ease of Doing Business Act

In May 2018, RA No. 11032, otherwise known as the Ease of Doing Business and Efficient Government Service Delivery Act, was enacted. The law aims to reduce processing time, cut bureaucratic red tape, and eliminate corrupt practices, altogether paving a way for an easier and more efficient business environment. This is in line with the government's commitment to increase competitiveness and ease of doing business.

Government agencies, national or local, government instrumentalities, and government-owned and -controlled corporations are now required to process simple transactions within three working days, complex transactions within seven working days, and highly technical transactions in 20 working days. The law also requires all local government units (LGUs) to devise online unified business application forms for the issuance of business permits, clearance, and other types of authorizations, as well as set up a one-stop shop to facilitate all business transactions. An Anti-Red Tape Authority that will be under th Office of the President will also be constituted to be the key implementer of the law.

The 2020 World Bank – Doing Business Report showed the Philippines ranked 95th out of 190 economies with a score of 62.8, jumping 29 notches from no. 124 and a score of 57.68 in 2019.

# Regulatory environment

### Government approvals and registration

Corporations, which now include one-person corporations (OPC), and partnerships must be registered with the Securities and Exchange Commission (SEC) to secure their primary license or certificate of registration. Single proprietorship must register with the Bureau of Trade Regulation and Consumer Protection of the Department of Trade and Industry (DTI). Export firms located in any of the country's special economic zones should register with the Philippine Economic Zone Authority (PEZA). Customs-bonded warehouses should be registered with the Bureau of Customs (BOC). Business licenses should be secured from the local government office in the city or municipality where the business is to be located.

If the entity is qualified for incentives based on particular laws, registration with the government agency implementing the incentive law is also required for the incentives to apply.

### Philippine Competition Law

The Philippines implements a policy that promotes and protects a competitive market. In 2015, RA No. 10667, otherwise known as "Philippine Competition Act (PCA)", was enacted, providing for a comprehensive policy against anti-competitive agreements, abuse of dominant position, and anti-competitive mergers and acquisitions.

In 2016, the Philippine Competition Commission (PCC) was established to implement the PCA. The PCC is an independent, quasi-judicial body with the primary duty of ensuring fair competition in the market for the benefit of both consumers and businesses. The Commission is vested with the original and primary jurisdiction over all competition-related issues.

Transacting parties to mergers and acquisitions, including joint ventures, are required to notify PCC of the proposed transaction if the applicable transaction value and turnover thresholds are met. If companies fail to notify the PCC of transactions that meet the thresholds, their merger, acquisition, or joint venture would be rendered void.

### Post-SEC registration requirements

After registration with the SEC, the corporate entity must register with the tax authority, i.e., the BIR, the LGU of the city or municipality where it will do business, Social Security System (SSS), Home Development Mutual Fund, Pag-IBIG (government-mandated housing fund for employees), and Philippine Health Insurance (government-mandated health insurance for employees).

### Import and export controls

The Philippines has been liberalizing its markets through a progressive tariff reduction program and a shift to a tariff quota system of its commitments under the General Agreement on Tariffs and Trade (GATT) Uruguay Round. The import duties on most products are now significantly lower than in the past, when the government's policy was oriented towards protectionist import substitution.

Most goods are freely exportable, unless the trade is prohibited under international agreements. Certain commodities are regulated or prohibited from being imported for reasons of public health and safety, national security, international commitments, and development of local industry. Regulated commodities require clearances from government agencies prior to their importation. Prohibited commodities may not be imported under any circumstance.

All commodity exporters may retain 100% of the foreign exchange proceed from exports and may freely use these for any purpose.

# Regulatory environment

### Price controls
Price controls are generally not imposed on commodities. However, under RA No. 7581 or the Price Act, the President can impose a price ceiling on basic commodities if any event causes artificial and unreasonable increases in the prices of basic or prime commodities. The Price Act also empowers the DTI to procure, purchase, import, or stockpile any basic or prime commodity and to devise ways and means of distributing these goods at reasonable prices in areas where there is a shortage of supply or a need to effect changes in prevailing prices.

### Use of land
Ownership of private land is limited to Filipinos and corporations at least 60% of the outstanding capital of which is owned by Filipino citizens. However, foreigners are allowed to lease private land for a period of up to 75 years. They can also purchase up to 40% of the total available condominium units and townhouses in a single proprietary block. It is generally necessary to obtain permits from the local government for new construction, renovations, or changes in land use.

### Exchange control
The Bangko Sentral ng Pilipinas (BSP), the Philippine central bank, has fully liberalized foreign exchange policies, allowing full and immediate repatriation of capital and remittance privileges of income by foreign investors subject, however, to certain precautionary conditions under the Anti-Money Laundering Act. Foreign exchange may be freely sold and purchased outside the banking system. Foreign exchange expenditures obtained from the banking system no longer require the prior approval of the BSP. Similarly, foreign exchange may be sold by authorized agent banks without prior approval of the BSP for payment on foreign exchange transactions, except for certain foreign currency loans still covered by BSP regulations. Foreign exchange receipts, acquisitions, or earnings may be sold for pesos (even to unauthorized agent banks or outside the banking system); retained; deposited in foreign currency accounts (whether in the Philippines or abroad); or used for any other purpose.

### Registration of foreign investment with the BSP
The registration of foreign investment with the BSP is not mandatory. This is only recommended if the foreign exchange for repatriation of capital and remittance of earnings will be sourced from authorized agent banks or their affiliate foreign exchange corporations.

### Government incentives
Government incentives is granted under Corporate Recovery and Tax Incentives for Enterprise Act (CREATE)[1] and other special laws.

Under the CREATE, fiscal and non-fiscal incentives are granted to export enterprises and domestic market enterprises engaged in projects or activities listed in the Strategic Investment Priority Plan (SIPP). In addition to being in the SIPP, the enterprise must (1) meet the target performance metrics after the agreed time period; (2) install adequate accounting system that shall identify the investments, revenues, costs and profits or losses of each registered project or activity undertaken by the enterprise separately from the aggregate investments, revenues, costs and profits or losses of the whole enterprise; or establish a separate corporation for each registered project or activity if the Investment Promotion Agency should so require; (3) comply with the e-receipting and e-sales requirement; and (4) submit annual reports of beneficial ownership of the organization and related parties.

Export enterprises can choose between two sets of incentives. First option is the income tax holiday (ITH)

[1] Republic Act No. 11534 effective 11 April 2021

plus 5% special corporate income tax. The second option is the ITH plus regular corporate income tax with enhanced deductions. Domestic market enterprises can only avail of the ITH plus regular corporate income tax with enhanced deductions.

Other incentives available to both export and domestic enterprises are (a) duty exemption on importation of capital equipment, raw materials, spare parts, or accessories; and (b) value-added tax (VAT) exemption on importation and VAT zero-rating on local purchases.

The period of availment of the tax incentives will also vary depending on the location of the project and industry tier in the SIPP. For export enterprise, the ITH shall be four (4) to seven (7) years, followed by special corporate income tax rate or enhanced deductions for ten (10) years. For domestic market enterprise, it may be entitled to ITH income tax holiday for four (4) to seven (7) years followed by enhanced deductions for five (5) years.

Qualified expansion or new projects may qualify to avail of a new set of incentives under CREATE subject to the qualifications set forth in the SIPP and performance review by the Fiscal Incentives Review Board.

### Corporate governance and sustainability

As part of the ASEAN Economic Community, the Philippines adopted various governance initiatives to elevate the performance of Philippine companies at par with its ASEAN counterparts. There are currently two corporate governance codes in the country: the SEC Code of Corporate Governance for publicly listed companies (PLCs) which took effect on January 1, 2017, and the SEC Code of Corporate Governance for public companies and registered issuers which took effect on January 12, 2020. These codes intend to promote the development of a strong corporate governance culture, improve the functioning of boards, strengthen shareholder protection, and promote full disclosure in financial and non-financial reporting by PLCs, and helps improve their competitiveness and enhance their ability to attract foreign capital. Annually, PLCs are required to submit their compliance through an integrated annual corporate governance report (I-ACGR).

The SEC Sustainability Reporting Guidelines for PLCs was introduced on April 12, 2019. The guidelines requires PLCs to disclose various economic, environmental, and social (EES) aspects of their operations. It aims to promote sustainability reporting, help companies assess and manage their non-financial performance, and enable them to measure and monitor their contributions to achieving universal and national sustainability targets. Listed companies are required to submit its Annual Sustainabiltiy Report from calendar year ending 2019.

### Data privacy

The National Privacy Commission regulates data privacy in the Philippines. The Data Privacy Act of 2012 protects individual personal information, regulates the processing of personal data, and ensures the Philippines complies with international standards on data protection. Companies should adopt measures to implement the various provisions of the law, including the appointment of a data protection officer.

### Anti-money laundering

The Anti-Money Laundering Council was created pursuant to the Anti-Money Laundering Act of 2001, as recently amended by Republic Act No. 11521 which took effect on January 30, 2021, to ensure the country's adoption and observance of anti-money laundering rules and regulations. The Council has specified a list of covered persons, including those supervised or regulated by the Bangko Sentral ng Pilipinas, SEC and the Insurance Commission. The Council has also extended coverage to designated non-financial businesses and professions, and recently included real estate developers, real estate brokers, offshore gaming operators (OGOs), and OGO-service providers as covered persons. Covered persons shall adopt anti-money laundering programs in their organizations and report covered and suspicious transactions to the Council, among others.

### Covid-19 and Philippine businesses

The global Covid-19 pandemic has impacted global economy, business and trade. Philippine President Rodrigo Duterte placed the country under a state of public health emergency on March 8, 2020 in order to address the pandemic, and activated the Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF) to lead the country's efforts in managing the pandemic. The Task Force has since issued various resolutions that were adopted, implemented and strictly observed by national government agencies, local government units, businesses, enterprises and Filipino households.

### Bayanihan 1 and 2 Acts

Congress passed two laws to help address the effects of Covid 19 pandemic in the country. These are known as the Bayanihan 1 and 2 Acts. On March 24, 2020, the President signed into law Republic Act No. 11469 also known as the "Bayanihan to Heal As One Act". The said law in pursuant to the Constitution, gave the President temporary emergency powers to respond to crisis brought by the Covid19 pandemic. The powers include:

a. To adopt and implement measures to prevent or suppress further transmission and spread of COVID-19 through effective education, detection, protection, and treatment ;

b. To provide an emergency subsidy for low income households;

c. To direct the PhilHealth to shoulder all medical expenses of all health workers in case of exposure to COVID-19;

d. To ensure that all LGU are acting within the rules, regulations and directives issued by the National Government. In addition, LGUs shall be authorized to utilize more than 5% of their calamity fund;

e. To direct the operation of any privately-owned hospitals and medical and health facilities including passenger vessels and other establishments;

f. To ensure availability of credit such as lowering the lending interest rates;

g. To grant incentives for manufacture and importation of critical or needed equipment;

h. To ensure availability of essential goods;

i. To authorize alternative working arrangements;

j. To allocate cash, funds, investments and transfers to address Covid-19 emergency;

k. To move statutory deadlines and timelines for the filing and submission of any document, the payment of taxes, and other charges required by law and the grant of any benefit, in order to ease the burden on individuals;

l. To direct all banks and other financial institutions to implement a minimum of a thirty-day grace period for the payment of loans;

m. To undertake such other measures as may be reasonable and necessary.

# Regulatory environment

On September 11, 2020, the President signed into law Republic Act No. 11494 also known as the “Bayanihan to Recover As One Act”. The said law in pursuant to the Constitution, gave the President temporary emergency powers to respond to crisis brought by the Covid19 pandemic. The additional powers/ measures include:

a. To adopt a protocol on the conduct of viral testing and other Covid-19 testing; Acquire adequate number of Covid-19 testing centers; Hire skilled medical technologists, molecular biologists, epidemiologists and other skilled laboratory technicians; Procurement and distribution of supplies for viral testing and other Covid-19 testing kits;

b. Financial subsidy for those who were unemployment or involuntary separation assistance for displaced workers or employees due to COVID-19;

c. To provide cash assistance or subsidy to sick health workers, students, displaced teachers and returning OFWs;

d. Provision of loan of interest rate subsidies for institutions of learning that have been affected by the decrease in enrollment;

e. Provision of regulatory relief during the effectivity of this Act for business entities by directing the SEC and other regulatory agencies to desist from imposing fines and other monetary penalties;

f. Retirement benefits received by officials and employees of private firms, whether individual or corporate from June 5, 2020 until December 31, 2020 shall be excluded from gross income and shall be exempt from taxation; and

g. Repeal of the tax on sale, barter or exchange of shares of stock listed and traded through initial public offering (IPO).

# Finance

## Summary

The Philippine financial system is composed of banks and nonbank financial institutions.

## Banking institutions

These include commercial banks (both universal and ordinary), thrift banks (savings and mortgage banks, private development banks, stock savings and loan associations, and microfinance thrift banks), rural banks, and cooperative banks. Universal banks are allowed to perform commercial banking and investment functions. As of the second quarter of 2019, the Philippines has 547 banks, with 12,323 branches. 46 of these are universal and commercial banks with 6,869 branches; 50 are thrift banks with 2,633 branches; and 451 are rural and cooperative banks with 2,821 branches.

The BSP is an independent monetary authority with regulatory and supervisory power over banks and nonbank financial institutions (NBFIs). It aims to promote and preserve monetary stability and the convertibility of the national currency.

An application for authority to operate a bank in the Philippines must be approved by the country's Monetary Board—the BSP's highest policy-making body—and the Governor of the BSP.

The services of commercial banks include loans and discounts, which may be secured or unsecured; receivables financing; letter of credit financing with or without trust arrangements; real estate and chattel mortgage bonds; among various services.

All public and private sector publicly-guaranteed obligations from foreign creditors, offshore banking units (OBUs), and foreign currency deposit units (FCDUs) require prior BSP approval.

Loans requiring BSP approval shall, as much as possible, finance export-oriented projects, projects registered with the BOI, or other projects that may be declared priority under the country's socioeconomic development plan.

Foreign firms are allowed to access domestic credit without limitation. However, export-oriented firms, firms in vital industries, and BOI-registered firms are required to maintain a certain debt-equity ratio by the BOI and PEZA.

Republic Act 11523, An Act Ensuring Philippine Financial Industry Resiliency Against the COVID-19 Pandemic or the FIST Act, took effect on February 18, 2021, which provides a legal framework for the full transfer of bad loans and assets of banks by allowing them to clean their books and re-channel their resources to improve liquidity in the financial system.  The FIST Act allows the establishment of special purpose corporations, known as Financial Institutions Strategic Transfer Corporations (FISTC). The law then provides tax and other incentives for the FISTCs, as well as for the transfer of non-performing assets (NPAs) to and from these FISTCs.

The FIST Act repeals Republic Act No. 9182, as amended, the Special Purpose Vehicle Act of 2002.

## Nonbank financial institutions

In the Philippine financial system, banks and NBFIs have interrelated activities. NBFIs are either affiliates or subsidiaries of banks and other NBFIs. These institutions include investment houses, financing companies, investment companies, securities dealers/brokers, lending investors, government NBFIs, venture capital corporations, nonstock savings and loan associations, pawnshops, and credit card companies.

# Finance

Investment houses are governed by Presidential Decree No. 129, also known as the Investment Houses Law, which grants such institutions the exclusive authority to underwrite securities. Another relevant law is RA No. 8366, passed in 1997, which increased foreign equity participation to 60% and the minimum capitalization of investment houses to P300 million. It also allowed foreign nationals to become members of the Board of Directors of investment houses, to the extent of foreign participation in the equity of the enterprise. Today, investment houses are allowed to be 100% foreign-owned.

NBFIs are classified into two groups: (1) NBFIs with quasi-banking (QB) functions, and (2) NBFIs without QB functions. NBFIs that perform QB functions are supervised and regulated by the BSP, while those without QB functions are under the regulation and supervision of the SEC.

### Equity market

The Philippine Stock Exchange (PSE) is a self-regulatory organization that provides a fair, efficient, transparent, and orderly market for buying and selling securities in the Philippines. In 2003, the PSE listed its shares by way of introduction to become the second exchange in Southeast Asia to become a publicly listed exchange. It currently maintains a trading floor at the PSE Tower in Bonifacio Global City, Taguig City.

The PSE has a two-board structure consisting of the Main Board and a Small and Medium Enterprises (SME) Board. On December 27, 2013, the portal for the new disclosure system codeveloped with the Kora Exchange, known as EDGE (Electronic Disclosure Generation Technology), went live.

On June 22, 2015, the PSE migrated to the PSEtrade XTS trading system, powered by the NASDAQ's X-stream Trading technology. The XTS trading system is equipped to handle big trading volumes and has risk management features including same-day recovery in case the disaster recovery site is utilized. NASDAQ's trading technology is also used by ASEAN exchanges, such as Bursa Malaysia, the Singapore Exchange, and the Indonesia Stock Exchange.

The PSE also provides clearing and settlement services through its wholly owned subsidiary, the Securities Clearing Corporation of the Philippines (SCCP). SCCP manages and supports the clearance of trades in securities listed and executed on the PSE; it also acts as a Central Counterparty to trades executed at the PSE.

On February 4, 2021, the Securities Exchange Commission approved the amendments to PSE's Listing Rules. The amendment of the listing framework aims to make the Philippines' rules on a par with corporate regulations of the other ASEAN economies, i.e. Indonesian, Malaysia, Singapore, Thailand and Vietnam.

### Debt market

The Philippine Dealing and Exchange Corporation (PDEX) is an SEC-licensed self-regulatory organization that serves as the country's sole and exclusive electronic trading platform for fixed income (FI) securities and foreign exchange markets. The FI securities include both government and corporate securities.

On October 29, 2018, PDEX launched a new trading system, the Bloomberg FIQ Trading System. PDEX appointed Bloomberg as the technology partner for the electronic trading system for the government and corporate bonds traded in its market, as well as the surveillance system for the market using the regulatory oversight features of the Bloomberg E-bond platform.

The Bloomberg E-Bond platform offers market participants a robust and flexible set of tools to support the full trade workflow. This includes pre-trade price discovery and analytical tools, the ability to support multi-dealer request-for-quote (RFQ), firm order and capture of voice trades, as well as providing integrated reporting tools.

The platform is also connected with the Bureau of Treasury and PDEX's settlement systems to facilitate straight-through-processing of all bond trades. In addition, market oversight entities and regulators can review market activity and audit transactions in real time.

# Imports

### Summary

Most goods may be imported into the Philippines. There are no restrictions on country of origin unless, for reasons of health and safety, the government restricts imports from a certain country, and unless an embargo against an exporting country has been declared by the United Nations.

In 2016, the Customs Modernization and Tariff Act (CMTA) was signed into law. CMTA amended the Tariff and Customs Code of the Philippines (TCCP) with the aim of improving and modernizing customs rules and procedures for faster trade and better supply chains.

### Import restrictions

An importer must be able to classify the commodity or item they intend to import based on the following classifications: freely importable, regulated, restricted, or prohibited items. Freely importable goods are those that are allowed to be imported into the Philippines without the need for import permit, clearance, or license prior to shipment into the Philippines.

Regulated items are those that can only be imported after securing the necessary goods declaration, clearances, licenses, and any other requirement, prior to importation. In certain cases, submission of requirements after arrival of the goods in the Philippines but prior to release from customs custody may be allowed. The BOC has come up with a master list of the regulated import products and their corresponding import requirements, which can be downloaded online.

Restricted items are those that are prohibited to be imported into the Philippines, unless authorized by law or regulation. These items are listed under Section 119 of CMTA. Prohibited items are goods that are not allowed to be imported under existing Philippine laws. These items, listed in Section 118 of the CMTA, include those banned for reasons of national security, environmental and public health protection, safety and morals, and in compliance with international obligations.

The importation status of any commodity whether freely importable, regulated, restricted, or prohibited may be verified with the BOC and the Bureau of Import Services of the DTI. The Department of Agriculture can verify the importation status of agricultural products, as well as indicate whether a Minimum Access Volume Import Certificate is required.

To register as an importer, businesses first need an Import Clearance Certificate (ICC) from the BIR. Importers must then register with the BOC and set up an account with the Client Profile Registration System. The ICC is valid for three years, while the Customs Client Profile Accreditation must be updated annually.

### Customs duties

In the Philippines, import duties are imposed, generally in ad valorem form, on articles entering the country in accordance with their corresponding schedules and classifications. With the exception of imported goods with a freight on board or free carrier value of P10,000 and below (de minimis value), goods are levied import duties depending on the trade agreements and regional groupings, among others. The CMTA retained the schedules and classifications previously provided under Section 104 of the TCCP. Per the TCCP, the rate of duty classification can either be Most Favoured Nation (MFN) or ASEAN Trade in Goods Agreement (ATIGA). Executive Order No. 20 dated April 27, 2017 prescribes the MFN tariff schedule from 2017 to 2020. The current tariff structure is composed of 15 tariff levels from 0% to 65%. More than half of tariff lines have MFN rates of duty of 0% to 5%. Tariff lines with duties of 15% and above account for about 22% of total tariff lines.

# Imports

On the other hand, under the ATIGA, member states agreed to place 99% of all the products in their Inclusion List at zero duty. In compliance with ATIGA, the Philippines implemented its tariff commitments, the last tranche of which was made via Executive Order Nos. 892 and 894, implemented in 2010. Thus, most goods from ASEAN are levied ordinary import duties of 0%.

Apart from MFN and ATIGA, the Philippines has other tariff schedules pursuant to our existing free trade agreements: ASEAN-Australia-New Zealand Free Trade Area (AANZFTA); ASEAN-China Free Trade Area (ACFTA); ASEAN-India Free Trade Area (AIFTA); ASEAN-Japan Comprehensive Economic Partnership Agreement (AJCEPA); ASEAN-Korea Free Trade Area (AKFTA); Philippines-Japan Economic Partnership Agreement (PJEPA); and Philippines-European Free Trade Association Free Trade Agreement (PH-EFTA FTA).

The Philippines adheres to the World Trade Organization (WTO) Customs Valuation Agreement and use transaction value as the primary method for determining the value of shipments.

# Business entities

### Summary

Aiming to step up the pace of reforms to improve the ease of doing business in the country, the Philippine Congress recently passed a Revised Corporation Code (RCC). One of the highlights of the RCC is the introduction of a new corporate vehicle—the one-person corporation (OPC)—that may be an appealing prospect for start-ups and entrepreneurs. Altogether, the RCC aims to improve the country's business climate for large and small businesses and to make it easier for investors to set up their business.

Today, business entities allowed to organize and operate in the Philippines may take one of the several forms of business organizations: corporation (stock or non-stock), one-person corporation (OPC), partnership, sole proprietorship, branch, representative office, regional headquarters, or regional operating headquarters.

### Corporation Formation

Under the RCC, the SEC is the primary government agency administering the registration and operation of domestic corporations under the Corporation Code. The incorporators, who may be any person, partnership, association, or corporation, singly or jointly with others but not more than 15, must subscribe to the Articles of Incorporation and file documents specifying the company name, purpose, principal office, capital, and certain other information with the SEC. A corporation shall have a perpetual existence, unless its Articles of Incorporation provides otherwise.

As for the OPC, a single shareholder, who is an individual, trust, or estate may form an OPC. The single stockholder becomes the sole director and president of the OPC. However, banks and quasi-banks, preneed, trust, insurance, public and publicly listed companies, and non-chartered government-owned and –controlled corporations may not incorporate as an OPC.

The filing fee for registering a new corporation is one-fifth of 1% of the authorized capital stock. A legal fee of 1% of the filing fee and a minimum research fee also applies.

### Foreign Investments in the Philippines

The governing law for the participation of foreign entities and commercial activities in the Philippines is Republic Act No. 7042, as amended, otherwise known as the Foreign Investments Act of 1991 (FIA).

The FIA provides for the formulation of a Foreign Investments Negative List (FINL). On 29 October 2018, Executive Order No. 65 was released, setting out the 11th FINL. The FINL is a list of activities or sectors reserved to Filipinos or corporations partly owned by Filipinos. Examples of activities or sectors reserved for Filipinos are the operation of private detective, watchmen, or security guard agencies; private recruitment, whether for local and overseas employment, which must be at least 75% Filipino owned; and private lands which must be at least 60% Filipino owned. Activities not included in the FINL may be 100% owned by foreigners.

### Minimum capital/capital maintenance

The law does not impose a minimum capital stock. The Revised Corporation Code also deleted the requirement on minimum paid-up capital for corporations, including for OPCs.

However, a domestic market enterprise with foreign equity participation exceeding 40% is required to have a minimum paid-up capital of US$200,000. This amount may be reduced to US$100,000 if the enterprise involves advanced technology as determined by the Department of Science and Technology, or if it employs at least 50 direct employees.

# Business entities

In addition, certain laws require minimum paid-up capital for companies pursuing regulated activities. These include financing companies where minimum paid-up capital is between P2.5 to P10 million; health maintenance organization (HMO) – P10 million; insurance company – P1 billion; securities broker/dealer – P100 million; and investment house – P300 million.

### Management and officers

Corporate powers are exercised by the Board of Directors. Board members are elected by the shareholders and are required to own at least one share of the capital stock of the corporation. Immediately after their election, the directors of a corporation must formally organize and elect a president, who must be a director; a treasurer, who must be a resident; and a secretary, who must be a citizen and resident of the Philippines; and such other officers, as may be provided in the by-laws. If the corporation is vested with public interest, the Board shall also elect a compliance officer. Any two or more positions may be held concurrently by the same person, except that no one shall act as president and secretary or as president and treasurer at the same time.

In a bid to strengthen corporate governance standards and provide protection to minority stockholders, the RCC also requires the Board of Directors of corporations vested with public interest to have independent directors constituting at least 20% of the Board. These corporations include public corporations (those with assets of at least P50 million and having 200 or more shareholders, each holding at least 100 shares of a class of its equity shares); banks and quasi-banks, nonstock savings and loan associations, pawnshops, corporations engaged in money service business, preneed, trust and insurance companies, and other financial intermediaries; and other corporations engaged in business vested with public interest, as may be determined by the SEC.

### Reportorial requirements of corporations

Every corporation, domestic or foreign, doing business in the Philippines is required to submit, on an annual basis, the General Information Sheet (GIS). The SEC also requires corporations with total assets or total liabilities of at least P600,000 to file annual audited financial statements. Otherwise, the financial statements may be attested and sworn to by the treasurer or chief financial officer of the corporation.

Corporations vested with public interest must also annually submit: (1) a director or trustee compensation report; and (2) a director or trustee appraisal or performance report and the standards or criteria used to assess each director or trustee.

### Dissolution

The dissolution of a corporation denotes the extinguishment of franchise earlier granted by the State and the termination of its juridical or corporate existence for business purposes.

The Revised Corporation Code (RCC) provides for two methods of corporate dissolution: voluntary and involuntary.

Voluntary dissolution refers to the deliberate choice made by the stockholders of the corporation. For voluntary dissolutions where no creditors are affected, the RCC now requires only a majority vote of the Board of Directors and the vote of the stockholders owning at least majority of the outstanding capital stock. Previously, affirmative votes of stockholders owning 2/3 of the outstanding capital stock are required.

# Business entities

However, the RCC added strict requirements for dissolution of this kind, such as the need for a verified request for dissolution, stating: the reason for the dissolution; the form, manner, and time when notices were given; names of those stockholders and directors who approved the dissolution; date, place, and time of the meeting in which the vote was made; and the details of publication.

If creditors are affected by the dissolution, the application must be by a formal petition for dissolution filed with the SEC. The petition must be signed by a majority of the corporation's Board of Directors and approved by the vote of stockholders owning at least 2/3 of the outstanding capital stock. The SEC then conducts a hearing called for that purpose.

Voluntary dissolution may also be made by shortening the corporate term through an amendment to the articles of incorporation. If the corporate term expires, dissolution shall automatically take effect on the day following the last day of the corporate term stated in the articles of incorporation, without the need for the SEC to issue a certificate of dissolution.

A corporation may also be subject to involuntary dissolution when a corporation fails, exceeds, or abuses the privilege or authority granted by the State. The corporation may be dissolved by the SEC on its own accord or upon filing of a verified complaint by any interested party and after proper notice and hearing on the grounds provided under the law.

Liquidation must take place within three years after a corporation is dissolved. The purposes of liquidation are to prosecute actions on behalf of the corporation, defend suits filed against the corporation, dispose or convey corporate property or assets, and settle with the corporation's debtors and creditors.

Corporations may be liquidated by the Board of Directors, trusteeship, or receivership. If liquidation is made through a trusteeship or receivership, the prescribed three-year period within which the liquidation process must be completed does not apply. The three-year count automatically ceases upon the appointment of a trustee or a receiver.

### Partnership

In a partnership, two or more persons contribute money, property, ideas, and other things of value to a common fund with the intent to divide the resulting profits among themselves.

A partnership is either general or limited, depending on the liability of the partners. It is a general partnership if all the partners are personally liable for the obligations of the partnership when its assets are exhausted. It is a limited partnership if at least one partner has limited personal liability. In the latter case, at least one other partner must have unlimited liability.

A partnership has a legal personality separate from that of each partner. However, it does not enjoy the right of succession; consequently, the death of a general partner dissolves the partnership.

SEC administers the laws on partnerships. SEC registration is required for partnerships with capital that is in excess of P3,000. The fee for filing the partnership articles is 1/5 of 1% of the partnership capital, but not less than P1,000.

# Business entities

### Sole proprietorship

A sole proprietorship is a one-person form of business organization common among small businesses. The sole proprietor has unlimited liability and is, therefore, accountable for all debts incurred by the operation.

Foreign investors may establish sole proprietorships if they observe the applicable Philippine laws. This form of organization is, however, advisable only for small-scale enterprises.

### Branches

A foreign corporation may conduct business or engage in trade in the Philippines through a branch, which is a mere extension of the legal personality of the foreign corporation. The law requires a branch to appoint a resident agent as a condition to the issuance of a license to do business in the Philippines.

Because a branch does not have an existence independent from the foreign corporation, the assets of the head office are exposed to the liabilities of the branch. Contracts between head offices and their branches are limited under the single identity concept. The operation and liquidation of a branch are similar to the operation and liquidation of a corporation. Branches engaging in domestic market enterprise are subject to the same paid-up capital requirements as corporations. The activities of the branch must not be listed in the FINL.

Under the RCC, branch offices of a foreign corporation are required to deposit with the SEC securities with an actual market value of P500,000 within 60 days after the issuance of license to transact business in the Philippines. The securities are intended to protect present and future creditors of the branch with the securities constituting as a trust fund in case the foreign branch become unable to settle its debts. Moreover, within six months from the close of the fiscal year of the branch, it is required to deposit additional securities equivalent in actual market value to 2% of the amount by which the branch's gross income for the fiscal year exceeds P10 million.

This is a relaxation of the former rule, which required branches to deposit additional securities when their gross income exceeds P5 million. Another welcome amendment of the RCC for branches is its recognition that, for purposes of computing the securities deposit, deductions are allowed from gross income, in accordance with SEC rules.

### Representative offices

The activities of a representative office are limited to information dissemination, promotion of products, and facilitation of orders of the head office's customers. A representative office is not allowed to intervene or take part in any manner in the pricing or distribution of the products of its head office. It is also not allowed to derive income from within the Philippines. Accordingly, a representative office is not subject to Philippine income tax.

A representative office is required by law to remit into the country an amount necessary to cover its operating expenses, which must be at least US$30,000 prior to SEC registration.

### Regional headquarters

A foreign firm engaged in international trade with affiliates, subsidiaries, or branch offices in the Asia Pacific region may establish its regional headquarters in the Philippines. A regional headquarters serves as a supervisory, communication, and coordinating center for the firm's affiliates, subsidiaries, or branches in the region. It is not allowed to participate in any manner in the management of any subsidiary or branch office that the foreign entity may have in the Philippines.

# Business entities

A regional headquarters is similar to a representative office in that neither is allowed to derive income from sources within the Philippines. In addition, regional headquarters are required to remit annually into the country an amount necessary to cover operating expenses in the Philippines, which must be at least US$50,000.

### Regional operating headquarters

A regional operating headquarters (ROHQ) is a foreign business entity allowed to derive income from within the Philippines by performing the following services to its affiliates, subsidiaries, or branches in the Philippines, in the Asia Pacific region, and in other foreign markets:

- General administration and planning
- Business planning and coordination
- Sourcing/procurement of raw materials and components
- Corporate finance advisory services
- Marketing control and sales promotion
- Training and personnel management
- Logistics services
- Research & development services and product development
- Technical support and maintenance
- Data processing and communication
- Business development

An ROHQ, however, may not engage, directly or indirectly, in soliciting or marketing of goods and services, whether on behalf of its mother company, branches, affiliates, subsidiaries, or any other company. In addition, it is required to remit an initial investment of US$200,000.

# Labor

### Wages

Data from the payscale for 2018 shows the following average monthly salary for four job levels:

| Position | Position Average Monthly Salary |
|---|---|
| Department Head/ Top Executive | P141,000 to P261,000 |
| Managers | P66,000 to P91,000 |
| Officers/Supervisors | P30,000 to P45,000 |
| Assistants/Rank and file | P17,000 to P21,000 |

### Social security

The Social Security System (SSS) was created to provide private-sector employees and their families with protection against the hazards of disability, sickness, old age, and death. All private employees, including resident foreign employees, are compulsorily covered from the date of employment. Standard social security benefits include disability pension, retirement pension, funeral benefit, sickness allowance, maternity and paternity leave, and miscellaneous loans.

### Pensions

The compulsory retirement age is 65 years. An employee may also retire upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract. In the absence of such retirement plan or agreement, an employee may retire upon reaching the age of 60 if they have served the company for at least five years. Retirement pay is equivalent to at least one-half month's salary for every year of service.

### Fringe benefits

Outside of stated wage or salary, employers often provide their employees with fringe benefits. Common examples of fringe benefits include the use of a company car, housing allowance, educational assistance, insurance, membership dues for social/recreational clubs, and interest on loans at lower than market rates.

### Holiday, vacation, and sick pay

There are 12 regular and 96 special nonworking days. (See Page 5 for a list of these holidays.) Employees are entitled to their regular daily wage on regular holidays.

Under the law, every employee who has rendered at least one year of service is entitled to a yearly service incentive leave of five days with pay in lieu of sick leave (SL) or vacation leave (VL), if SL or VL is not granted to employees. These five days can be used either as sick or vacation leave. By practice, most companies allocate separate leaves for sickness and vacation.

# Labor

### 13th month pay
Annual payment of a 13th month salary is mandatory for rank and file employees. The amount is equivalent to 1/12 of the basic salary received by an employee within a year. Employees who resign or are separated from the company before the time of payment of the 13th month salary are entitled to this benefit in proportion to the length of time they worked with the company during the year.

### Paternity leave
Every married male employee is granted seven days of paternity leave for each of the first four deliveries of his legitimate spouse with whom he lives. This paid leave is not reimbursed by the SSS.

### Maternity leave
Companies are required to pay female employees a daily maternity benefit. The maternity benefit (which companies advance to the employee and is subsequently reimbursed by the SSS) is a fraction of the employee's monthly salary computed according to specific guidelines. Many companies advance the employee's full salary and shoulder the amount that is not reimbursed by the SSS.

The Expanded Maternity Leave Act of 2018 grants both government and private sector employees 105 days of paid maternity leave. Seven days out of the 105 days of leave may be transferred to fathers, extending the latter's paid paternity leave to 14 days.

Solo working mothers also get an additional 15 days of leave for a total of 120 days of paid maternity leave. Moreover, mothers are also allowed to extend their leaves for another 30 days, but these leaves would be unpaid.

### Solo parent leave
In addition to the leave privileges under existing laws, a solo parent employee, as defined under the Solo Parents Welfare Act of 2000 (RA No. 8972), who has rendered service of at least one year, whether continuous or broken, is entitled to not more than seven working days of parental leave in a year. In the event that the parental leave is not availed, it shall not be convertible to cash.

### Healthcare
Health insurance is automatic and compulsory for PhilHealth members. The benefits include allowances for hospitalization, surgery, medicine, and doctor's fees.

Although not required by law, many companies provide additional benefits in the form of premiums for health insurance, or reimbursable or fixed amounts of medical allowances. Medical benefits or reimbursements of up to P10,000 per year are exempt from tax.

### Employment protection legislation
Individual employee rights are governed by the Labor Code, the basic policies of which are to protect labor, promote full employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers. Supplemental laws include the Magna Carta for Disabled Persons, the Special Protection of Children Against Child Abuse and Discrimination, the Wage Rationalization Act, and the Anti-Sexual Harassment Act, among others.

### Unions
The Constitution and the Labor Code guarantee workers' rights to self-organization. Union membership is most common in the manufacturing, construction, retail, and hospitality sectors. One of the usual

# Labor

objectives of unions is to secure from the employer a labor contract that defines the rights and duties of both management and workers. The contract typically covers wages, hours of work, and working conditions.

### Foreign nationals

Entry visas and work permits are required for foreign personnel hired on either a permanent or temporary basis. The government has liberalized visa requirements for foreign entrants to encourage foreign participation in the economic development of the Philippines.

### Entry visa

Foreign nationals may come to the Philippines for business, pleasure, or health with a temporary visitor's visa that allows stays for periods of 59 days, which is extendable up to six months. To extend their stay, visitors must register with the Bureau of Immigration or with the office of the municipal or city treasurer in areas outside of Manila. Executive Order No. 408 allows foreign nationals, except for some specifically restricted nationalities, to stay in the Philippines for up to 21 days without a visa.

### Work permits

In general, foreign nationals seeking employment in the Philippines, whether residents or non-residents, must secure alien employment permits (AEP) from the Department of Labor and Employment (DOLE). An AEP is usually valid for one year from the date of issue and may be renewed subject to the approval of the DOLE. Executives of area or regional headquarters are exempt from the requirement to obtain alien employment certificates.

A Philippine company that wishes to employ a foreign national must apply for a permit with the DOLE on behalf of the foreign national. The petitioning company must prove that the foreign national possesses the required skills for the position and that no Filipino is available who is competent, able, and willing to do the specific job for which the foreign national is desired.

# Financial reporting and audit

### Statutory requirements – Books and records

Under the National Internal Revenue Code of 1997 (NIRC) as amended, all business entities paying internal revenue taxes must maintain books of account. These consist of journals, ledgers, and subsidiary records required for the business. Enterprises subject to value-added tax (VAT) are also required to keep subsidiary sales journals and subsidiary purchase journals.

In addition to maintaining accounts, a corporation is required under the Revised Corporation Code to keep at its principal place of business the following items: records of all business transactions, minutes of meetings of shareholders and directors, and a stock and transfer book. These records may be inspected by shareholders during regular office hours.

### Method of accounting and financial reporting framework

Entities filing financial statements with the SEC shall prepare their financial statements in accordance with the prescribed financial reporting framework, as follows:

- Large and/or publicly interest entities shall use full Philippine Financial Reporting Standards (PFRS). Large entities are defined as those with total assets of more than P350 million or total liabilities of more than P250 million. Under the Revised SRC Rule 68, public interest entities are those that meet any of the following criteria:

  1. are holders secondary licenses issued by regulatory agencies; or,
  2. are required to file financial statements under Part II of SRC Rule 68; or,
  3. are in the process of filing their financial statements for the purpose of issuing any class of instruments in a public market; or,
  4. such other corporations that the Commission may consider in the future as imbued with public interest regardless of the lack of a requirement to obtain a secondary license from the Commission and may fall under the following criteria:
     i. those grantees of legislative franchises;
     ii. those engaged in nationalized or partly nationalized activities;
     iii. those grantees or recipients of public funds; and,
     iv. those regulated by other government agencies other than the BSP or IC.

- Medium-sized entities (MEs) shall use PFRS for Small and Medium-sized Entities (SMEs). Medium entities are those with total assets of more than P100 million to P350 million or total liabilities of more than P100 million to P250 million; exempted MEs are given an option to apply full PFRS.

- Small Entities (SEs) shall use PFRS for SEs. Small entities are those with total assets and total liabilities of more than P3 million to P100 million; exempted SEs may instead apply, as appropriate, the full PFRS or PFRS for SMEs.

- Micro entities, which have total assets and total liabilities of less than P3 million, have the option to use either the income tax basis or PFRS for SEs.

If the entity is a parent company, the said amounts shall be based on the consolidated figures.

# Financial reporting and audit

### Financial statements
All companies must file their financial statements with the BIR along with their corporate income tax returns. In addition, the following companies that met the threshold are required to submit audited financial statements to the SEC:

- Stock corporations with total assets or total liabilities of P600,000 or more as prescribed under theRevised Corporation Code of the Philippines (Revised Corporation Code) and any of its subsequent revisions or such amount as may be subsequently prescribed:

- Non-stock corporations with total assets or total liabilities of P600,000 or more as prescribed under the Revised Corporation Code and any of its subsequent revisions or such amount as may be subsequently prescribed:

- Branch offices/representative offices of stock foreign corporations with assigned capital in the equivalent amount of P1 million or more;

- Branch offices/representative offices of non-stock foreign corporations with total assets in the equivalent amount of P1 million or more, and,

- Regional operating headquarters of foreign corporations with total revenues in the equivalent amount of P1 million or more.

Regulated companies, including banks, finance companies, insurance companies, investment houses, and public utilities must also submit monthly, quarterly, or annual reports to the appropriate agencies, such as the BSP, the Insurance Commission (IC), and the PSE.

### Sources of accounting principles – Governing statutes
Legal requirements governing accounting and reporting practices of businesses in the Philippines are set forth in the NIRC as amended, the Revised Corporation Code, and the Securities Regulation Code (SRC). In addition, special regulations on accounting and reporting apply to certain businesses, such as banks, insurance companies, finance companies, pre-need companies, and public utilities.

### Standards issued by standard-setting body
Accounting pronouncements adopted by the Financial Reporting Standards Council (FRSC) from the pronouncements issued by the International Accounting Standards Board (IASB) are the primary source of accounting principles in the Philippines. FRSC was created by the Board of Accountancy (BOA) of the Professional Regulation Commission (PRC) to establish accounting standards in the country.

The accounting pronouncements issued by the FRSC consist of the following:

- PFRS – adopted from International Financial Reporting Standards (IFRS), which also include the following:
    - o Philippine Accounting Standards (PAS) – adopted from International Accounting Standards
    - o Philippine Interpretations – corresponding to interpretations of existing standards issued by the International Financial Reporting Interpretations Committee (IFRIC) of the IASB
- PFRS for SMEs – adopted from IFRS for SMEs
- PFRS for SEs

# Financial reporting and audit

The above pronouncements adopted by the FRSC are endorsed and approved by the BOA and the PRC, and form part of the rules and regulations followed by all certified public accountants in the Philippines. These pronouncements are also adopted by the SEC as part of its rules and regulations.

### Government regulatory agencies

Government agencies such as the SEC, the BSP, and the IC issue regulation manuals and memorandum circulars covering businesses under their supervision. These regulations prescribe the accounting treatment for certain transactions and additional disclosure requirements for covered businesses.

### Fundamental concepts and accounting policies

The most significant fundamental concepts and accounting policies in the Philippines are summarized below.

***Fundamental concepts***

The following are some of the fundamental concepts:

Going concern

An entity is generally deemed to be a going concern. When preparing financial statements, management assess an entity's ability to continue as a going concern, and, if the entity intends to liquidate or curtail materially the scale of its operation or has no realistic alternative to doing so, its financial statements may have to be prepared differently. The basis on which the financial statements are prepared should be disclosed.

Accrual basis of accounting

An entity shall prepare its financial statements, except for cash flow information, using the accrual basis of accounting.

Consistency of accounting policies

Accounting policies should be applied consistently for similar transactions or items within each reporting period and from one period to another, unless a change in accounting policy is required by an accounting standard or it results in the financial statements providing information that is reliable and is more relevant to users.

Materiality and aggregation

Each material class of similar items shall be presented separately in the financial statements.

Offsetting

Assets and liabilities, or income and expenses, shall not be offset, unless required or permitted by PFRS.

Comparative information

Comparative information shall be disclosed with respect to the preceding period for all amounts reported in the current period's financial statements, unless an accounting standard permits or requires otherwise.

Asset measurement

Assets are usually valued at cost, fair value, or the lower of cost and net realizable value.

If the recoverable amount of a nonfinancial asset—such as investment property, property, plant and equipment, or intangible asset—is lower than its carrying amount, an impairment loss is recognized to reduce the carrying amount of the asset to the recoverable amount. Such impairment loss may be reversed if there is a change in the estimates used to determine the asset's recoverable amount since the last impairment loss was recognized (with the exception of impairment loss on goodwill, which is no longer allowed to be reversed).

### Critical accounting judgments and estimates

In preparing financial statements in accordance with PFRS, management is required to make critical judgments and estimates that affect amounts reported in the financial statements and related notes. Such critical judgments and estimates are required to be disclosed in the financial statements.

### Significant accounting policies

The following are some of the significant accounting policies for an entity that uses PFRS as its accounting framework (Note: Entities may have a different set of accounting policies depending on the framework being used: like PFRS for SMEs or PFRS for SEs):

#### Financial instruments

A financial asset or financial liability should be recognized when, and only when, the entity becomes a party to the contractual provisions of the financial instrument.

The classification and measurement of financial assets is driven by the business model for managing the financial assets and the contractual cash flow characteristics of the financial assets. The classification and measurement of financial assets are described as follows.
Financial assets are measured at amortized cost if both of the following conditions are met:

- The asset is held within the Company's business model whose objective is to hold financial assets in order to collect contractual cash flows ("hold to collect"); and,
- The contractual terms of the instrument give rise, on specified dates, to cash flows that are solely for payment of principal and interest (SPPI) on the principal amount outstanding.

Except for trade receivables that do not contain a significant financing component and are measured at the transaction price in accordance with PFRS 15, Revenue from Contracts with Customers, all financial assets meeting these criteria are measured initially at fair value plus transaction costs. These are subsequently measured at amortized cost using the effective interest method, less allowance for expected credit loss (ECL).

Financial assets are measured at fair value through other comprehensive income (FVOCI) if the assets meet the following conditions:

- they are held under a business model whose objective is to hold to collect the associated cash flows and sell ("hold to collect and sell"); and,
- the contractual terms of the financial assets give rise to cash flows that are SPPI on the principal amount outstanding.

At initial recognition, the entity can make an irrevocable election (on an instrument-by-instrument basis) to designate equity investments as at FVOCI; however, such designation is not permitted if the equity investment is held by the Company for trading or as mandatorily required to be classified as fair value through profit or loss (FVTPL).

# Financial reporting and audit

Financial assets at FVOCI are initially measured at fair value plus transaction costs. Subsequently, they are measured at fair value, with no deduction for any disposal costs. Gains and losses arising from changes in fair value, including the foreign exchange component, are recognized in other comprehensive income, net of any effects arising from income taxes, and are reported as part of Revaluation Reserves account in equity. When the asset is disposed of, the cumulative gain or loss previously recognized in the Revaluation Reserves account is not reclassified to profit or loss but is reclassified directly to Retained Earnings account, except for those debt securities classified as FVOCI wherein cumulative fair value gains or losses are recycled to profit or loss.

Financial assets that are held within a different business model other than “hold to collect” or “hold to collect and sell” are categorized at FVTPL. Further, irrespective of business model, financial assets whose contractual cash flows are not SPPI are accounted for at FVTPL. Also, equity securities are classified as financial assets at FVTPL, unless the Company designates an equity investment that is not held for trading as at FVOCI at initial recognition. The Company’s financial assets at FVTPL include equity securities which are held for trading purposes and designated as at FVTPL.

Financial assets at FVTPL are initially measured at fair value. Subsequently, they are measured at fair value with gains or losses recognized in profit or loss as part of Finance Income in the statements of profit or loss

An entity can only reclassify financial assets if the objective of its business model for managing those financial assets changes. Accordingly, the entity is required to reclassify financial assets: (i) from amortized cost to FVTPL, if the objective of the business model changes so that the amortized cost criteria are no longer met; and, (ii) from FVTPL to amortized cost, if the objective of the business model changes so that the amortized cost criteria start to be met and the characteristic of the instrument’s contractual cash flows meet the amortized cost criteria.

The financial assets (or where applicable, a part of a financial asset or part of a group of financial assets) are derecognized when the contractual rights to receive cash flows from the financial instruments expire, or when the financial assets and all substantial risks and rewards of ownership have been transferred to another party.

At the end of the reporting period, allowance for expected credit loss (ECL) on financial assets measured at amortized cost and debt instruments measured at FVOCI will be assessed and recognized. The measurement of ECL involves consideration of broader range of information that is available without undue cost or effort at the reporting date about past events, current conditions, and reasonable and supportable forecasts of future economic conditions (i.e., forward-looking information) that may affect the collectability of the future cash flows of the financial assets. Measurement of the ECL is determined by a probability-weighted estimate of credit losses over the expected life of the financial instruments evaluated based on a range of possible outcome.

The key elements used in the calculation of ECL are as follows:

- Probability of default – It is an estimate of likelihood of a counterparty defaulting at its financial obligation over a given time horizon, either over the next 12 months or the remaining lifetime of the obligation.
- Loss given default – It is an estimate of loss arising in case where a default occurs at a given time. It is based on the difference between the contractual cash flows of a financial instrument due from a counterparty and those that the Company would expect to receive, including the realization of

any collateral or effect of any credit enhancement.
• Exposure at default – It represents the gross carrying amount of the financial instruments in the event of default which pertains to its amortized cost.

Financial liabilities are measured subsequently at amortized cost using the effective interest method, except for financial liabilities held for trading or designated at fair value through profit or loss, which are carried subsequently at fair value.

Inventory

Inventories include raw materials, supplies, and purchased components to be used in the production process or in the rendering of services, work-in-process, and finished products or merchandise held for sale in the ordinary course of business. Inventories are valued at the lower of cost and net realizable value. Cost includes all costs of purchase, costs of conversion, and other costs incurred in bringing the inventories to their present location and condition and is generally determined under one of the following acceptable cost formulas: specific identification, first in, first out (FIFO), or weighted average.

Property, plant, and equipment

At initial recognition, an item of property, plant, and equipment that qualifies as an asset shall be measured at cost, which comprises its purchase price and any costs directly attributable to bringing the asset to the location and condition necessary for it to be capable of operating for the intended purpose. The costs of obligations for dismantling, removing, or restoring the site on which an item of property, plant, and equipment is located shall also form part of the initial cost of such item.

After initial recognition, property, plant, and equipment may be carried at cost or at revalued amount less any accumulated depreciation and any accumulated impairment losses. For property, plant, and equipment that are carried at revalued amounts, revaluations are required to be made with sufficient regularity so that the carrying amount of the asset does not differ materially from its fair value at reporting date.

Investment property

Properties (land or a building, a part of a building, or both) that are held (by the owner or by the lessee under a finance lease) to earn rentals or for capital appreciation or both, rather than for use in the production or supply of goods or services, for administrative purposes, or for sale in the ordinary course of business, should be presented as investment property in the financial statements. An investment property should be recorded initially at cost, and subsequently measured using either the cost model (i.e., cost less accumulated depreciation and impairment losses) or the fair value model.

Intangible asset

An asset that meets the definition of an intangible asset (i.e., an identifiable nonmonetary asset without physical substance) and the recognition criteria (i.e., it is probable that the asset's future economic benefits will flow to the enterprise and the cost of the asset can be measured reliably) must be recorded at cost on the date of acquisition. Internally generated intangibles should be expensed, except for certain costs incurred during the development phase, which may be capitalized when the criteria for capitalization are met. Expenditures on research (or on the research phase of an internal project) should be recognized as expenses when they are incurred. After initial recognition, an intangible asset shall be measured using either the cost model or the revaluation model.

An entity should assess if the useful life of an intangible asset is finite or infinite. Intangible assets with finite useful lives are amortized on a systematic basis over their useful lives, while intangible assets with indefinite useful lives are not amortized, but are tested for impairment at least annually. The useful life is deemed indefinite if there is no foreseeable limit to the period over which the asset is expected to generate net cash flows. Goodwill is not amortized, instead it is tested for impairment generally on an annual basis.

### Depreciation and amortization of nonfinancial assets

Nonfinancial assets, such as property, plant and equipment, intangible assets that are carried at cost or at revalued amounts, and investment property that are carried at cost are subject to annual depreciation and amortization. The depreciation of nonfinancial assets should be computed on a rational, systematic basis over the useful life of the asset, regardless of the earnings of the enterprise, and should commence when such assets are available for use. Permissible depreciation methods include the straight-line, diminishing balance, and sum-of-the-unit method. If an asset is revalued, depreciation should be based on the revalued amount.

### Impairment of non-financial assets

If the recoverable amount of a nonfinancial asset is lower than its carrying amount, an impairment loss is recognized to reduce the carrying amount of the asset to the recoverable amount. Such impairment loss may be reversed if there is a change in the estimates used to determine the asset’s recoverable amount since the last impairment loss was recognized (with the exception of impairment loss on goodwill, which is not allowed to be reversed).

### Earnings per share

Corporations whose securities are publicly traded on securities exchanges or over-the-counter markets, and those that are in the process of offering their securities to the public, must present basic earnings per share (EPS) on the face of the income statement and disclose additional information concerning EPS. This requirement also applies to other enterprises that are required to comply with the reportorial provisions of the Revised SRC Rule 68.

### Income taxes

Income taxes comprise of current income tax and deferred income tax. Current income tax is calculated according to the tax rates and tax laws applicable to the periods to which they relate, based on the taxable profit for the year. Deferred income tax is calculated using the liability method, on temporary differences at the end of a reporting period between the tax bases of assets and liabilities and their carrying amounts for financial reporting purposes. Under the liability method, with certain exceptions, deferred tax liabilities are recognized for all taxable temporary differences and deferred tax assets are recognized for all deductible temporary

# Financial reporting and audit

differences and the carryforward of unused tax losses and unused tax credits to the extent that it is probable that taxable profit will be available against which the deductible temporary differences can be utilized. Unrecognized deferred tax assets, if any, are reassessed at the end of each reporting period and are recognized to the extent that it has become probable that future taxable profit will be available to allow such deferred tax assets to be recovered.

Employee benefits
Employee benefits should be accounted for as follows:

- Short-term employee benefits – the undiscounted amount is recognized as an expense when an employee has rendered service in exchange for those benefits

- Post-employment benefits – can be either a defined contribution plan, accounted for based on the required amount of contribution to the plan; or a defined benefit plan, accounted for using the projected unit credit method, generally calculated by independent actuaries

- Other long-term employee benefits – accounted for in the same manner as post-employment benefits, using a simplified method

- Termination benefits – recognized when, and only when, the entity is demonstrably committed to either terminate the employment of employees before the normal date of retirement, or provide termination benefits as a result of an offer made in order to encourage voluntary redundancy and measured in accordance with the nature of the employee benefit (i.e., in the same manner as short-term employee benefits, if expected to be settled within 12 months, or as other long-term employee benefits, if to be settled after 12 months from the end of the reporting period)

Related party disclosures
Detailed disclosures are required on related party transactions during the periods covered by the financial statements, such as the nature of the related party relationship, information about the transactions, and outstanding balances, including commitments.

In addition, listed companies and investment houses that are part of a conglomerate or group of companies are required by the SEC to file with their audited financial statements a map showing the relationships between and among the company and its ultimate parent company, middle parent, subsidiaries or co-subsidiaries, and associates. Public interest entities with transactions, either individually or in aggregate over a 12-month period with the same related party, amounting to 10% or more of the total assets based on the latest audited consolidated financial statements that were entered into with related parties are considered material, are subject to disclosure requirements of the SEC.

Further, the SEC requires issuers of securities to the public, listed companies, and public companies as defined under SRC to disclose in notes to consolidated financial statements (or in a separate schedule) information for the current reporting period on receivables/payables with related parties that are eliminated during consolidation.

Consolidation of financial statements

A parent company is required to present consolidated financial statements, except when it meets all of the following conditions:

- the parent itself is a wholly owned or partially owned subsidiary of another entity and all of its owners, including those not otherwise entitled to vote, have been informed about, and do not object to the parent not presenting consolidated financial statements;

- its debt or equity instruments are not traded in a public market (a domestic or foreign stock exchange or an over-the-counter market, including local and regional markets);

- it did not file, nor in the process of filing, its financial statements with a securities com mission or other regulatory organization for the purpose of issuing any class of instruments in the public market; and,

- its ultimate or any intermediate parent produces financial statements that are available for public use and comply with PFRS, in which subsidiaries are consolidated or are measured at fair value through profit or loss in accordance with PFRS 10, Consolidated Financial Statements.

Consolidated financial statements should include the statements of the parent company and all enterprises under its control (i.e., subsidiaries). Under PFRS 10, an investor controls an investee when it is exposed, or has rights, to variable returns from its involvement with the investee and has the ability to affect those returns through its power over the investee.

The financial reporting rules under the SRC also require a parent that has a significant foreign subsidiary to also submit copies of the financial statements of such foreign subsidiary.

Also, the parent is required by the SEC to file its separate (i.e., parent only) audited financial statements prepared in accordance with PFRS along with the consolidated financial statements.

Investment in associates

An investor company that is able to exercise significant influence over an investee that is neither a subsidiary nor an interest in a joint venture (i.e., an associate) must use the equity method in accounting for its investment in such associate. Under this method, the investor's share in the investee's net income must be included as a separate item in the investor's income statement.

Significant influence is presumed if the investor holds, directly or indirectly, at least 20% of the voting power of the investee. However, if the reporting company does not exert significant influence on the other company, the investment shall be accounted for under PFRS 9, Financial Instruments.

# Financial reporting and audit

An entity need not apply the equity method to its investment in an associate if the entity is a parent that is exempt from preparing consolidated financial statements by the scope exception in paragraph 4(a) of PFRS 10 or if all the following apply:

- the entity is a wholly-owned subsidiary, or is a partially-owned subsidiary of another entity and its other owners, including those not otherwise entitled to vote, have been informed about, and do not object to, the entity not applying the equity method;

- the entity's debt or equity instruments are not traded in a public market (a domestic or foreign stock exchange or an over-the-counter market, including local and regional markets);

- the entity did not file, nor is it in the process of filing, its financial statements with a securities commission or other regulatory organisation, for the purpose of issuing any class of instruments in a public market; and,

- the ultimate or any intermediate parent of the entity produces financial statements available for public use that comply with IFRSs, in which subsidiaries are consolidated or are measured at fair value through profit or loss in accordance with PFRS 10.

Functional currency and foreign currency translation

Financial statements shall be prepared in the entity's functional currency, which is the currency of the primary economic environment in which the entity operates. Foreign currency monetary items should be translated at the closing rates as at the end of the reporting period, and exchange differences (i.e., foreign currency gains and losses) arising from the translation are recognized in profit or loss of the reporting entity in the current period, except for exchange differences arising on a monetary item that forms part of the reporting entity's net investment in a foreign subsidiary, which shall be presented in the consolidated financial statements under other comprehensive income and reclassified from equity to profit or loss on disposal of the net investment.

### Audit requirements

Under the NIRC, all corporations, partnerships, or persons with gross annual sales, output, receipts, or earnings exceeding P3 million must have their financial statements examined annually by independent certified public accountants. Audited financial statements of these companies, along with their tax returns, must be filed with the BIR before the prescribed deadlines. Companies with annual sales not exceeding P3 million may file their tax returns along with their unaudited financial statements.

Corporations required to file financial statements with the SEC are required to have their financial statements audited by certified public accountants duly accredited by the SEC who shall perform their audits in accordance with Philippine Standards on Auditing (PSAs) issued by the Auditing and Assurance Standards Council (AASC), the body created by BOA to establish auditing standards in the Philippines. The PSAs are adopted by the AASC from the pronouncements of the International Auditing and Assurance Standards Board; the PSAs are also endorsed and approved by BOA/PRC.

# Financial reporting and audit

### SEC OST Filing

In line with the aim to achieve zero-contact policy to the spread of COVID-19, the SEC launched its Online Submission Tool (OST) on March 9, 2021 to aid reporting entities in filing annual audited financial statements, General Information Sheet and other annual reports. All corporations registered with the SEC must enrol in the OST in order to access and submit reports through the OST, except as otherwise provided in SEC Memorandum Circular No. 3 series of 2021 and other issuances of SEC. The enrolment process started on March 15, 2021.

# Tax

### Income tax

**Subsidiary.** Being a domestic corporation, it is subject to income tax on its worldwide income, i.e., income from all sources within and without the Philippines.

**Branch.** For tax purposes, a Philippine branch of a foreign corporation is treated as a resident foreign corporation and, as such, is subject to income tax only on its Philippine-sourced income, i.e., income derived from all sources within the Philippines. A branch is not subject to tax on its foreign-sourced income.

Except for the above rules, a company that is set up either as a subsidiary or branch is generally subject to the same tax rules.

**a. Regular corporate income tax (RCIT)**

On March 26, 2021, the Philippine president signed into law RA 11534, otherwise known as the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act.

Effective July 1, 2020, corporate income tax of domestic corporations shall either be 20% or 25% on net taxable income, i.e., gross income less allowable deductions. The 20% rate applies to domestic corporations with a net taxable income not exceeding P5 million AND with total assets not exceeding P100 million. In computing the total assets, the value of the land where the office, plant and equipment are situated during the taxable year is to be excluded. All other domestic corporations are subject to the 25% corporate income tax rate. Resident foreign corporations are subject to 25% income tax.

As a rule, all items of income shall be included in the computation of taxable income, except for some items of income that are subject to final tax (passive income) or are exempt by provision of law.
In computing for net taxable income, an entity is allowed to deduct all ordinary and necessary expenses paid or incurred in carrying on its trade or business; interest on indebtedness related to the business; taxes; losses; bad debts; depreciation; charitable and other contributions; research & development; and pension trust contributions for the retirement benefits of employees, subject to compliance with requirements for deductibility.

However, in addition to the foregoing allowable deductions, a branch may, subject to certain conditions, also deduct a portion of the head office expenses, which is effectively connected with the branch's trade or business, but which cannot be definitely allocated to the Philippine branch operations (i.e., overhead expenses incurred by the head office in connection with finance, administration, marketing, research & development, other support services, etc.)

A corporate taxpayer has an option to claim optional standard deduction (OSD) equivalent to 40% of gross income in lieu of the standard itemized deductions enumerated above. Once the option to claim OSD is made, it shall be irrevocable for the taxable year in which the option was taken.

**b. Minimum corporate income tax (MCIT)**

CREATE also provides that the MCIT for both domestic and resident foreign corporations have been decreased to 1% from July 1, 2020 until June 30, 2023. Thereafter, the MCIT rate shall revert back to 2%. The MCIT rate is imposed on the gross income beginning on the fourth taxable year immediately following the year in which a company commences business operations. The MCIT is payable when it is greater than the computed RCIT and shall be paid in lieu of the RCIT.

Any amount of MCIT paid in excess of the RCIT shall be carried forward and credited against the RCIT for the three immediately succeeding years.

**c. Net operating loss carryover (NOLCO)**
The carryover of net operating losses incurred in any taxable year that has not been previously offset as deduction from gross income is allowed up to the next three consecutive years following the year of such loss, provided that there is no substantial change in the ownership of the business or enterprise.

Notwithstanding the provision of existing laws to the contrary, the net operating loss of the business or enterprise for taxable years 2020 and 2021 shall be carried over as a deduction from gross income for the next five (5) consecutive taxable years immediately following the year of such loss.[2]

**d. Other income subject to special tax rates**
The regular income tax shall not apply on certain types of passive income that are subject to final tax. Examples of passive income subject to final tax are:

| Nature of income payment | Tax rate |
|---|---|
| Interest on foreign loans payable to non-resident foreign corporations (NRFCs) | 20% |
| Interest and other income payments on foreign currency transactions/loans payable to Offshore Banking Units/Foreign Currency Deposit Unit | 10% |
| Stock transaction tax on shares of stocks traded in the stock exchange, on gross selling price | 0.6% |
| Capital gains from sale or exchange of land and/or buildings classified as capital asset based on selling price or fair market value, whichever is higher | 6% |
| Capital gains tax on sale of shares in a domestic corporation not traded and listed in the stock exchange | 15% |
| All kinds of royalty payment to citizens, resident aliens, and non-resident alien engaged in trade or business (other than WI 380 and WI 341), domestic and resident foreign corporations | 20% |
| Branch profit remittances by all corporations except PEZA | 15% |
| On other payments to NRFCs | 25% |
| Interest income from expanded foreign currency deposit of NRFCs | Exempt |

## Withholding tax on income payments
As a payor of income to employees and suppliers of goods and services, the company will be constituted as a withholding tax agent of the government. As such, it is obliged by law to withhold a certain percentage from income payments made by it and remit the taxes withheld to the BIR. Specifically, it shall withhold tax on:

- Compensation paid to employees
- Fringe benefits paid to supervisory or managerial employees
- Various income payments it makes to suppliers, service contractors, and other parties subject to expanded withholding taxes (EWTs)
- Payments to third parties that are subject to final withholding taxes (FWTs)

[2] Bayanihan to Recover as One Act, Republic Act No. 11494, [September 11, 2020]

# Tax

### Dividends tax

**Dividends paid by a domestic stock corporation to another domestic stock corporation or resident foreign corporation are not subject to tax.**

**Cash and/or property dividends paid by a subsidiary to its foreign parent company are subject to an FWT of 20/25% (regular rate) or 15% subject to the "tax sparing rule." If, however, the recipient of the dividends is a resident of a country with whom the Philippines has a treaty, the applicable preferential treaty rate will govern. The Philippines, a jurisdiction with a total of 43 effective tax treaties, qualifies as a jurisdiction with a substantial network of tax treaties as follows:**

| Country | Dividend Rates | |
|---|---|---|
| Australia | 15% when relief is given to the beneficial owner of the dividends | 25% in all other cases |
| Austria | 10%, if the beneficial owner is a company holding at least 10% either of the voting shares of the company paying the dividends or of the total shares issued by that company within six months immediately preceding the date of payment of dividends | 25% in all other cases |
| Bahrain | 10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 10% of the paying company's capital | 15% in all other cases |
| Bangladesh | 10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 25% of the paying company's capital | 15% in all other cases |
| Belgium | 10%, if the beneficial owner is a company that holds directly at least 10% of the paying company's capital | 15% in all other cases |
| Brazil | 15%, if the recipient is a company, including partnership | 25% in all other cases |
| Canada | 15% to a Canadian resident company controlling at least 10% of the voting power of the company paying the dividends | 25% in all other cases |
| China | 10%, if the beneficial owner is a company that holds directly at least 10% of the paying company's capital | 15% in all other cases |
| Czech | 10%, if the beneficial owner is a company that holds directly at least 10% of the paying company's capital | 15% in all other cases |
| Denmark | 10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 25% of the paying company's capital | 15% in all other cases |

# Tax

| | | |
|---|---|---|
| Finland | 15%, if the recipient is a company (excluding partnership) that owns at least 10% of the voting stock of the company paying the dividends | |
| France | 10%, if the recipient is a company (excluding partnership) that holds directly at least 10% of the voting shares of the company paying the dividends | 15% in all other cases |
| Germany | 5%, if the beneficial owner is a company (excluding partnership) that holds directly at least 70% of the paying company's capital<br><br>10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 25% of the paying company's capital | 15% in all other cases |
| Hungary | 15%, if the beneficial owner is a company that holds directly at least 25% of the paying company's capital | 20% in all other cases |
| India | 15%, if the beneficial owner is a company that owns at least 10% of the shares of the company paying the dividends | 20% in all other cases |
| Indonesia | 15%, if the beneficial owner is a company that holds directly at least 25% of the paying company's capital | 20% in all other cases |
| Israel | 10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 10% of the paying company's capital | 15% in all other cases |
| Italy | 15%, if the recipient is the beneficial owner of the dividends | |
| Japan | 10%, if the beneficial owner is a company holding at least 10% either of the voting shares of the company paying the dividends or of the total shares issued by that company within six months immediately preceding the date of payment of dividends | |
| Korea | 10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 25% of the capital of the company paying the dividends | 15% in all other cases |

| | | |
|---|---|---|
| Kuwait | 10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 25% of the paying company's capital | 25% in all other cases |
| Malaysia | 15%, if the recipient is a company | 25% in all other cases |
| Mexico | 5%, if the beneficial owner is a company (excluding partnership) that holds directly at least 70% of the paying company's capital<br><br>10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 10% of the paying company's capital | 15% in all other cases |
| Netherlands | 10%, if the recipient is a company with capi-tal that is wholly or partly divided capital into shares and that holds directly at least 10% of the paying company's capital | 15% in all other cases |
| New Zealand | 15%, if the beneficial owner is a company | 25% in all other cases |
| Nigeria | 12.5%, if the beneficial owner is a company (excluding partnership) that holds directly at least 25% of the paying company's capital | 15% in all other cases |
| Norway | 15%, if the beneficial owner is a company that controls directly or indirectly at least 10% of the voting power of the company paying the dividends | 25% in all other cases |
| Pakistan | 15%, if the beneficial owner is a company (excluding partnership) that holds directly at least 25% of the paying company's capital during the part of the paying company's taxable year that precedes the date of payment of the dividends and during the whole of its prior taxable year, if any | 25% in all other cases |
| Poland | 10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 25% of the paying company's capital | 15% in all other cases |
| Qatar | 10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 10% of the paying company's capital | 15% in all other cases |

| | | |
|---|---|---|
| Romania | 10%, if the recipient is a company (excluding partnership) and during the part of the paying company's taxable year that precedes the date of payment of the dividends and during the whole of its prior taxable year (if any), at least 25% of the outstanding shares of the voting stock of the paying company was owned by the recipient company | 15% in all other cases |
| Russia | 15%, if the recipient is the beneficial owner of the dividends | |
| Singapore | 15%, if the recipient is a company (including partnership) and, during the part of the paying company's taxable year that precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 15% of the outstanding shares of the voting stock of the paying company was owned by the recipient company | 25% in all other cases |
| Sri Lanka | 15%, if the beneficial owner is a company (excluding partnership) | 25% in all other cases |
| Spain | 10%, if the recipient is a corporation (excluding partnership) that holds directly at least 10% of the voting shares of the company paying the dividends | 15% in all other cases |
| Sweden | 10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 25% of the paying company's capital | 15% in all other cases |
| Switzerland | 10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 10% of the paying company's capital | 15% in all other cases |
| Thailand | 10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 25% of the paying company's capital | 15% in all other cases |
| Turkey | 10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 25% of the paying company's capital | 15% in all other cases |
| United Arab Emirates | 10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 10% of the paying company's capital | 15% in all other cases |

| | | |
|---|---|---|
| United Kingdom of Great Britain and Northern Ireland | 15%, if the beneficial owner is a company that controls directly or indirectly at least 10% of the voting power of the company paying the dividends | 25% in all other cases |
| United States of America | 20% when the recipient is a corporation, if during the part of the paying corporation's taxable year that precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 10% of the outstanding shares of the voting stock of the paying corporation was owned by the recipient corporation | 25% in all other cases |
| Vietnam | 10%, if the beneficial owner is a company (excluding partnership) that holds directly at least 25% of the paying company's capital | 15% in all other cases |

### Branch profit remittance tax
Profits remitted by a branch to its head office are subject to a FWT of 15%. If, however, the recipient of the profits is a resident of a country with whom the Philippines has a treaty, the applicable tax treaty provisions, usually a lower rate of 10%, will apply. Profits remitted by a branch registered with PEZA are tax-exempt.

### Value-added tax
Any person who, in the course of trade or business, sells, barters, exchanges, or leases goods or properties, renders services, and any person who imports goods into the Philippines shall be subject to 12% VAT, if the annual gross sales/receipts exceed P3 million. It is an indirect tax that is generally passed on by the seller to the buyer.

The taxable base is gross selling price of goods or properties sold, or gross receipts from the sale of services. On imports, the taxable base is the dutiable value, plus customs duties, excise tax, if any, and other charges prior to the release of such goods from customs custody. The VAT payable to the government shall be the excess between the output VAT and the creditable input VAT.

**a. Input VAT**
VAT passed on by suppliers of goods and services to the company, as well as the VAT paid on importations, shall be considered the creditable input VAT of the company. Generally, the input VAT is creditable in full against the output VAT incurred in the period.

**b. Output VAT**
Generally, the sale of goods and services shall be subject to 12% VAT. A 0% VAT generally applies to exports. Taxpayers engaged in zero-rated transactions are entitled to refunds for VAT paid (input tax) on their purchases of goods, properties, and services. VAT-exempt status is also granted to certain transactions and entities.

All persons liable to VAT are required to file monthly VAT declarations and quarterly VAT returns that shall serve as the final adjusted return for the quarter. The input VAT (i.e., the VAT paid on purchases) may be credited against the output tax (i.e., VAT on sales) to arrive at the net VAT payable. Any input tax that has not been applied against output tax may be carried forward to the following months or succeeding quarters.

### Documentary stamp tax (DST)

In general, DST is imposed upon documents, instruments, loan agreements, and papers, and upon acceptances, assignments, sales, and transfers of the obligation, right or property incident thereto, including leases of land or buildings, loan agreements, original issuance, and sales/transfers of shares, among others.

### Taxes on importation

Apart from goods with de minimis value (P10,000 and below), import duties will be imposed on goods, equipment, machineries, supplies, and other articles to be imported by the Philippine entity into the Philippines in accordance with the rates prescribed in the Tariff and Customs Code.

In addition, 12% VAT shall be imposed on importations based on the total value used by the BOC in determining tariff and customs duties, plus customs duties, excise taxes, if any, and other charges. The VAT on importation shall be paid by the importer prior to the release of such goods from Customs.

### Estate tax

An estate tax of 6% is imposed on the transfer of a decedent's estate to their lawful heirs and beneficiaries based on the fair market value of the net estate at the time of the decedent's death.

The value of the gross estate of the decedent includes the value at the time of their death of all property, real or personal, tangible or intangible, wherever situated. In the case of a non-resident alien decedent, only that part of the entire gross estate situated in the Philippines is included in the taxable estate. The net estate is then determined by deducting from the value of gross estate the total amount of allowable deductions.

An estate tax return must be filed within one year from the decedent's death, and the tax due must be paid at the time of filing the return. However, extensions for filing and payment may be allowed subject to certain conditions.

Estate taxes paid by citizens or residents to a foreign country are creditable against Philippine estate tax, subject to certain limitations.

### Donor's tax

Donor's tax of six percent is imposed on the gratuitous transfer of property by any person, resident or non-resident. The donor's tax is based on total gifts in excess of P250,000 made during the calendar year, whether the donee is a relative or a stranger.

Prior to the Tax Reform for Acceleration and Inclusion (TRAIN) Law, transfers for less than adequate and full consideration were likewise deemed gifts, and the amount by which the fair market value of the property exceeded the selling price were subjected to donor's tax. However, with the amendments introduced by the TRAIN Law, the donor's tax risk has been mitigated with the inclusion of a provision stating categorically that "a sale, exchange, or other transfer of property made in the ordinary course of business (a transaction which is a bona fide, at arm's length and free from any donative intent), will be considered as made for an adequate and full consideration in money or money's worth."

# Tax

Gifts made to the government and certain accredited institutions are exempt from donor's tax. However, to be exempt from donor's tax and to claim full deduction of the donation given to accredited donee institutions, the donor has to comply with certain BIR requirements, such as the giving of a Notice of Donation.

Donor's taxes paid to a foreign country by a citizen or resident at the time of donation are creditable. The donor's tax return should be filed within 30 days after the date when the gift is made and the tax due thereon must be paid at the time of filing the return.

### Tax on capital gains
Capital gains tax is a tax imposed on the gains presumed to have been realized by the seller from the sale, exchange, or other disposition of capital assets located in the Philippines, including pacto de retro sales and other forms of conditional sale.

### Land and buildings
A final tax of 6% is imposed on the higher of the gross selling price or fair market value upon the sale, exchange, or disposition of land or buildings sold by a domestic corporation, if such property is treated as capital asset.

### Shares of Stocks
Net capital gains derived from the sale, exchange, transfer, or other disposition of shares of stocks in a domestic corporation not traded in the stock exchange is subject to capital gains tax of 15%.

Non-resident foreign corporations that are residents of countries with whom the Philippines has an existing tax treaty may avail of treaty benefits on capital gains.

Net capital gain is the difference between the selling price and the fair market value (FMV) of the shares, whichever is higher, less the shares' cost basis, plus any selling expenses. In determining the shares' FMV for common shares of stock, the book value based on the latest available financial statements duly certified by an independent public accountant prior to the date of sale, but not earlier than the immediately preceding taxable year, shall be considered as the prima facie fair market value.

### Improperly accumulated earnings tax (IAET)
The improperly accumulated earnings tax shall no longer be imposed on corporations upon the effectivity of the CREATE (effective April 11, 2021).

### Local taxes

#### Local business tax (LBT)
A local business tax (LBT) is imposed by local government units on business establishments operating within their territorial jurisdiction. The LBT is computed based on the gross sales or receipts of the business establishment for the preceding year at varying rates depending on the business activity.

#### Real Property taxes (RPT)
Local government units impose real property taxes of two types: a basic tax and a Special Education Fund Tax. The rate is generally 1% for real properties located in the provinces and 2% for real properties located in a city or municipality within Metro Manila.

# Residence criteria

A person who comes to the Philippines for a definite purpose that is promptly accomplished is not deemed a resident. A person who comes for a definite purpose requiring an extended stay and who establishes a temporary home in the Philippines is considered a resident. Aliens who reside in the Philippines with no definite intention regarding the length of their stay are considered residents, even if they intend to return to another country to live. Aliens who acquire residence in the Philippines remain residents until they depart with the intention of abandoning that residence.

Other types of income of citizens and resident aliens are subject to the following tax rates:

- Interest from bank deposits and yield from deposit substitutes and similar arrangements, royalties, prizes, and other winnings from Philippine sources – 20%
- Interest from foreign currency deposits in a local bank – 15%
- Interest income from long-term deposits and investments – exempt under certain conditions
- Cash and property dividends from domestic corporations and shares from the distributable net income of a partnership or a joint venture – 10%
- Capital gains from sale of shares of stock not traded through the local stock exchange – 15%
- Capital gains from sale of real property – 6% of the gross selling price or FMV, whichever is higher

### Taxation of non-residents

The following rates apply to other income of non-resident aliens doing business within the Philippines:

- Cash and property dividends from a domestic corporation or from a regional operating headquarter of a multinational company, share in the distributable net income of a partnership or joint venture, royalties, prizes, and other winnings – 20%
- Interest income from long-term deposits – exempt under certain conditions
- Capital gains from sale of shares of stock not traded through the local stock exchange – 15%

Non-resident aliens not doing business in the Philippines are taxed at 25% on their income from Philippine sources.

The preferential rate of 15% applicable to alien employees of regional or area headquarters and regional operating headquarters of multinational companies, offshore banking units, and petroleum service contractors and subcontractors was revoked beginning January 1, 2018.

### Payment dates/filing of tax returns

For individuals, the tax year is the calendar year. An income tax return must be filed on or before April 15 of the year following the tax year. Beginning January 1, 2018, spouses are not anymore required to file joint tax returns.

Individuals earning pure compensation income from a single employer during the year are exempt from the requirement to file an income tax return, subject to certain conditions. Likewise, an individual whose

# Residence criteria

sole income has been subject to FWT is not required to file an income tax return.
Internal revenue taxes may be paid over the counter, by bank debit, by check, or by online payment.

### Effect of treaties

Compensation for personal services, whether dependent or independent, may be exempt from income tax if conditions set by tax treaties are met.

# Contact Details

P&A Grant Thornton is located at the following addresses:

**Metro Manila**
19th & 20th Floor, Tower 1, The Enterprise Center
6766 Ayala Avenue, Makati City 1200
Philippines
T +63 2 8988 2288
M +63 918 901 6995
+63 919 096 3486
E Jun.Cuaresma@ph.gt.com

**P&A Grant Thornton Outsourcing, Inc.**
19th Floor, Tower 1, The Enterprise Center
6766 Ayala Avenue, Makati City 1200
Philippines
T +63 2 8988 2288 ext. 810-811
F +63 947 996 2293
E Paz.Malubay@ph.gt.com

**Cavite**
Level 3, Robinson's Place Dasmariñas
Aguinaldo Highway cor. Governor's Drive
Pala-Pala, Dasmariñas, Cavite
Philippines
T +63 2 8988 2288 ext. 616-617
M +63 917 557 5784
E Nelson.Dinio@ph.gt.com

**Cebu**
Penthouse, Suite, Unit 1603
FLB Corporate Center, Archbishop Reyes Avenue
Cebu Business Park, Cebu City 6000
Philippines
T +63 32 231 6090
+63 32 233 0574
M +63 917 582 0536
E Wendell.Ganhinhin@ph.gt.com

**Davao**
The Penthouse, Suite 173, 17th Floor
The Landco-PDCP Corporate Centre, J.P. Laurel Avenue
8000 Davao City
T +63 082 221 1498 to 99;
+63 82 221 1500
M +63 917 325 9837
E Meg.Punay@ph.gt.com

P&A Grant Thornton



**grantthornton.com.ph**