

## **Philippine tax authority issues guidance on the use of the new transfer pricing disclosure form**

The Philippines' tax authority, the Bureau of Internal Revenue (BIR), recently issued Revenue Regulations (RR) No. 19-2020 dated July 8 2020 prescribing the (1) use of the new BIR Form No. 1709 or Information Return on Related Party Transactions (Domestic and/or Foreign), replacing BIR Form No. 1702H – Information Return on Transactions with Related Foreign Persons, series of 1992; and (2) submission of BIR Form No. 1709 and supporting documents (described below) as attachments to Annual Income Tax Returns. This issuance aims to ensure that proper disclosures of related party transactions are made and that these transactions have been conducted at arm's length so as to protect the tax base. It also enjoins tax examiners to conduct a thorough examination of the related party transactions and see to it that revenues are not understated and expenses are not overstated in the financial statements as a result of these transactions.

Though mentioned as issued pursuant to Section 50 of the National Internal Revenue Code (NIRC) as implemented by Revenue Regulations (RR) No. 2-2013 (or the Philippine transfer pricing regulations), RR No. 19-2020 uses mainly the guidelines of Philippine Accounting Standards (PAS) 24 on Related Party Transactions in requiring the various disclosures of a taxpayer's related party transactions under BIR Form No. 1709.

Set forth below are the salient points of RR No. 19-2020:

### **1. Key disclosures under BIR Form 1709:**

- a. Summary information of related party transactions with both foreign and domestic related parties, including nature of transaction, amount of income/expense and tax withheld on income payments to related party (for expenses) and tax withheld by the related party (for receipts);
- b. Details of related party transactions per category (e.g., parent, entities with joint control or significant influence over the entity, subsidiaries, associates, joint ventures in which the entity is a joint venturer, key management personnel of the entity or its parent, other related parties) such as:
  - i. for transactions other than (ii) below, the amount and outstanding balance, terms and conditions, provisions for doubtful debts and expense recognized; or
  - ii. for transactions with key management personnel of the entity or its parent, the name of the personnel, address, and amounts paid as employee benefits, post-employment benefits, other long-term benefits, termination benefits, share-based payments, others;

- c. Other information such as the business overview of the ultimate parent company and the taxpayer with any changes to its functional profile or ownership structure, any pending tax treaty relief applications and advance pricing agreement (APA) with related parties.
- 2. Documents to be attached to BIR Form No. 1709 are:
  - a. certified true copy of the relevant contracts or proof of transaction;
  - b. withholding tax returns and the corresponding proof of payment of taxes withheld and remitted to the BIR;
  - c. proof of payment of foreign taxes or ruling duly issued by the foreign tax authority where the other party is a resident;
  - d. certified true copy of APA, if any; and
  - e. any transfer pricing documentation.
- 3. Violation of RR No. 19-2020 will subject a taxpayer to penalties under Section 250 and other provisions of NIRC. Section 250, NIRC prescribes a penalty of PHP1,000.00 (approx. USD20) for each failure/violation, with an aggregate imposable amount of PHP25,000 (approx. USD 500) per calendar year.

For questions, please get in touch with:

Serafin U. Salvador  
Managing Partner  
Salvador Llanillo & Bernardo (Taxand Philippines)  
Email: [susalvadorlaw@salvadorlaw.com](mailto:susalvadorlaw@salvadorlaw.com)

Grace V. Molina  
Transfer Pricing Partner  
Salvador Llanillo & Bernardo (Taxand Philippines)  
Email: [gvmolina@salvadorlaw.com](mailto:gvmolina@salvadorlaw.com)