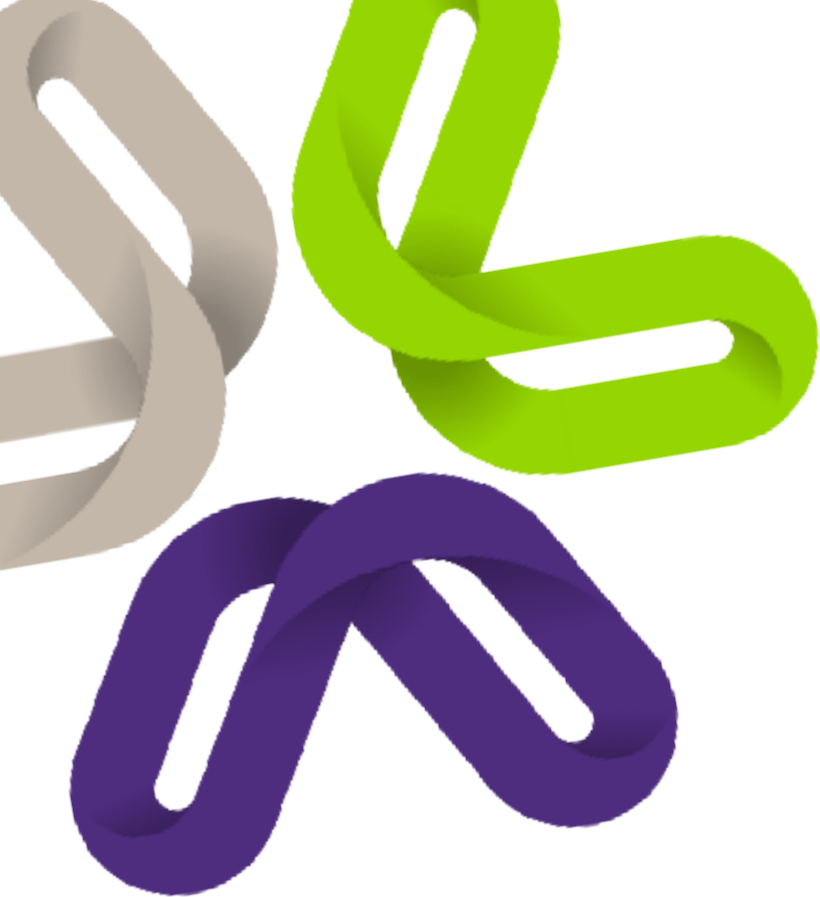




Tax brief

May 2018





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CWT rates on professional fees, talent fees, etc.

(Revenue Regulations No. 14-2018, April 5, 2018)

Professional fees, talent fees, etc. for services rendered shall be subject to the following creditable withholding tax rates:

A. Individual payee:

- Gross income for the current year is < P3M 5%
- Gross income is > P3M or VAT registered 10%

B. Non-individual payee:

- Gross income for the current year is < P720K 10%
- Gross income is > P720K 15%

Deadline for VAT de-registration

(Revenue Regulations No. 15-2018, April 5, 2018)

Professional fees, talent fees, etc. for services rendered shall be subject to the following creditable withholding tax rates:

Modified ATC for sweetened beverages

(Revenue Memorandum Order No. 16-2018, April 5, 2018)

To facilitate proper identification and monitoring of tax collection from excise tax on sweetened beverages pursuant to the TRAIN Law, the below listed Alphanumeric Tax Codes (ATCs) are modified into as follows:

ATC	Description	Tax Rate	BIR Form
	Tax on sweetened beverages	PER Liter	
	1. Using purely caloric and non-caloric sweeteners, a mix of caloric and non-caloric sweeteners but shall not apply to those using highly fructose corn syrup		2200-S/0605
	a. Sweetened juice drinks		
XB010	b. Sweetened tea	P6.00	
XB020	c. Carbonated beverages	P6.00	
XB030	d. Flavored water	P6.00	
XB040	e. Energy and sports drinks	P6.00	
XB050	f. Powdered drinks not classified as milk, juice, tea and coffee	P6.00	
XB060	g. Cereal and grain beverages	P6.00	
XB070	h. Other non-alcoholic beverages that contain added sugar	P6.00	

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XB080	2. Using purely high fructose corn syrup or in combination with any caloric or non-caloric sweeteners	P6.00	
XB090	3. Using purely coconut sap sugar and purely Steviol Glycosides	P12.00	
XB100		Exempt	

New daily minimum wage rates in Region I

[Revenue Memorandum Circular No. 22-2018, April 2, 2018]

The new minimum wage rates in Region I pursuant to Wage Order No. RB1-19 have been circularized, as follows:

Sector/Industry	Current	Increase	New minimum wage rates
Non-Agriculture			
- Large & Commercial Fishing	P280.00	P30.00	P310.00
- Medium	P265.00	P20.00	P285.00
- Small	P252.00	P13.00	P265.00
- Micro	P243.00	P13.00	P256.00

Agriculture			
-Plantation	P252.00	P13.00	P265.00
-Non Plantation	P243.00	P13.00	P256.00

Household or domestic helpers, and workers of registered Brgy. Micro Business Enterprises (BMBEs) are not covered under this Wage Order.

Filing of the new BIR Form 2551Q (Quarterly Percentage Tax Return)

[Revenue Memorandum Circular No. 26-2018, April 19, 2018]

Pursuant to the TRAIN Law, Quarterly Percentage Tax Return is modified and shall be filed for payment thereto through the following:

A. Manual Form: Using the newly revised BIR Form 2551Q to be downloaded from the BIR website. Taxable amount shall be the total gross sales/ receipts for the quarter. Payment shall be made either through:

(1) AABs located within the RDO where the tax-payers is registered or in places with no AABS, within the concerned Revenue Collection Officer (RCO) under the jurisdiction of the RDO or

(2) GCash Mobile Payment, Landbank of the Philippines Portal, or DPT Tax Online

Manual Filers who paid the percentage tax due for the first, second, and third month using BIR Form 2551M still needs to file BIR Form 2551Q and indicate in the return the total gross sales/ receipts for the quarter and the total payments made. Payments made shall be reflected in Item

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no. 17-other credit/payment made of the newly revised form. If an overpayment results to this, a “no payment return” (enhance old BIR Form No. 2551Q) shall be filed through the use of eBIRForms.

B. eBIRForms: using the enhanced old BIR Form No. 2551Q. Payments shall be coursed through the same options aforementioned above.

C. eFPS: using the enhanced old BIR Form No. 2551Q then proceed to online payment.

New BIR forms pursuant to the TRAIN Law

(Revenue Memorandum Circular No. 27-2018, April 19, 2018)

New set of BIR Forms as hereby circularized pursuant to the TRAIN Law, as follows:

BIR FORM NO.	BIR FORM Name	Availability of the New/Revised Return
1601-EQ	Quarterly Remittance Return for Creditable Income Taxes Withheld (Expanded)	Manual Return, eBIR Forms, eFPS
1601-FQ	Quarterly Remittance Return of Final Income Taxes Withheld	Manual Return, eBIR Forms, eFPS
1602Q	Quarterly Remittance Return of Final Taxes Withheld on Interest Paid on Deposits and Deposits Substitutes/ Trusts/ etc.	Manual Return
1603Q	Quarterly Remittance Return of Final Income Taxes Withheld on Fringe Benefits Paid to Employees Other than Rank and File	Manual Return
1601C	Monthly Remittance Return of Income Taxes Withheld for Compensation	Manual Return

System generated penalties in filing BIR Forms 1602 and 1603

(Revenue Memorandum Circular No. 28-2018, April 27, 2018)

Under the TRAIN Law, deadlines in the filing and/or payment of taxes through BIR Forms 1602 and 1603 has been moved to the following dates:

BIR FORM NO.	BIR FORM Name	Availability of the New/Revised Return
1602	On or before the 10th day of the following month in which withholding is made	Not later than the last day of the month following the close of the quarter during which withholding was made
1603	On or before the 10th day of the month following the calendar quarter in which the fringe benefits were granted	

The change in filing deadlines generates penalties for late filing and/or payment in the eFPS of the said forms (BIR Form 1602 and 1603). This problem is still being addressed by the Bureau hence, taxpayers are advised to disregard the penalties computed by the system and pay only the basic tax due, provided that the payment shall be made on or before the last day of the month.

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ATP date shall precede transaction date to claim income tax deductions

(Tyco Information Solutions Corp v Bureau of Internal Revenue, CTA EB No. 1426, April 3, 2018)

In this present case, the issue involve is whether or not the date of the ATP should precede the date of transaction to claim income tax deductions. Petitioner argues that there is nothing in the NIRC requiring that the date of Authority to Print (ATP) to precede the date of transaction to be able to claim income tax deduction for business expenses since ATP has nothing to do with the amount of the expense being deducted, or that the expense being deducted pertains to the conduct of the trade, business, or profession of the taxpayer.

The court ruled that while it may be true that sales invoices issued are without taxpayer's participation and control, it is the look out of the taxpayer to require its suppliers of goods and services to issued pertinent VAT invoice which bear all the information required by the Tax Code and Revenue Regulations.

LOA may cover more than one taxable year

(R.A Oben Holdings., Inc v Commissioner of Internal Revenue, CTA EB No. 1454, April 11, 2018)

In case the report of investigation cannot be rendered within the aforementioned time

frame due to constraints attributable to the taxpayer, the Revenue Officer (RO) may request for the revalidation of the LA by preparing a progress report with a valid reason for the request for revalidation. Previously issued LA shall be stamped "Revalidated on _____" and shall be signed by the Regional Director.

The revalidation of LA shall give rise to the extension of the period. Depending on the classification of the pending tax case, said extension period shall be equivalent to the original prescribed number of days within which to report the case under existing revenue issuance.

Personal service of FDDA to a building security guard who is not an employee of respondent is not a valid service

(Commissioner of Internal Revenue v Ithiel Corporation, CTA EB No. 1551, April 12, 2018)

In Revenue Regulations (RR) No. 12-99, service by personal delivery should be made upon the taxpayer himself or his authorized representative who shall acknowledge receipt by signing his name, stating his designation and his authority to receive the same.

The issue in this case is whether or not there was proper service of the FDDA to

determine whether CTA has jurisdiction over the case.

CIR-Petitioner has the burden of proof to prove that the person who received the FDDA had authority to do so and to show that his representative properly served the subject FDDA through personal service, i.e., to an authorized person to receive, or a person who has shown semblance of authority to receive. Should petitioner fail to show in a satisfactory manner the above factual premises, the Court En Banc may safely conclude that respondent is under no obligation to prove its exception, i.e., that the security guard who received the FDDA had no authority to do so.

Personal service of the FDDA to a security guard who is not an employee of respondent constitutes an invalid service as it was not served upon the taxpayer itself or to its authorized representative. The receipt by the security guard of the notices and the FDDA issued by the BIR shows the repeated mistake or negligence of petitioner in delivering the BIR documents to the same wrong person.

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Tenor and language of demand letter may suggest finality of assessment

(Grandworth Resources Corporation v Commissioner of Internal Revenue, CTA Case No. 8765, April 17, 2018)

A taxpayer or its authorized representative or tax agent may protest administratively against any FLD/ FAN within 30 days from date of receipt thereof. No request for reinvestigation shall be allowed in administrative appeal and only issues raised in the decision of the Commissioner's duly authorized representative shall be entertained by the Commissioner.

It is an established rule that a demand letter for payment of delinquent taxes may be considered a final decision on a disputed or protested assessment appealable to the court. The determination on whether or not a demand letter is final is conditioned upon the language used or the tenor of the letter being sent to the taxpayer.

In the present case, the fact that the letter received by herein petitioner reiterated the tax deficiency assessment and requested for the payment thereof with the warning that should petitioner fail to pay, respondent would be constrained to resort to administrative summary remedies to enforce collection.

Proof of receipt of PAN by the taxpayer incumbent upon CIR

(Macinetel, Inc. v Commissioner of Internal Revenue, CTA Case No. 9252, April 17, 2018)

Due process requirement mandated under Section 228 of the NIRC, as implemented by RR 12-99, further amended by RR 18-2013, requires full compliance through proper conveyance of PAN, FAN, and FDDA.

When there is a claim that PAN was not issued and received by a petitioner or any of its representatives, either personally or by registered mail, the burden of proof now lies to the CIR. As such, the assessment notice related to the said PAN may be rendered illegal, null and void.

In this present case, the taxpayer denies ever having received an assessment from the BIR. It is now then incumbent upon the CIR to prove by competent evidence that such notice was indeed received by the addressee. An original copy of the PAN, stamped as received and signed by the taxpayer or any authorized representative may suffice as evidence of receipt.

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