



Tax *brief*

March 2021





BIR ISSUANCES

RMO No. 08-2021	New policies in the issuance of Notice of Denial, Certificate of Availment and Authority to Cancel Assessments on applications for compromise settlement
RMO No. 09-2021	Simplified guidelines and procedures on the use of CAS/ CBA and its components
RMC No. 18-2021	Updated filing guidelines for BIR Forms 1604C, 1604F, 1604E; submission of BIR Form 2316 without employee signature shall be accepted
RMC No. 21-2021	Guidelines for field testing activities under the fuel marking program pursuant to TRAIN Law
RMC Nos. 22 and 26-2021	Reportorial requirements on the exemption from DST of qualified loans pursuant to Bayanihan to Recover as One Act (RA No. 11494)
RMC No. 23-2021	BIR priority programs and projects for CY 2021
RMC No. 24-2021	Online application for eTCBP and TCVC now available
RMC No. 25-2021	Additional PERA UITF duly approved by the BSP
RMC No. 27 and 28-2021	Revised manual BIR Forms 2200-AN and 2200-P now available
RMC No. 29-2021	Use of e-signature on BIR Forms 2304, 2306, 2307, and 2316 now allowed

SEC Issuance

SEC MC No. 02 series of 2021	Submission of sworn certification for compliance on prohibition on the unfair debt collection practices of FCs and LCs
------------------------------	--

CTA Decisions

Assessment notices sent to incorrect address are void despite taxpayer's response to the said notice
(Commissioner of Internal Revenue vs Vitalo Packaging International, Inc., CTA EB No. 2148 re CTA Case No. 9231, February 03, 2021)

Certificate of endorsement by the DOE for RE developers significant in its claim for VAT refund
(North Luzon Renewable Energy Corp. vs Commissioner of Internal Revenue, CTA Case Nos. 9886, February 19, 2021)

BIR Issuances



> BIR Issuances

> SEC Issuance

> CTA Decisions

New policies in the issuance of Notice of Denial, Certificate of Availment and Authority to Cancel Assessments on applications for compromise settlement

(Revenue Memorandum Order No. 08-2021 issued on February 17, 2021)

Notices of Denials (NOD) on applications for compromise settlement involving basic deficiency tax of more than P500,000 basic tax shall be signed by the Commissioner of Internal Revenue. Those that involve basic deficiency tax of P500,000 and below shall be signed by the concerned Regional Director. All Certificates of Availment (CA) on applications for compromise settlement duly approved by the National Evaluation Board (NEB) including cases subject of Judicial Compromise Agreement (JCA) shall be signed by the Assistant Commissioner of the Collection Service, except those involving large taxpayer cases. Large taxpayer cases shall be signed by the Assistant Commissioner of the Large Taxpayers Service. The duly signed CA together with the entire docket of the case shall then be transmitted back to the concerned office having jurisdiction thereto. Notice of lifting of warrants and notices shall be prepared also by such concerned office. All Authority to Cancel Assessments (ATCA) on applications for compromise settlement duly approved by the NEB shall be signed by the concerned Regional Director or the Assistant Commissioner where the case originated. All applications for compromise settlement with NOD for signature of the Commissioner that were already transmitted to and pending

with the office of the Accounts Receivable Monitoring Division before the effectivity of the RMO shall be acted upon by that office.

Simplified guidelines and procedures on the use of CAS/ CBA and its components

(Revenue Memorandum Order No. 09-2021 issued on February 19, 2021)

RMO No. 09-2020 is issued to provide simplified guidelines and procedures on the use of Computerized Accounting System (CAS), Computerized Books of Accounts (CBA), and/or its components, including Electronic Storage System (ESS), middleware and other similar systems, in relation the provisions of Revenue Memorandum Circular No. 5-2021.

Registration

- The requirement for Permit to Use (PTU) is no longer applicable. All taxpayers who intend to use CAS, CBA, and/or its components, including ESS, middleware and other similar systems (collectively referred herein as "System") shall submit the documentary requirements (Annex A of the RMO) with the Client Support Section (CSS) of the RDO/LT Office where it is registered manually or via electronic mail (e-mail).
- All documents shall be submitted to the RDO/LT office where the head office is registered except:
 - Branch office adopts a "system" ahead of the head office

- Branch office adopts "system" different from the other branches and its head office

- Affiliated companies, sister companies, franchisees, closely held corporations and other similar companies related to a parent company shall submit separately the required documentary requirements where the aforesaid companies are registered.
- The System must strictly comply with the Standard Functional and Technical Requirements (Annex B of the RMO).
- The concerned RDO/LT Office shall issue an Acknowledgment Certificate (AC) within three (3) working days from receipt of complete documentary requirements. In case there are discrepancies in the information provided on the submitted documentary requirements, a Notice/ Letter of Denial shall be issued.
- No system demonstration nor pre-evaluation shall be conducted as a condition for the registration of the System
- Taxpayers who will avail the services of Tax Service Providers (TSPs) or third-party software provider for the use of a system/ software must register such system with the BIR prior to the effectivity of their contract with the TSPs or third-party software provider.
- The registration of the CRMs/POS Machines and Other Sales Receipting

BIR Issuances



- > BIR Issuances
- > SEC Issuance
- > CTA Decisions

System/Software shall be different from the registration of the System, unless the same is connected through a network or linked to CAS/CBA.

- In case of a major system enhancement, taxpayers must submit an update of registration. In case of minor system enhancement, the taxpayer must submit a written notification to the RDO/LT Office stating the minor specific enhancements of the system.

Use of Receipts/Invoices

- Taxpayers with duly registered System, without system-generated principal and/or supplementary receipts/invoices, should apply for Authority to Print (ATP) receipts/invoices based on existing revenue issuances.
- System-generated principal and/or supplementary receipts/invoices must comply with the mandatory information required to be indicated in the receipts/invoices, except for the following which are applicable only for CRM/POS Machine:
 - Machine Identification Number (MIN);
 - Serial Number of the CRM/POS Machine; and
 - Accreditation Details of the CRM/POS Supplier.
- In case of systems downtime, taxpayers with duly registered System with e-invoicing but no redundancy or automatic switchover, shall be allowed to issue manual receipts/invoices.

Approved ATP reserved or set aside for use during systems downtime should not exceed one thousand (1,000) sets at a time.

Books of Accounts

- The books of accounts/subsidiary accounting records must comply with the bookkeeping requirements under RR No. 9-2009.
- Soft copy of the CBA and other accounting records shall be registered within 30 days from close of the taxable year. A transmittal letter showing the detailed content of the USB Drive or other electronic storage device must be submitted. In case of submission of unaudited books of accounts and other accounting records, the Auditor's Adjustments submitted in soft copy.

Transitory Provisions

- All applications filed after February 23, 2020 shall be processed following the above guidelines and procedures.
- All taxpayers with pending applications for Permit to Use CAS, CBA, and/or its Components, which were filed with the National Accreditation Board (NAB) and are pending with NAB as of February 23, 2020 shall be processed under RMC No. 10-2020.
- Approved PTUs of taxpayers shall remain valid unless the issued PTU has been revoked/expired or the system has been enhanced and no registration update was made.

Updated filing guidelines for BIR Forms 1604C, 1604F and 1604E; submission of BIR Form 2316 without employee signature shall be accepted

(Revenue Memorandum Circular No. 18-2021 issued on February 02-2021)

Filing of BIR Form 1604C, 1604F and 1604E

BIR Forms 1604C, 1604F and 1604E for the year 2020 are required to be filed as follows:

Type of Taxpayer	Type of Form	Filing Facility
Mandated users of eFPS	Old BIR Form 1604CF (July 2008 ENqCS) and old BIR Form 1604E (July 1999 ENCS)	eFPS Facility
Mandated users of eBIR Forms	Type New BIR Forms 1604C, 1604F and 1604E (January 2018 version)	Offline eBIR Forms Package
Manual filers	New BIR Forms 1604C, 1604F and 1604E (January 2018 version)	Offline eBIR Forms Package

eFPS filers shall use the new forms in the offline eBIRForms package in case of unavailability of the eFPS system.

Taxpayers who have already filed their tax returns through eFPS and eBIRForms Package need not submit hard copies of the returns to the RDO where they are duly registered.

BIR Issuances



- > BIR Issuances
- > SEC Issuance
- > CTA Decisions

Submission of BIR Forms 2316

The BIR shall accept Certificate of Compensation Payment/ Tax Withheld for Compensation Payment With or Without Tax Withheld (BIR Form No. 2316) without the signature of the concerned employee provided that the certificates are duly signed by the authorized representative of the taxpayer-employer

Guidelines for field testing activities under the fuel marking program pursuant to the TRAIN Law

(Revenue Memorandum Circular No. 21-2021 issued on February 16, 2021)

RMC No. 21-21 circularizes Joint Circular No. 001-2021 which prescribes the implementing guidelines for the Random Field and Confirmatory Testing on fuels pursuant to TRAIN Law. Field Testing shall refer to periodic random inspections and tests performed to establish qualitative and quantitative result of fuel trafficking of persons engaged in the sale, delivery, trading, transportation, distribution, or importation of fuel for domestic market. These are conducted on fuels found in warehouses, storage tanks, gas stations and other retail outlets, and in such other properties or equipment, including mechanisms of transportation. The Field Inspection Unit (FIU) shall serve as the joint special task force established by the BOC and BIR to perform the Field-Testing activities. The same shall be created in coordination with other government agencies on matters concerning petroleum products.

The responsibilities of the parties (Fuel Marking Service Provider, owner and his representative and the FIU) in the Field-Testing process are specified in the Joint Circular. The following shall be observed in the conduct of Field Testing:

- A Field-Testing Plan Identifying the area for testing and the designated Mobile Laboratory Unit shall be transmitted to FIU no later than 8:00AM of the day of the Field Testing.
- A Mission Order shall be issued to the FIU authorizing the conduct of Field Testing in locations identified in the Field-Testing Plan.
- Field Testing shall be conducted in locations where fuel was transported, sold or stored, regardless if the facility is open to the public or for use of a limited group or person.
- At all times, the appropriate protocol shall be observed by the FIU and Service Provider when conducting Field Testing activities. Identification and Mission Order must always be presented.
- The owner or his representative shall be required to fill-out the Field-Testing Information Form and provide the documents as listed in the Joint Circular to the FIU at applicable testing locations.

f. The Service Provider, witnessed by the Owner or his Representative and the FIU, shall collect 500 ml samples each of gasoline, kerosene and/or diesel from the following, as applicable:

- All UGTs or storage tanks for locations with a single or multiple-product source Underground Tanks (UTGs);
- All pumps for locations with single-product source UGTs only after fueling a vehicle; or
- All compartments of Tank Trucks, Vessels or Barges.

The samples shall be properly identified and documented for purposes of testing in the Mobile Laboratory Unit for testing.

The test shall indicate a "PASS" (at least 95% fuel marker content) or "FAIL" (below 95% fuel market content) result. Re-testing shall be done for "fail" result to confirm the initial result.

Petroleum products found without the Official Fuel Marker or does not contain the required level of Official Fuel Marker shall be subject to duties and taxes, inclusive of the appropriate fines and penalties, without prejudice to the confiscation and forfeiture of such Unmarked or Diluted Fuel and the filing of the appropriate criminal case. Pending assessment and payment of the duties and taxes due thereon including penalty, the FIU shall impound the non-compliant fuel on site. In case the petroleum product is determined to be

BIR Issuances



- > BIR Issuances
- > SEC Issuance
- > CTA Decisions

Unmarked, Diluted or Adulterated, either of the corrective measures may be done after payment of applicable taxes, fines, penalties and Fuel Marking Fees without prejudice to Section 265-A of the NIRC.

Reportorial requirements on the exemption from DST of qualified loans pursuant to Bayanihan to Recover as One Act (RA 11494)

(Revenue Memorandum Circular Nos. 22 and 26-2021 issued on February 18, 2021 and February 24, 2021, respectively)

Pursuant to Bayanihan II, covered institutions' loan term extensions and credit restructuring for loans falling due on or before December 31, 2020 may be exempt from DST.

Covered institutions shall submit, in soft and hard copy, a summary of listing of all pre-existing loans, pledges and other instruments as of the effectivity of RA 11494 on September 15, 2020, which were granted extension of payment and/or maturity periods, based on the format below:

The summary listing shall be submitted to Revenue District Office (RDO)/ Large Taxpayers Service/ Large Taxpayers District Office where the taxpayer is registered not later than March 31, 2021. The hard copy shall be made under oath as to the completeness, truth and accuracy by a duly authorized officer or representative of the taxpayer, and subject to post audit/ verification by the BIR. In case of failure to submit the summary listing required on the date prescribed, administrative penalties and the DST that should have been imposed on the instrument shall be paid by the covered institution upon notice and demand.

Borrower	Type of Instrument	Date of Loan Agreement/ Promissory Note, Pledges, etc.	Document Reference Number (Account ID/ Reference ID, as applicable)	Due date		Amount of Loan/ Pledge	Amount of DST exemption
				Original	Extended		

BIR Issuances



- > BIR Issuances
- > SEC Issuance
- > CTA Decisions

BIR priority programs and projects for CY 2021

(Revenue Memorandum Circular No. 23-2021 issued on February 18, 2021)

To generate revenues essential for the government to accelerate the recovery and bolster the resiliency of the Philippine economy, the BIR shall implement the CY 2021 Priority Programs and Projects

https://www.bir.gov.ph/images/bir_files/internal_communications_2/RMCs/2021%20RMCs/RMC%20No.%2023-2021%20Annex%20A.pdf

This includes enforcement programs, tax compliance monitoring programs, and enhancement of administration and support services programs.

Online application for eTCBP and TCVC now available

(Revenue Memorandum Circular No. 24-2021 issued on February 24, 2021)

Online application for Tax Clearance for Bidding Purposes and Tax Compliance Verification Certificate (eTCBP/TCVC) through the BIR's official electronic-mail address is now available nationwide.

All taxpayers-applicants shall electronically file their applications for TCVC and TCBP thru the BIR Centralized e-mail addresses: **etcvc@bir.gov.ph** and **etcbp@bir.gov.ph**,

respectively, using the prescribed template as subject of the email – RDO [Number]_Application for TCVC.

Additional PERA UITF duly approved by the BSP

(Revenue Memorandum Circular No. 25-2021 issued on February 24, 2021)

To supplement the list of duly approved Personal Equity Retirement Account (PERA) Unit Investment Trust Fund (UITF), below is an additional PERA UITF/ investment product duly approved/accredited by the Bangko Sentral ng Pilipinas (BSP), as confirmed by the latter in its letter dated January 22, 2021:

Name of Bank	Name of Fund	SubType	Detailed Type of Fund	Denomination	Date of BSP Approval
Philippine National Bank	PNB PERA Bond Fund	Bond	Medium Term PERA Bond Fund	Philippine Peso	January 21, 2021

Only income earned from the investments and reinvestments of PERA assets in duly accredited/approved PERA investment products shall be exempt from income taxes. Moreover, income from investments and re-investments of PERA assets in government securities is likewise exempt from income taxes.

BIR Issuances



- > BIR Issuances
- > SEC Issuance
- > CTA Decisions

Revised manual BIR Forms 2200-AN and 2200-P now available

(Revenue Memorandum Circular Nos. 27 and 28-2021 issued on February 26, 2021)

The revised manual BIR Form No. 2200-AN (Excise Tax Return for Automobiles and Non-Essential Good January 2018 ENCS) and BIR Form 2200-P (Excise Tax Return for Petroleum Products January 2020 ENCS) are already available in the BIR website (www.bir.gov.ph) under the BIR Forms-Excise Tax Return Section.

However, the forms are not yet available in the Electronic Filing and Payment System (eFPS) and Electronic Bureau of Internal Revenue Forms (eBIRForms). Thus, eFPS/eBIRForms filers shall continue to use the old BIR Form No. 2200-AN and BIR Form No. 2200-P in the eFPS and in Offline eBIRForms Package v7.8 in filing and paying the excise tax due.

Manual filers may pay their taxes due as follows:

Manual payment

- Authorized Agent Bank (AAB) located within the territorial jurisdiction of the Large Taxpayers Service (LTS)/Revenue District Office (RDO) where the taxpayer (Head Office of the business establishment) is registered; or
- In places where there are no AABs, the

return shall be filed and the tax due shall be paid with the concerned Revenue Collection Officer (RCO) under the jurisdiction of the RDO where the taxpayer (Head Office of the business establishment) is registered using MRCOS facility.

Online payment

- Thru Mobile Payment (GCash/PayMaya); or
- Landbank of the Philippines (LBP) Link.Biz Portal, for taxpayers who have ATM account with LBP and/or holders of Bancnet ATIWDebit Card; or
- DBP Tax Online, for holders of VISA/MasterCard Credit Card and/or Bancnet ATM/DebitCard; or
- UnionBank Online Web and Mobile Payment Facility - for Taxpayers who have account with UnionBank; or
- PESONet through LBP Link.Biz Portal - for taxpayers who have account with RCBC and Robinson Bank.

Use of e-signatures on BIR Form 2304, 2306, 2307 and 2316 now allowed

(Revenue Memorandum Circular No. 29-2021 published on March 01, 2021)

Withholding agents or their duly authorized representatives now have the option to use e-signature, aside from the manual signature, even without prior approval of the

BIR, for the following BIR Forms/Certificates:tax due.

- BIR Form 2304- Certificate of Income Payment not Subject to Withholding Tax (Excluding Compensation Income)
- BIR Form 2306- Certificate of Final Tax Withheld at Source
- BIR Form 2307- Certificate of Creditable Tax Withheld at Source
- BIR Form 2316 - Certificate of Compensation Payment/ Tax Withheld

The form/certificate to be issued or affixed with e-signature should be the exact replica or copy of the latest version officially printed by the BIR. The form/certificate shall also contain the manual signature or the e-signature of the payee to be valid and binding.

The form/ certificate with e-signature shall only be issued once. In case of re-issuance, the re-issued copy should contain a "RE-PPRINT" watermark in Cambria font and size of 144.

SEC Issuance



> BIR Issuances

> SEC Issuance

> CTA Decisions

Submission of sworn certification for compliance on prohibition on the unfair debt collection practices of FCs and LCs

(SEC Memorandum Circular No. 02 issued on February 15, 2021)

Financing Companies (FCs) and Lending Companies (LCs) that were incorporated after September 08, 2019 until February 17, 2021, shall submit the Sworn Certification stating the company's compliance on the prohibition on the unfair debt collection practices of FCs and LCs within thirty (30) calendar days from effectivity hereof.

FCs and LCs that will be incorporated subsequent to the effectivity of this Circular shall submit the Sworn Certification within thirty (30) calendar days from the issuance of their Certificates of Authority to Operate as a Financing/Lending Company.

CTA Decisions



> BIR Issuances

> SEC Issuance

> CTA Decisions

Assessment notices sent to incorrect address are void despite taxpayer's response to the said notices

(Commissioner of Internal Revenue vs Vitalo Packaging International, Inc., CTA EB No. 2148 re CTA Case No. 9231, February 03, 2021)

To comply with the due process requirements in the assessment and collection of taxes, the twin components of proper service and actual receipt must concur. One cannot be had without the other.

In this case, the taxpayer was issued FAN which was delivered to its former legal address despite registering its new address and as already indicated in its tax returns.

While it is a fact in this case that the taxpayer was able to protest the FAN after the FAN came upon its hand only through the goodwill of the new lessee of its old premises in forwarding the mail, the stringent requirements of due process cannot be relied upon on such coincidental occurrences.

When service of notice is an issue, the rule is that the person alleging that the notice was served must prove the fact of service. The burden of proving notice rests upon the party asserting its existence.

Considering that not only were the notices sent to the wrong address, but also the CIR was not able to prove that the notices have been received by the taxpayer or his

authorized representative, the assessments are void for lack of due process.

Certificate of endorsement by the DOE for RE developers significant in its claim for VAT refund

(North Luzon Renewable Energy Corp. vs Commissioner of Internal Revenue, CTA Case Nos. 9886, February 19, 2021)

To qualify for VAT zero-rating, RE developers must have secured the following:

1. DOE Certificate of Registration
2. Registration with the BOI
3. Certificate of Endorsement by the DOE

All documents must be present. Otherwise, a transaction cannot be treated as VAT zero-rated under the law.

In this present case, petitioner-taxpayer claimed for VAT refund for its sales that should have qualified as VAT zero-rated. While it is clear that the DOE issued Certificate of Registration to the taxpayer, and the BOI has issued Certificate of Registration to the same taxpayer, there is no proof that the taxpayer has been issued a Certificate of Endorsement by the DOE.

In fine, petitioner failed to prove compliance with the requisites established by law-the first matter that must be proved before this Court, upon appeal of an unsuccessful administrative claim. Hence, the refund claim was denied.

Highlight on P&A Grant Thornton services

Tax review

We evaluate clients' overall level of compliance with existing laws and regulations; caution them on procedures and practices that expose them to potential tax liabilities; quantify tax exposures, risks and penalties; and advise them on proper course of action and alternative tax-efficient policies and procedures. Tax due diligence review is particularly recommended for companies that are contemplating expansion, mergers and consolidation, acquisitions, change in ownership, or public listing.

If you would like to know more about our services

Paulo Garcia

Manager, Tax Advisory and Compliance

T +63 2 8988 2288 ext. 344

M +63 906 047 8850

E Paulo.Garcia@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.

Olivier “Vier” Aznar

Partner, Head of Tax Advisory and Compliance Division

T +632 8988-2288 ext. 500

E Vier.Aznar@ph.gt.com



grantthornton.com.ph

© 2021 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.