

# *Outsourcing* brief

## Q2 2017



# BIR Updates

## RMO No. 3-2017: Circularizing the Additional List of Personal Equity Retirement Account (PERA) Unit Investment Trust Funds (UITFs) Duly Approved by the Bangko Sentral ng Pilipinas (BSP)

This Circular reveals under Rule 11 of the Rules and Regulations Implementing Republic Act No. 9505, otherwise known as the PERA Act of 2008, and Section 9 of Revenue Regulations (RR) No. 17-2011 that all income earned from the investments and re-investments of PERA assets in PERA investment products shall be exempt from income taxes, provided the said PERA investment products have been duly accredited by the concerned Regulatory Authority.

The following are additional PERA UITFs/ investment products duly approved/ accredited by the BSP.

(See Table I)

It is emphasized that only income earned from the investments and re-investments of PERA assets in the PERA investment products enumerated above shall be exempt from income taxes. Moreover, income from investments and re-investments

Table I

No.	Name of Bank	Name of Fund	Sub-Type	Detailed Type of Fund	Denomination	Date of BSP Approval
1	Metropolitan Bank and Trust Company	Metrobank PERA Money Market Fund	Money Market	PERA-Money Market	Peso	3/28/2017
2	Metropolitan Bank and Trust Company	Metrobank PERA Bond Fund	Bond	PERA-Bond	Peso	3/28/2017
3	Metropolitan Bank and Trust Company	Metrobank PERA Equity Fund	Equity	PERA-Equity	Peso	3/28/2017

of PERA assets in government securities is likewise exempt from income taxes under the said provisions.

## RMC No. 43-2017: Availability of the New Versions of the Update of Exemption of Employees (UEE) Data Entry Module in Filing of the BIR Form No. 2305 (Certificate of Update of Exemption, and of Employers and Employee's Information) and 2305 Batch File Validation Module

This Circular announces the availability of the updated versions of the UEE Data Entry Module and Batch File Validation Module in the Filing of BIR Form No. 2305 in relation to RMC NO. 59-2015. The new versions include the acceptance of Persons with Disability

(PWD) pursuant to Republic Act (RA) No. 10754. The following work around procedures shall be followed to allow the data entry of a qualified PWD dependent as an additional exemption:

1. In the Part III – Additional Exemptions of BIR Form No. 2305, encode the name and birthdate of the qualified PWD dependent;
2. Tick the “Mark if PWD/Mentally/ Physically Incapacitated” box; and
3. Click the save button after encoding all the required information.

A PWD, regardless of age, is considered qualified as a dependent by satisfying the following conditions:

- a. Filipino citizen;
- b. Within the fourth (4th) civil degree of consanguinity or affinity to the

# BIR Updates

BIR updates

DOLE updates

HDMF updates

PHIC updates

SSS updates

- taxpayer/benefactor;
- c. Not gainfully employed; and
- d. Chiefly dependent upon and living with the taxpayer/benefactor.

A maximum number of four (4) dependents shall be observed for the additional exemptions that may be claimed by the taxpayer / benefactor.

To see the complete list of documents in order to claim the PWD as qualified dependent, please visit BIR website: <http://www.bir.gov.ph>

## **RR No. 5-2017: Rules and Regulations Implementing Republic Act No. 10754, entitled “An Act Expanding the Benefits and Privileges of Persons with Disability (PWD)” Relative to the Tax Privileges of Persons with Disability and Tax Incentives for Establishments Granting Sales Discount, and Prescribing the Guidelines for the Availment Thereof, Amending Revenue Regulations No. 1-2009**

### **I. Scope**

These Regulations are circulated to Prescribe the guidelines for the implementation of the tax privileges of persons with disability and their benefactor;

and tax incentives for establishments granting 20% sales discount and exemption from Value-added Tax (VAT) and amend certain provisions of RR No. 1-2009.

### **II. Sales discounts which may be claimed by qualified Persons With Disability (PWD)**

Qualified PWD shall be entitled to claim at least twenty percent (20%) discount from the following establishments relative to the sale of goods and services for their exclusive use and enjoyment or availment of the PWD:

- a. Hotels and similar lodging establishments; restaurants and recreation centers;
- b. Theaters, cinema houses, concert halls, circuses, carnivals, and other similar places of culture, leisure, and amusement;
- c. All drugstores regarding purchase of generic and branded medicine;
- d. Medical and dental services including diagnostic and laboratory fees (e.g., x-rays, computerized tomography scans, and blood tests) and professional fees of attending doctors in all government facilities or all private hospitals and medical facilities subject to the guidelines

to be issued by the Department of Health,

- e. Domestic air and sea transportation based on the actual fare.
- f. Land transportation privileges based on the actual fare such as, public utility buses or jeepneys, taxis, Asian Utility Vehicles, shuttle services, and public railways such as Light Rail Transit, Metro Rail Transit, Philippine National Railways and such other similar infrastructure
- g. Funeral and burial services for the death of the PWD.

### **III. Availment by establishments of sales discounts as deduction from gross income.**

Establishments granting sales discounts to PWD on their sale of goods and/or services shall be entitled to deduct the said sales discount from their gross income subject to the following conditions:

- a. All establishments which granted sales discounts on their sale of goods and/or services to PWD may claim the said discount as deduction the same from the gross

# BIR Updates

BIR updates

DOLE updates

HDMF updates

PHIC updates

SSS updates

- b. Only that portion of the gross sales exclusively used, consumed or enjoyed by the PWD.
- c. The seller must record its sales inclusive of the discount granted,
- d. The sales discount shall be treated as a necessary and ordinary expense duly deductible from the gross income of the seller;
- e. The sales discounts shall not be accounted as deductible expense for taxpayers availing the Optional Standard Deduction (OSD);
- f. The amount of sales discount shall only be allowed as itemized deduction from gross income for taxable year that the discount is granted;
- g. The gross selling price and the sales discount must be separately indicated in the official receipt or sales invoice.
- h. Only the actual amount of the sales discount granted or a sales discount not exceeding 20% of the gross selling price or gross receipts can be deducted from the gross income.

The business establishment giving sales discount to qualified PWD is required to keep separate and accurate records of sales.

#### **IV. Exemption from value-added tax (VAT) on sale of goods or services to qualified PWD.**

- a. The sellers are precluded from billing any VAT to the PWD. The sale to a person with disability must follow the invoicing requirements prescribed under RR No. 16- 2005
- b. The input tax attribute to VAT-exempt sale is considered as cost or an expense account by business establishments.
- c. If there is no name of PWD and PWD ID No. indicated in the records of sales, the input tax attributable to VAT-exempt sale claimed as an expense by business establishments shall be disallowed.
- d. The exemption herein granted will not cover other indirect taxes that may be passed on by the seller to a PWD buyer.

#### **V. Penalties**

- a. Any violation of these Regulations shall be subject to the

corresponding penalties under pertinent provisions of the Tax Code of 1997, as amended, and other applicable regulations issued by the BIR;

- b. Further, any person who violates any provision of RA No. 10754 shall suffer the following penalties:
  - b.1. For the first violation of any provision of the Act and these Regulations, a fine of not less than P50,000 but not exceeding P100,000 or imprisonment of not less than six months but not more than two years, or both at the discretion of the court;
  - b.2. For any subsequent violation thereto, a fine of not less than P100,000 but not exceeding P200,000 or imprisonment for not less than two years but not more than six years, or both at the discretion of the court.
  - b.3. Any person who abuses the privileges granted under the Law shall be punished with imprisonment of not less than six months or a fine of not less than P5,000, but not more than P50,000 or both, at the discretion of the court.

# BIR Updates

## **VI. Effectivity**

These Regulations shall take effect 15 days after publication in the Official Gazette or in any two newspapers of general circulation, whichever comes earlier.

To see the full Regulation, please visit the website of BIR: <http://www.bir.gov.ph>

BIR updates

DOLE updates

HDMF updates

PHIC updates

SSS updates

# DOLE Updates

## **DEPARTMENT CIRCULAR NO. 01, s. 2017: Clarifying the Applicability of Department Order No. 174, Series of 2017**

This Circular clarifies the applicability/non-applicability of Department Order No. 174, series of 2017, or the new Rules Implementing Articles 106 to 109 of the Labor Code of the Philippines, as amended, to persons, establishments, or companies in specific industries based on the nature of the business and contractual relationship consistent with other applicable laws, rules, and regulations.

### **I. Non-Applicability of DO No. 174, Series of 2017, to BPO/LPO/KPO**

DO 174 Series of 2017, applies only to trilateral relationship which characterizes contracting or subcontracting arrangement. It does not contemplate to cover information technology-enabled services involving an entire or specific business process such as:

- Business Process Outsourcing
- Knowledge Process Outsourcing
- Legal Process Outsourcing
- IT Infrastructure Outsourcing
- Application Development
- Hardware and/or Software Support
- Medical Transcription
- Animation Services
- Back Office Operations/Support

### **II. Applicability/Non-Applicability of DO No. 174, Series of 2017, to Construction Industry; Coordination with PCAB-CIAP**

Contracting or subcontracting arrangements in the construction industry under the licensing coverage of the Philippine Contractors Accreditation Board (PCAB) shall be governed by DO No. 19, Series of 1993 (Guidelines Governing the Employment of Workers in the Construction Industry); DO No. 13, Series of 1998 (Guidelines Governing the Occupational Safety and Health in the Construction Industry); and DOLE-DPWH-DILG-DTI and PCAB Memorandum of Agreement-Joint Administrative Order No. 1, Series of 2011.

Contractors licensed by PCAB which are engaged in other contracting or subcontracting arrangement in addition to or other than the construction activities shall be required to register under Department Order No. 174, Series of 2017.

### **III. Applicability/Non-Applicability of DO No. 174, Series of 2017, to Private Security Agencies**

Contracting or subcontracting arrangements in the private security industry shall be governed by Department Order No. 150, Series of 2016 (Revised Guidelines Governing the Employment and Working Conditions of Security Guards and other Private Security

Industry).

### **IV. Non-Applicability of DO No. 174, Series of 2017, to Other Contractual Relationships**

DO No. 174, Series of 2017 does not contemplate to cover contractual relationships, such as in contract of sale or purchase, contract of lease, contract of carriage, contract growing/growership agreement, toll manufacturing, contract of management, operation and maintenance, and such other contracts governed by the Civil Code of the Philippines and other special laws.

DO No. 174, Series of 2017 does not also cover the contracting out of job or work to a professional or individual with unique skills and talents who himself or herself performs the job or work for the principal.

### **V. Effectivity**

This Circular shall take effect upon the effectivity of Department Order No. 174, Series of 2017.

BIR updates

DOLE updates

HDMF updates

PHIC updates

SSS updates

# HDMF Updates

## **Circular No. 379: AMENDED GUIDELINES ON THE Pag-IBIG FUND AFFORDABLE HOUSING PROGRAM**

### **1. Coverage**

These Guidelines shall cover all retail and developer-assisted housing loan accounts that will be processed and taken out upon its effectivity.

### **2. Loan Purpose**

The housing loan proceeds may be used to finance anyone or a combination of the following:

- 2.1. Purchase of fully developed residential lot or adjoining residential lots not exceeding 1,000 sq. m.;
- 2.2. Purchase of a residential house and lot, townhouse or condominium unit
- 2.3. Construction or completion of a residential unit on a residential lot owned by the borrower or a relative of the borrower;
- 2.4. Home improvement on the house owned by the borrower, or on a property currently secured under a Contract-to-Sell (CTS), or Deed of Conditional Sale (DCS) between Pag-IBIG Fund and the buyer. Refinancing of an existing

housing loan as long as the account is updated and at least one (1) year old upon application.

### **3. Eligibility Requirements**

To qualify for the Pag-IBIG Fund AHP, a member shall satisfy the following requirements:

- 3.1. On Pag-IBIG Membership
  - 3.1.1 Must be a member under the Pag-IBIG I Membership Program as evidenced by the remittance of at least 24 monthly savings at the time of application;
  - 3.1.2 A member, whose monthly savings are still short of the required number, may be allowed to apply for this program;
  - 3.1.3 A new member who wishes to apply for a Pag-IBIG Fund AHP may be allowed to do so as long as he remits the required 24 monthly savings based on the mandatory rate in lump sum.
- 3.2 Not more than 65 years old at the date of application and not more than 70 years old at maturity;
- 3.3 Has the legal capacity to acquire and encumber real property;
- 3.4 Has passed satisfactory background/credit and

employment/business checks of Pag-IBIG Fund;

- 3.5 If with existing Pag-IBIG housing account, it must be updated;
- 3.6 Has no outstanding Pag-IBIG Short Term Loan (STL) at the time of Application.
- 3.7 Had no Pag-IBIG housing account that was foreclosed, cancelled, bought back due to default, or subjected to dacion en pago
  - 3.7.1 Illness of the borrower or any of his immediate family members as certified by a government doctor
  - 3.7.2 Unemployment of the borrower at the time his previous housing account was foreclosed, its DCS/CTS cancelled or the property surrendered through dacion en pago, but the said borrower has now become employed and is able to meet all other eligibility criteria;
  - 3.7.3 The subject property has been expropriated by the Government; or
  - 3.7.4 Other similar meritorious cases that the Deputy Chief Executive Officer - Home Lending Operations Cluster may consider.

BIR updates

DOLE updates

HDMF updates

PHIC updates

SSS updates

# HDMF Updates

- BIR updates
- DOLE updates
- HDMF updates
- PHIC updates
- SSS updates

## 4. Loanable Amount

A qualified Pag-IBIG member may apply for a housing loan of up to P750,000

- 4.1 Loanable Amount Based on Gross Monthly Income The housing loan shall not exceed the limit for the applicable income cluster. (See *Table II*)
- 4.2 Loanable Amount Based on Capacity to Pay
  - 4.2.1 All applications shall be evaluated based on the borrower's capacity to pay.
  - 4.2.2 The loanable amount shall be limited to an amount for which the monthly repayment shall not exceed 35% of the borrower's gross monthly income.
  - 4.2.3 For government employees who will be paying their loan amortization through salary deduction their Net Take Home Pay must not fall below the minimum requirement as prescribed in the General Appropriations Act.

**Table II**

Details		Maximum Gross Monthly Income/ Cluster Limit	
Income Cluster	Cluster 1 (NCR)	Up to P15,000	Up to P17,500
	Cluster 2 (Regions)	Up to P12,000	Up to P14,000
Loanable Amount		Loans up to 450,000	Loans up to P750,000

## 5. Interest Rate

- 5.1 The housing loan of borrowers under AHP shall be charged with the following interest rates for the first five years or 10 years of the loan, whichever is applicable:

Details		Gross Monthly Income	
Income Cluster	Cluster 1 (NCR)	Up to P15,000	Up to P17,500
	Cluster 2 (Regions)	Up to P12,000	Up to P14,000
Loanable Amount		Loans up to 450,000	Loans up to P750,000
Interest Rate		3 %	6.50%

## 6. Loan Term

The housing loan shall be repaid at a maximum term of thirty (30) years and shall, in no case, exceed the difference between age seventy (70) and the present age of the principal borrower.

## 7. Payment Due Dates

- 7.2.1 The payment of the monthly amortization shall commence on the month immediately following the takeout date (DV/Check Date), and every month thereafter until full settlement of the housing loan.
- 7.2.2 In case of staggered releases, the payment date shall coincide with the DV/Check Date of the final release of proceeds or the constructive takeout date, whichever is applicable.
- 7.2.3 Should the due date fall on a non-working day in the Pag-IBIG branch where the housing loan is



# HDMF Updates

BIR updates

DOLE updates

HDMF updates

PHIC updates

SSS updates

maintained, the monthly amortization shall be paid until the next working day.

## 8. Pre- Payment

8.1 A borrower shall be allowed to prepay his housing loan in full or in part without prepayment penalty, pursuant to Republic Act 7394, otherwise known as “The Consumer Act of the Philippines”, but subject however to a service fee as may be fixed by the Fund.

8.2 Accelerated payments - Any amount in excess of the monthly amortization dues shall be treated as advance amortization and shall be applied on the next amortization due date. However, upon request of the borrower and provided the amount to be applied is equivalent to at least one monthly amortization, said amount shall be applied to the principal.

## 9. Effectivity

These Guidelines took effect last 1 May 2017.

To see the complete Circular, visit HDMF website: [www.pagibigfund.gov.ph/](http://www.pagibigfund.gov.ph/)

## Circular No. 380: AMENDED GUIDELINES ON PAG-IBIG FUND MEMBERSHIP TERMINATION

The following amended guidelines on Pag-IBIG Fund membership termination are hereby issued:

### Coverage

These guidelines shall cover all Pag-IBIG members who are entitled to withdraw their Total Accumulated Value (TAV) anytime upon the occurrence of any of the grounds for termination of Fund membership.

### Exclusion

The following shall not constitute as grounds for termination of membership:

Resignation, lay-off, suspension from employment, or unemployment.

### Grounds for Membership Termination

Membership with the Fund shall be terminated anytime upon occurrence of any of the following grounds, provided the necessary application together with the supporting documentary requirements have been filed, processed, and approved.

## Membership Maturity

1.1. Eligibility for membership maturity shall be based on 20 years of membership with the Fund, reckoned from the first day of the month to which the member’s initial contribution to the Fund applies;

1.2. The base date of the initial contribution shall refer to the initial period covered that is recorded in the database.

## Retirement

A member shall be compulsorily retired with the Fund upon reaching the age of 65.

2.1. A member may opt to retire earlier under the Fund anytime upon occurrence of any of the following events, provided the member is not a housing loan borrower:

2.1.1. Actual retirement from SSS and/or GSIS.

## SSS retirement

65 years old and has at least 120 SSS monthly contributions

For underground mineworkers:

55 years old with at least five years in service as underground mine worker and has at least 120 SSS monthly contributions.

# HDMF Updates

BIR updates

DOLE updates

HDMF updates

PHIC updates

SSS updates

## **GSIS Retirement**

RA No. 8291 - At least 15 years of service and must be at least 60 years old upon retirement

RA No. 660 - On completion of 30 years of total service and attainment of age 57 years.

In case of those who are at least 57 years of age, a period of service shorter than 30 years may be allowed, provided that each year decreases in service shall be compensated by one-half year increase in age over 57 years.

A younger age of retirement may be permitted provided that each year decrease below 57 years shall be compensated by one year increase in service over 30 years.

In all cases no one shall be entitled to retirement benefit if his age is below 52 years or his total service is less than 15 years.

A member shall terminate his membership with the Fund in case of permanent total disability (PTO). PTO refers to the loss or impairment of a physical or mental function resulting from injury or sickness, which incapacitates the said member from

performing any work or engaging in any business or occupation.

*To see the complete Circular, visit the HDMF website: [www.pagibigfund.gov.ph/](http://www.pagibigfund.gov.ph/)*

## **Termination from Service by Reason of Health**

A member can no longer render service to an employer due to severe health conditions, as certified by his doctor. Severe health conditions constitute an illness, injury, impairment, or physical or mental condition that involves in-patient or out-patient care or a continuing treatment by a health care provider.

## **Permanent Departure from the Country**

A member has been permitted by his host country to remain there indefinitely or has permanently left the Philippines to reside in another country.

## **Effectivity**

These guidelines shall take effect after 15 days following the completion of their publication in a newspaper of general circulation.

# SSS Updates

## **CIRCULAR NO. 2017-006: LEGAL OBLIGATION OF EMPLOYERS TO PAY IN ADVANCE THE SS SICKNESS AND MATERNITY BENEFITS TO QUALIFIED EMPLOYEE-MEMBERS**

This Circular reminds employers of the following when providing timely social security benefits to employed SSS members who are unable to work due to sickness, injury, child birth, or miscarriage:

1. To pay in advance, as required under Section 14 and 14-A of the Social Security Law, the:
  - a. Sickness benefit of their qualified employees every regular pay day or on the 15th and last day of each month;
  - b. Maternity benefit of their qualified employees, which must be paid in full within 30 days from the filing of the maternity leave application.
  
2. Failure or refusal to advance to their employees the sickness or maternity benefit shall be subject to the penalties provided for in Section 28 of the Social Security Law, consisting of a fine of not less than P5,000 nor more than P25,000 or imprisonment of for not less than six years and one day nor more than 12 years or both, at the discretion

of the court.

Pursuant to Sec. 28 (f) of the Social Security Law, if the failure or refusal to advance the benefit is committed by an association, partnership, corporation, or any other institution, the managing head, directors, or partners shall be liable to the penalties provided above.

BIR updates

DOLE updates

HDMF updates

PHIC updates

SSS updates

# PHIC Updates

## **PHILHEALTH CIRCULAR No. 2017-0007:**

### **Definition of Active and Inactive**

#### **PhilHealth Member**

#### **DEFINITION OF TERMS**

**Active Member** — a registered member who has qualifying contributions and with sufficient regularity of payment and is entitled to avail of PhilHealth benefits as prescribed by the Corporation.

**Inactive Member**—a registered member who has no qualifying contributions and is not entitled to avail of PhRHealth benefits.

#### **Effectivity**

This Circular shall take effect fifteen days after publication in any newspaper of general circulation and shall be deposited thereafter with the National Administrative Register at the University of the Philippines.

BIR updates

DOLE updates

HDMF updates

PHIC updates

SSS updates

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