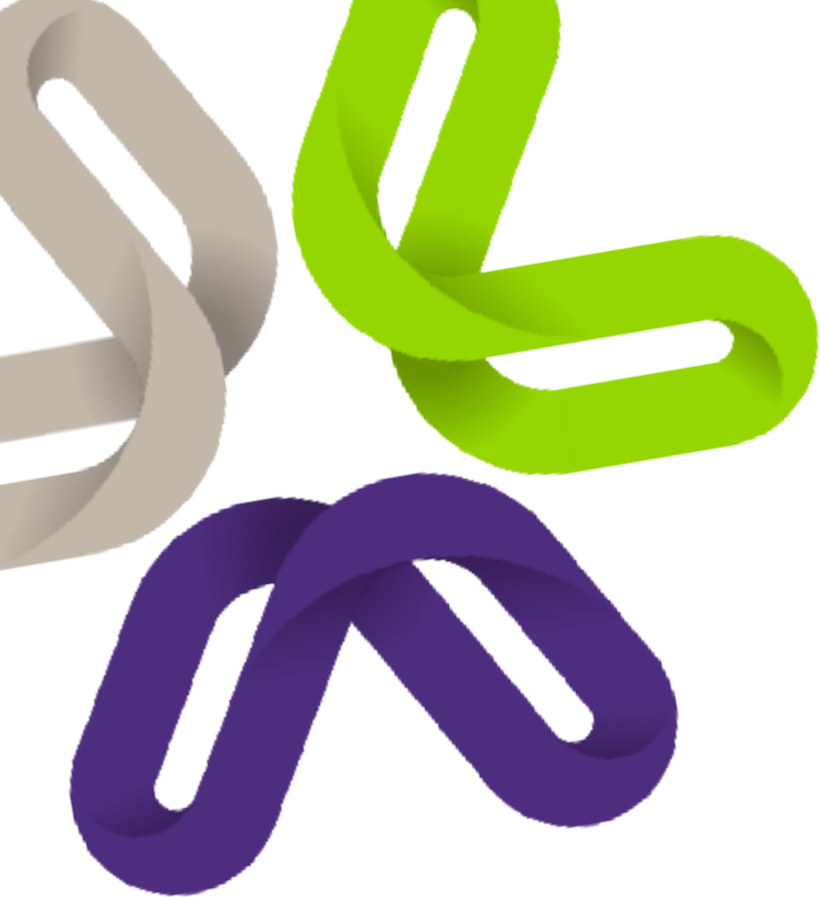




Tax *brief*

August 2019





BIR ISSUANCES

RMO 35-2019

RMO 36-2019

RMO 37-2019

RMO 40-2019

RMO 41-2019

RMC 66-2019

RMC 67-2019

RMC 68-2019

RMC 73 and 74-2019

RMC 5-2019

RMC 76-2019

Civil Remedies for the Collection of Accounts Receivable/Delinquent Accounts
Modified Alphanumeric Tax Code for Percentage Taxes
Amended policies, guidelines and procedures on the registration of employees
Procedures for the Proper Service of Assessment Notices
Procedures and Guidelines in the Processing of the Request for the Lifting of Warrant of Garnishment, Notice of Tax Lien, Notice of Levy and Notice of Encumbrance
An Act to Strengthen the Country's Gross International Reserves
An Act amending the Tourism Act of 2009, An act providing for magna carta of the poor, Sagip Saka Act
Clarifications in availing of estate tax amnesty
Availability of new BIR Forms 1604C, 1604E, 1604F, 2306, and 2307
Availability of revised BIR Form No. 1914
Availability of new BIR Form No. 0620 and BIR Form No. 1621

SEC CIRCULARS

SEC Memo Circular
No. 15 s. 19

Inclusion of beneficial ownership information in the General Information Sheet (GIS)

SEC Memo Circular
No. 16 s. 19

Guidelines on the Number and Qualifications of Incorporators Under the Revised Corporation Code

BIR Issuance



> BIR Issuance
>SEC Circulars

Civil Remedies for the Collection of Accounts Receivable/Delinquent Accounts

(Revenue Memorandum Order No. 035-2019, July 18, 2019)

In order to enhance revenue collections by the BIR, the civil remedies provided under Section 205 of the National Internal Revenue Code (NIRC), as amended, shall immediately be pursued as soon as the “Form 40-Collectible” reports relative to the following have been received by the offices responsible in the enforcement of collection remedies:

- 1. List of Unpaid Revenues (Annex “A”)** — these are self-assessed taxes arising from dishonored check, unpaid second installment of income tax due of individual taxpayers and duly validated unpaid tax due per tax returns; and
- 2. List of Unpaid Tax Assessments (Annex “B”)** — these are tax assessments arising from investigation which have become “final and executory” in accordance with existing policies.

The Preliminary Collection Letter (PCL) and Final Notice Before Seizure (FNBS) shall no longer be sent to the delinquent taxpayers. Once the aforesaid reports are validated, as well the dockets of the cases are received by the concerned office for collection

enforcement, a Warrant of Dstraint and/ or Levy (WDL) shall immediately be issued to the delinquent taxpayer.

Modified Alphanumeric Tax Code for Percentage Taxes

(Revenue Memorandum Order No. 36-2019, July 18, 2019)

To facilitate the proper identification and monitoring of tax collection from selected Percentages Taxes in BIR Form Nos. 2551M (Monthly Percentage Tax Return) and 2551Q (Quarterly Percentage Tax Return) pursuant to RA No. 10001, the following ATCs are hereby modified:

Existing (per ATC Handbook)					Modified /New
ATC	Description	Tax Rate	BIR Form	Legal Basis	
PT120	Line Insurance premium	5%	2551M /Q	RA 10001	2%
	Agents of Foreign Insurance Companies (Insurance Agents)	10%			

Amended policies, guidelines and procedures on the registration of employees

(Revenue Memorandum Order No. 37-2019, July 23, 2019)

In order to expedite the processing time of application for transfer of employee’s registration due to pending enhancement of the Integrated Tax System (ITS), the BIR issued simplified procedures for registering, transferring, and updating employee registration.

Generally, new employees without TIN shall be registered at the RDO having jurisdiction over the place of business where the employer’s head office or branch is physically located. It is the employers’ responsibility to secure TIN of its new employees using the eRegistration (eReg) system within 10 days from the date of employment, unless there is an advisory from the BIR that the eReg is unavailable, or when the employee has no middle name or has similar records in the BIR database. See below for the summary of registration guidelines:

BIR Issuances



> BIR Issuance
> SEC Circulars

New Employee without TIN	Employer shall secure TIN of its employees	Manual Application	
		When eReg is unavailable or cannot be registered using the eReg	Who shall visit the RDO
Employees of non-LT • Employees of TAMP • Employees of employers using eFPS • Employees of non-TAMP taxpayers	• eReg • eReg • RDO/ eReg	Submit application to the RDO of the employer	Employer
Employees of LT	eReg	Submit application to the local (regular) RDO* of the LT Employer	Employer

*Local (regular) RDO is the RDO having jurisdiction over the business address of the LT-Employer's Head Office or Branch, where the new employee will be assigned.

Existing employees who shall subsequently transfer or change its employer shall have its TIN/ registration records be transferred to the RDO having jurisdiction over the place of their residence and NOT the RDO of his/ her new employer.

The transfer of registration is the responsibility of the transferring employee through personal submission of BIR Form 1905 to his/her old RDO. In case his/her location is far from or he/she is unable to visit the old RDO, BIR Form 1905- as signed, may be faxed/emailed alongside a copy of his/her valid government issued ID.

In case of transfer of Head Office or Branch to a new different RDO, the transfer of employee records shall be borne by the transferring-employer to its new RDO, except those employees whose residence address and employer's old business address are both under the same RDO.

Procedures for the Proper Service of Assessment Notices

{Revenue Memorandum Order No. 40-2019, July 30, 2019}

The following procedures shall be observed in serving the assessment notices such as Preliminary Assessment Notice (PAN), Final Assessment Notice (FAN)/Formal Letter of Demand (FLD) and Final Decision on Disputed Assessment (FDDA):

- The assessment notice shall be served to the taxpayer through personal service by delivering personally a copy of the assessment notice at his registered or known

address or wherever he may be found. A known address shall mean a place other than the registered address where business activities of the party are conducted or his place of residence.

- In case personal service is not possible since the taxpayer is not present at the registered or known address, the assessment notice shall be served either by substituted service or by mail.

Substituted Service

> The assessment notice may be left at the party's registered address, with his clerk or with a person having charge thereof.

> If the known address is a place where business activities of the party are conducted, the notice may be left with his clerk or with a person having charge thereof.

> If the known address is the place of residence, substituted service can be made by leaving the copy with a person of legal age residing therein.

> If no person is found in the party's registered or known address or the party refused to receive the assessment notice, the Revenue Officers (ROs) concerned shall bring a barangay official and two (2)

BIR Issuances



> BIR Issuance
> SEC Circulars

disinterested witnesses to the address so that they may personally observe and attest to such absence. The assessment notice shall be given to said barangay official.

“Disinterested witnesses” refers to persons of legal age other than employees of the Bureau of Internal Revenue.

Service by mail

> Registered mail with an instruction to the Postmaster to return the mail to the sender after ten (10) days, if undelivered; or

> Reputable professional courier service; or

> Ordinary mail, if no registry or reputable courier is available in the locality of the taxpayer.

- Personal service shall be complete upon actual delivery of the assessment notice to the taxpayer or his representative. Service by registered mail is complete upon actual receipt by the taxpayer or after five (5) days from the date of receipt of the first notice of the postmaster, whichever date is earlier. Service by ordinary mail is complete upon the expiration of ten (10) days after mailing.

- Service to the tax agent/practitioner, who is appointed or authorized by the taxpayer in accordance with existing revenue issuances, shall be deemed service to the taxpayer.

Procedures and Guidelines in the Processing of the Request for the Lifting of Warrant of Garnishment, Notice of Tax Lien, Notice of Levy and Notice of Encumbrance

(Revenue Memorandum Order No. 41-2019, July 31, 2019)

Warrant of Garnishment (WG), Notice of Tax Lien (NTL), Notice of Tax Levy (NOL) and Notice of Encumbrance (NOE) are generally issued to persons who have either control or custody of the properties owned by taxpayers with outstanding tax liabilities with this Bureau in order to enforce the collection remedies provided under the Tax Code, as amended.

Delinquent taxpayers may, at any time prior to the transfer of ownership of these properties either to the government or the bidder to whom the subject properties were awarded, or prior to the application of the amount garnished to the outstanding tax liabilities, request the lifting of these warrants and notices, provided the total tax liabilities being collected by this Bureau are fully satisfied. Persons other than the delinquent taxpayers, who was transferred ownership of the properties may also request lifting

of the warrants/notices.

(See full copy of RMO No. 41-2019 for the list of instances when the warrants/notices may be lifted, and the corresponding documents required.)

Request for the issuance of “Notice of Lifting of WG/NTL/NOL/NOE” shall only be processed if the required documents applicable to the ground invoked are submitted. Request with incomplete documents shall be issued an acknowledgement letter within ten (10) working days from receipt of the request, stating the lacking documents.

The received request for the issuance of “Notice of Lifting of WG/NTL/NOL/NOE,” with complete documents, shall be processed within ten (10) working days from its receipt. While the processing of the application for the issuance of “Notice of Lifting of WG/NTL/NOL/NOE” shall be done by the particular office which has jurisdiction over the tax liabilities subject of the WG/NTL/NOL/NOE.



BIR Issuances

An Act to Strengthen the Country's Gross International Reserves

(Revenue Memorandum Circular No. 66-2019, July 4, 2019)

To strengthen the country's gross international reserves, the following income are now considered exempt from income tax and excise tax pursuant to Republic Act No. 11256:

- Income derived from the sale of gold to the Bangko Sentral ng Pilipinas (BSP) by registered small-scale miners and accredited traders; and
- Income from sale of gold by registered small-scale miners to accredited traders for eventual sale to the BSP.

In case excise tax due has been paid prior to the sale of gold to BSP, the taxpayer may file a claim for refund or credit for the excise taxes paid.

All gold sold to the BSP by accredited traders shall be presumed to have been purchased by said traders from small scale miners.

Implementing rules and regulations shall be issued within 60 days after the effectivity of RA No. 11256.

An Act Amending the Tourism Act of 2009/An Act Providing for Magna Carta for the Poor/Sagip Saka Act

(Revenue Memorandum Circular No. 67-2019, July 4, 2019)

Below are the relevant tax provisions of the newly signed laws:

- Pursuant to RA No. 11262 (An Act Amending Sections 85 and 2013 of Republic Act No. 9593, Otherwise Known as "The Tourism Act of 2009"), the fiscal and non-fiscal incentives available to Tourism Enterprise Zones (TEZ) and registered enterprise as provided under the Tourism Act of 2009 shall be in effect until December 31, 2029.
- Pursuant to RA No. 11291 (An Act Providing for a Magna Carta of the Poor), any donation, contribution and grant which may be made to the programs implemented under the (National Poverty Reduction Plan) NPRP shall be exempt from the donor's tax in accordance with the specific provisions of the National Internal Revenue Code of 1997, as TRAIN Law.

The implementers of the socialized housing resettlement program shall enjoy the incentives stated in Section 20 of Republic Act No. 7279, otherwise known as the "Urban Development and Housing Act of 1992", subject to the new guidelines under Republic Act

No. 10884 or the "Balanced Housing Development Program Amendments".

- Pursuant to RA No. 11231 (An Act Instituting the Farmers and Fisherfolk Enterprise Development Program of the Department of Agriculture), (1) gifts and donations of real and personal properties under the program shall be exempt from donor's tax, (2) the LGUs shall exempt from real property tax structures, buildings and warehouses utilized for the storage of farm inputs and outputs with assessed value of not exceeding P3M, (3) exemptions from income tax may be provided for income arising from the operations of the enterprise provided that the enterprise shall register as barangay micro-business enterprise.

BIR Issuances



> BIR Issuance
> SEC Circulars

Clarifications in availing of estate tax amnesty

(Revenue Memorandum Circular No. 68-2019, July 5, 2019)

Pursuant to RMC No. 68-2019, the following clarifications on the Implementing Rules and Regulations (IRR) of the Estate Tax Amnesty are issued by the BIR.

The estate tax amnesty can be availed by estates of decedents who died on or before December 31, 2017 and can be availed from June 15, 2019 to June 14, 2021.

A. Coverage of estate tax amnesty

- > Undeclared properties not included in the estate tax delinquency assessment can still be covered by the estate tax amnesty. Estate Tax Amnesty Return (ETAR) for the undeclared property shall be filed in the RDO that issued the assessment.
- > Unpaid penalties on previously paid estate tax due of a decedent who died on or before December 31, 2017 may be covered by the estate tax amnesty by filing the required ETAR and paying the minimum estate tax amnesty amount of Php5,000.
- > Estates with judicial settlements/ last will of testament pending in courts may be covered by the estate tax amnesty subject to submission of

certified true copy of the court resolution or leave of court. eCARs relating to these estates shall be issued upon presenting of the final order of the court.

- > Properties of decedent covered by an on-going expropriation case can be covered by the estate tax amnesty provided the expropriation happened after the death of the decedent. Otherwise, it shall not form part of the gross estate.
- > Deficient estate taxes with issued FAN- validly protested, may be a subject to estate tax amnesty since the deficiency estate tax assessment is not yet considered delinquent.

B. Not covered by estate tax amnesty

- > Delinquent estate tax liabilities are covered by the tax amnesty on delinquencies and not by estate tax amnesty.
- > Failure to submit the validated APF to the concerned RDO within the 2-year prescriptive period is equivalent to non availment of the estate tax amnesty

Valuation of the gross estate and tax base

- > In case of real properties, when no zonal value is available at the

time of death, the FMV appearing in the tax declaration issued at the date of death or the succeeding available tax declaration issued nearest to the date of death shall be used to compute for the value of the property.

- > In case the value of the property used is the zonal value, there is no need to submit certificate of zonal valuation upon filing.
- > The basis of estate tax amnesty due on undeclared properties in the previously filed return shall be the value of the undeclared properties without any deductions, except for the share of the surviving spouse on the undeclared properties.
- > Estates who have previously filed an estate tax return but failed to pay in full the tax due may still avail of the estate tax amnesty on the unpaid balance. The tax base shall be based on the equivalent net taxable estate of the unpaid balance.

D. Filing and payment of estate tax amnesty

- > Tax amnesty application cannot be filed through eBIR facility. Filing and payment can only be done manually by downloading the BIR Form No. 2118-EA - estate tax amnesty return (ETAR) and BIR Form

BIR Issuances



- > BIR Issuance
- > SEC Circulars

No. 0621-EA - acceptance payment form (APF) from the BIR website.

- > In case the estate has previously been issued TIN, the ETAR shall be filed with the RDO which issued the said TIN.
- > All heirs, including minors are required to secure their respective TIN.
- > In case there is no death certificate issued by PSA, the certificate of no record of death and any valid secondary evidence establishing the fact of death may be submitted.
- > If case of multiple decedents and no estate tax return has been previously filed, the ETARs for every stage of transfer may be filed together in any RDO having jurisdiction over the last residence of any of the decedents.
- > Payment of estate tax amnesty due amounting to P20,000 and below, and payments thru manager's/cashier's check can be made to the Revenue Collection Officer (RCO) in the RDO.
- > Submission of validated APF with proof of payment to the concerned should be done within the two-year period of availment to complete the availment of estate tax

amnesty. Otherwise, it will be tantamount to non-availment of estate tax amnesty. Nonetheless, amount actually paid may be deducted from the regular estate tax due and penalties.

E. Other clarifications

- > Partial/ full withdrawal of decedent's cash in bank equivalent to the amount of estate tax amnesty due may be allowed by the Commissioner or Revenue District Officer upon written request of the taxpayer. Such cash withdrawal shall not be subject to final withholding tax provided that such shall be in the form of manager's/cashier's check payable to the BIR.
- > Withdrawal from the bank can be made only upon presentation of eCAR, except in case of withdrawal for payment of estate tax amnesty due.
- > Estate tax amnesty of 6% shall cover also the inheritance taxes due, if any, at the time of death of the decedent.
- > In case of multiple succession where ETARs are filed simultaneously at only one RDO, only one eCAR will be issued per real property.
- > Buyer in a deed of sale of transaction covering a property of a decedent

may avail of the estate tax amnesty provided a copy of the notarized extrajudicial settlement signed by all the heirs is submitted.

- > Voluntary payment for estate tax amnesty made under payment form 0605, prior to the effectivity of RR 6-2019 (June 15, 2019) shall not be considered valid. The voluntary payment in this case may however be claimed for refund subject to existing rules and regulations on refund.

BIR Issuances



> BIR Issuance
> SEC Circulars

Availability of new BIR Forms 1604C, 1604E, 1604F, 2306, and 2307

(Revenue Memorandum Circular Nos. 73-2019 and 74-2019, July 24, 2019)

In relation to the implementation of the TRAIN Law (RA 10963) last January 1, 2018, the BIR issued the new BIR Forms 1604C and 1604F, revised BIR Form 1604E, and enhanced BIR Forms 2306 and 2307.

Starting calendar year 2019, separate annual information returns for income taxes withheld on compensation (BIR Form 1604C) and income payments subjected to final withholding taxes (BIR Form 1604F) shall be filed by withholding tax agents.

The newly issued forms are only available manually in the BIR website under the BIR Forms-Payment/ Remittance Forms Section. A separate issuance shall be issued by the BIR once the new forms are already available in the electronic filing and payment system (EFPS) and eBIRForms.

In addition to the new forms, a new format for the Alphalist of employees was also issued by the BIR. The alphalist of employees was simplified to two (2) schedules from the previous five (5) schedules. The new alphalist now requires information on (1) the employment status of employees: Regular (R), Casual (C), Contractual/ Project based (CP), Seasonal (S), Probationary (P), Apprentice/ Learners (AL); and (2) the reason of separation, if applicable:

Terminated (T), Transferred (TR), Retirement (R), and Death (D).

BIR Forms 2306 and 2307 on FWT and CWT, respectively, were enhanced to show the modified ATC schedules following the implementation of the TRAIN Law.

Availability of revised BIR Form 1914

(Revenue Memorandum Circular Nos. 75-2019, July 29, 2019)

Pursuant to RMC No. 75-2019, a new revised BIR Form 1914 (Application for Tax Credits/Refunds, April 2019 version) shall be accomplished and filed by taxpayers applying for tax credits or refunds.

Availability of new BIR Form No. 0620 and BIR Form No. 1621

(Revenue Memorandum Circular Nos. 76-2019, July 31, 2019)

Under the TRAIN Law, banks are required to withhold six percent (6%) final withholding tax on amount withdrawn from the decedent's bank deposit account.

Pursuant to RMC No. 76-2019, the New BIR Form No. 0620 (Monthly Remittance of Taxes Withheld on the Amount Withdrawn from the Decedent's Deposit Account) and BIR Form No. 1621 (Quarterly Remittance of Taxes Withheld on the Amount Withdrawn from the Decedent's Deposit Account) are now available manually. However,

pre-printed copies of such forms and eFPS forms are not yet available.

The banks that are availing the Philippine Payment Settlement System (PhilpaSS) shall manually file the said forms and remit the corresponding tax until the issuance of a written notice on their availability in the eFPS.

SEC Circulars



> BIR Issuance
> SEC Circulars

Inclusion of beneficial ownership information in the General Information Sheet (GIS)

(SEC Memorandum Circular No. 15 s. 2019, July 26, 2019)

In relation to the implementation of the Anti-Money Laundering Act (AMLA), as amended, and the Terrorist Financing Prevention and Suppression Act (TFPSA), all SEC registered corporations are now required to obtain and hold up to date information on their beneficial owners and to disclose such information in the updated GIS.

The updated GIS form shall be used by corporations whose GIS are due for submission beginning July 31, 2019. An updated GIS shall be submitted to the SEC within seven (7) working days after changes in beneficial ownership occurred or became effective. For corporations with multiple layers of corporate stockholders, the updated GIS shall be submitted within 7 days, but may be submitted within 30 days from the time the change occurred with an explanation for the failure to submit the same within the period.

Beneficial owner refers to any natural person who ultimately own or control or exercise ultimate effective control over the corporation. This covers natural person who actually owns or controls the corporation as distinguished from the legal owners. (See full copy of the memorandum

circular for the basis in determination of beneficial ownership.)

Below are the information on beneficial owner required to be provided in the GIS:

- Complete name which shall include the surname, given name, middle name and name extension;
- Specific residential address;
- Date of birth;
- Nationality;
- Tax identification number; and
- Percentage of ownership, if applicable.

Given the above changes, submission of the GIS in the electronic format is currently suspended until further notice.

Failure to disclose information on the beneficial ownership shall be subject to penalties of P10,000 up to P400,000 depending on the amount of retained earnings for stock corporations, or fund balance for non-stock corporations. In addition, directors/trustees or officers of such reporting corporations may be subject to penalties of P5,000 to P50,000.

Guidelines on the Number and Qualifications of Incorporators Under the Revised Corporation Code

(SEC Memorandum Circular No. 16 s. 2019, July 30, 2019)

Under the Revised Corporation Code, any person, partnership, association or corporation, singly or jointly with others but not more than fifteen (15) in number, may form or organize a corporation.

As clarified under the SEC Memorandum Circular No. 16, s. 2019, two to fifteen (15) persons may organize themselves and form a domestic corporation. Only a One Person Corporation (OPC) may have a single stockholder/incorporator, as well as sole director.

The incorporators may be composed of any combination of natural person, SEC registered partnerships, SEC registered domestic corporations or associations, as well as foreign corporations.

Incorporator	Document Required
Partnership	Partners' Affidavit, duly executed by all the partners, authorizing the investment to the corporation and designating one of the partners to become signatory to the incorporation documents
Domestic Corporations/Associations	Directors'/Trustees' Certificate or Secretary's Certificate indicating the approval of the majority of the board of directors/trustees and ratification by the stockholders representing at least 2/3 of the outstanding capital stock, or by at least 2/3 of the members
Foreign Corporations	Board Resolution, Directors'/Trustees' Certificate or Secretary's Certificate or its equivalent document, duly authenticated by the Philippine Consulate or with an apostille, authorizing the investment in the corporation being formed and naming the designated signatory on behalf of the foreign corporation

Highlight on P&A Grant Thornton services

Expatriate tax services

We ensure the proper and efficient compliance of expatriates with their Philippine income tax obligations. Our services include registration and application for Taxpayer Identification Number (TIN), preparation and filing of annual Philippine income tax return, and payment of tax due in the proper venue and within the allowed period. As a value-added service, we respond to Correspondence Audits/Inquiries by the BIR regarding information declared in the tax return. If desired by clients, we also conduct arrival or departure briefings and interviews to apprise the expatriate of his Philippine tax liabilities. Upon a company's request, we can compute, on an annualized basis, the total withholding tax due from its expatriate during the taxable year and prepare tax equalization and reimbursement calculations in accordance with company policies.

If you would like to know more about our services

Lina P. Figueroa

Principal, Tax Advisory and Compliance

T +63 2 988 2288 ext. 520

D +63(2) 988 2211

E Lina.Figueroa@ph.gt.com



Tax brief is a regular publication of Punongbayan & Araullo (P&A) that aims to keep its clientele, as well as the general public, informed of various developments in taxation and other related matters. This publication is not intended to be a substitute for competent professional advice. Even though careful effort has been exercised to ensure the accuracy of the contents of this publication, it should not be used as the basis for formulating business decisions. Government pronouncements, laws, especially on taxation, and official interpretations are all subject to change. Matters relating to taxation, law and business regulation require professional counsel.

We welcome your suggestions and feedback so that the Tax brief may be made even more useful to you. Please get in touch with us if you have any comments and if it would help you to have the full text of the materials in the Tax brief.

Lina Figueroa

Principal, Tax Advisory and Compliance Division

T +632 988-2288 ext. 520

E Lina.Figueroa@ph.gt.com



grantthornton.com.ph

© 2019 Punongbayan & Araullo. All rights reserved.

Punongbayan & Araullo (P&A) is the Philippine member firm of Grant Thornton International Ltd (GTIL). “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. 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.