

**A Webinar on  
Voluntary Assessment and  
Payment Program and  
Other Tax Updates**

# **OTHER TAX UPDATES (Recent BIR Issuances)**



**REVENUE  
REGULATIONS  
("RR")**

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**RR No. 20-2020, August 03, 2020**  
**Determination of Fair Market Value of Shares of Stock Not Traded Thru the Local Stock Exchange**

Basic Formula in the Computation of Capital Gains Tax:

<b>Selling Price</b>	<b>XXX</b>
Less: Cost	<u>XXX</u>
Capital Gains	XXX
Tax Rate (15% for individuals and domestic corporations; 5%/10% for foreign corporations)	<u>XXX</u>
Tax Due	<b><u>XXX</u></b>

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## RR No. 20-2020, August 03, 2020

### Determination of Fair Market Value of Shares of Stock Not Traded Thru the Local Stock Exchange

Relevance of Fair Market Value (FMV) in Sale of Shares:

Revenue Regulations (RR)	Rules
RR No. 02-82, March 29, 1982	The selling price (SP) = FMV of the shares  SP for computing capital gain = Actual SP/consideration or FMV, whichever is higher
RR No. 06-08, April 22, 2008	SP for computing capital gain = Actual SP/consideration
RR No. 06-13, April 11, 2013	
RR No. 20-20, Aug 3, 2020	Excess of the FMV over the SP = <b>donation subject to donor's tax</b>

## RR No. 20-2020, August 03, 2020

### Determination of Fair Market Value of Shares of Stock Not Traded Thru the Local Stock Exchange

Rules in the Determination of FMV of Shares:

RRs	Rules
RR No. 02-82	FMV = book value of the shares nearest the valuation date
RR No. 06-08	FMV = book value of the shares of stock as shown in the FS nearest to the date of sale duly certified by an independent CPA
RR No. 06-13	FMV of shares to be determined based on the Adjusted Net Asset Method – all assets and liabilities are to be adjusted to the FMVs
RR No. 20-20	<p>FMV = back to book value (see succeeding slides)</p> <p><b>FMV need not be adjusted to include any surplus from any property not reflected in the AFS</b></p> <p>Latest AFS sufficient in determining FMV</p>

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## RR No. 20-2020, August 03, 2020

### Determination of FMV of Shares of Stock Not Traded Thru the Local Stock Exchange

#### Common shares

FMV is book value per latest FS duly certified by an independent public accountant prior to date of sale, but not earlier than the immediately preceding taxable year

#### Preferred shares

FMV: Liquidation value (redemption price as of balance sheet date nearest to the transaction date)  
Add: Premium and cumulative preferred dividends in arrears

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## RR No. 20-2020, August 03, 2020

### Determination of FMV of Shares of Stock not Traded Thru the Local Stock Exchange

If there are both common and preferred shares

Book value per common share is computed as:

	Total equity of the corporation
Less:	Liquidation value of the preferred shares
	Difference
Divide by:	Number of outstanding common shares as of balance sheet date nearest to the transaction date



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## RR No. 20-2020, August 03, 2020

### Determination of FMV of Shares not Traded Thru the Local Stock Exchange

Illustration:

A sold 10,000 shares in X Corp. on 6/30/2020

Per 2019 AFS:

- Assets (P50M) - Liabilities (P20M) = Equity (P30M)
- Outstanding Shares = 200,000
- Net book value:  $30,000,000 / 200,000 = 150$  (net book value per share)

**FMV is P150 per share**

## **RR No. 22-2020**

### **September 15, 2020**

The **Notice for Informal Conference (“NIC”)** is replaced with **Notice of Discrepancy (“ND”)**

Salient features of ND:

- Notice to taxpayer of discrepancies noted by the BIR
- Discussion on noted discrepancies within 30 days from receipt of ND:
  - ✓ Present explanations/arguments
  - ✓ Submit documents to support explanations/arguments



## **RR No. 22-2020**

### **September 15, 2020**



- Endorsement of the case for review and approval within 10 days from conclusion of the Discussion of Discrepancy (*previously 7 days under NIC*)
- Effect of non-compliance with the prescribed periods: Imposition of penalties to RO, pursuant to existing laws, rules and regulations.

# RR No. 22-2020

## September 15, 2020

### NIC versus ND

Noted Differences	NIC (RR 7-2018)	ND (RR – 22-2020)
<b>As to procedure</b>	Informal Conference	Discussion of Discrepancy
<b>As to prescribed form</b>	No specific form	Notice of Discrepancy Form (Annex A of RR 22-2020)
<b>As to submission of supporting documents</b>	No specific period of time provided to submit supporting documents	Taxpayer must submit supporting documents: 1) during the Discussion of Discrepancy; and/or b) within 30 days after receipt of the Notice of Discrepancy
<b>As to effect of failure to resolve the findings</b>	Issuance of deficiency tax assessment	Issuance of deficiency tax assessment in the form of PAN
<b>As to period of endorsement for review and approval</b>	Within 7 days from conclusion of the Informal Conference	Within 10 days from the conclusion of the Discussion of Discrepancy

## **RR No. 18-2020**

### **June 26, 2020**



VAT-exemption (under RA No. 11467\*) on the sale or importation of prescription drugs and medicines for the following:

- Diabetes, high cholesterol, and hypertension (beginning **January 1, 2020\***)
- Cancer, mental illness, tuberculosis, and kidney diseases (beginning **January 1, 2023**)

*\* Effective January 27, 2020 (under RMC No. 65-2020)*

## **RR No. 18-2020**

### **June 26, 2020**



- ✓ The exemption from VAT shall only apply to the sale or importation by the manufacturers, distributors, wholesalers and retailer of drugs and medicines.
- ✓ Must be included in the list of approved “drugs and medicines” issued by the Department of Health (DOH).

# RR No. 16-2020

## June 19, 2020

Extension of filing of claims for VAT refund:

	Due Dates
<ul style="list-style-type: none"><li>• CQ ending March 31, 2018</li><li>• FQ ending April 30, 2018</li><li>• FQ ending May 31, 2018</li><li>• CQ ending June 30, 2018</li></ul>	<ul style="list-style-type: none"><li>• July 15, 2020</li><li>• July 31, 2020</li><li>• August 15, 2020</li><li>• August 31, 2020</li></ul>
For areas not yet under GCQ	30 days from lifting of the ECQ/MECQ or the above deadlines, whichever comes later

90-day period to process VAT refund claims in ECQ/MECQ areas is **SUSPENDED**

# RR No. 15-2020 June 19, 2020

Availment of Tax Amnesty on Delinquencies -  
extended until **DECEMBER 31, 2020**



# RR No. 15-2020

## June 19, 2020

Availment of Tax Amnesty on Delinquencies is considered fully complied with upon completion of steps within the prescribed period:

Secure Certificate of Delinquencies/Tax Liabilities from concerned BIR Office


Present TAR and APF with required documents to RDO/LTD/LTCED and pay the tax amnesty amount with the AABs or RCs

Submit TAR with required documents and proof of payment with RDO/LTD/LTCED

*BIR Office shall issue Certificate of delinquencies within three (3) working days. Otherwise, said BIR Office must state in writing the legal and factual basis for its denial.*

*RDO/LTD/LTCED shall endorse said duly accomplished TAR and APF within one (1) working day from receipt of complete documents.*

*Submission shall in no case be beyond the availment period set forth under Section 3 of the Regulations.*



**REVENUE  
MEMORANDUM  
CIRCULARS  
("RMC")**

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# **RMC No. 98-2020**

## **September 14, 2020**

Submission of BIR Form No. 1709 and its required attachments is extended as follows:

<b>Annual Income Tax Return</b>	<b>Extended Deadline</b>
For FY ending March 31, 2020 and April 30, 2020	December 29, 2020
For FY ending May 31, 2020 and June 30, 2020	January 31, 2021
For FY ending July 31, 2020 and August 30, 2020	March 1, 2021
For FY ending September 30, 2020 and October 31, 2020	March 31, 2021
For FY ending November 30, 2020 and December 31, 2020	April 30, 2021

# **RMC No. 97-2020**

## **September 2, 2020**

Standard policy for the use of BIR Form 0605 for Excise Tax purposes. Authorized only for the following payments:

- Payment on export products pursuant to Product Replenishment Scheme under Revenue Regulations (RR) 3-2008;
- Payment for excise tax on non-essential services for excisable cosmetic procedures until such time that BIR Form No. 2200-C will be available for use
- Payments for deficiency excise tax

## **RMC No. 96-2020**

### **August 5, 2020**



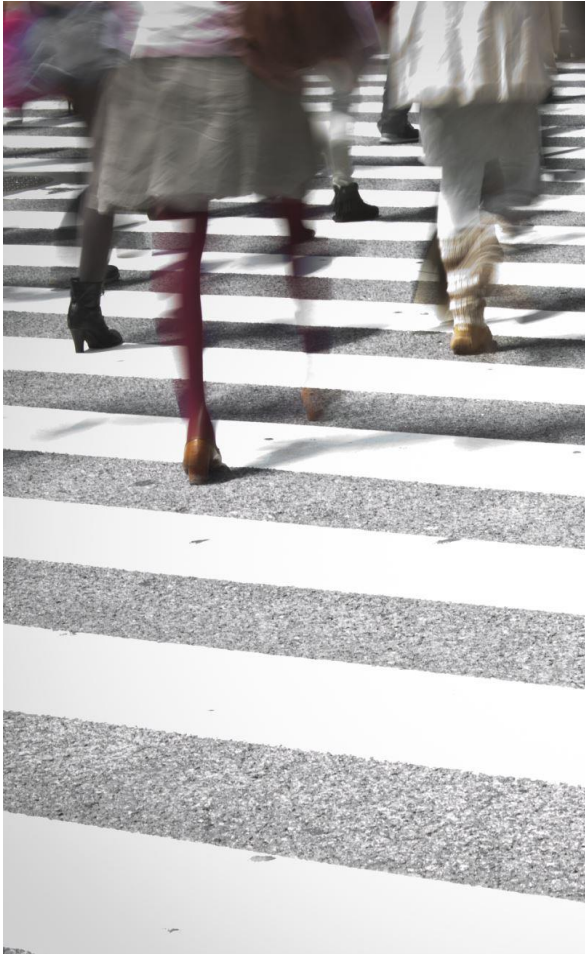
- Adoption of temporary measures to comply with invoicing requirements for areas under MECQ in NCR, Bulacan, Cavite, Rizal and Laguna for the period August 4 to 18, 2020
- Adoption of work-around procedures (*BIR printed receipts, scanned copies, computer-aided supplementary receipts/invoices, etc. per RMC Nos. 47-2020 and 49-2020*)
- Submission of Summary of Temporary Receipts/Invoices to RDO within **90 days** from lifting of MECQ

## **RMC No. 92-2020**

### **September 1, 2020**



- Deadline for BIR registration of online businesses extended up to **September 30, 2020** (from August 31, 2020 [RMC 75-2020] and July 31, 2020 [RMC 60-2020])
- If performed within the deadline, penalties will not be imposed for:
  - ✓ Late registration; and/or
  - ✓ Voluntary declaration and payment of taxes due on or before deadline



## **RMC No. 83-2020**

### **August 17, 2020**

- Application of strict treaty provisions relating to the mitigation of tax burden is relaxed
- Special tax residency rules
  - If prevented from leaving the PH due to government travel restrictions = considered as **NOT PRESENT** in the PH for tax residence purposes for the period **AFTER** the scheduled departure;
  - Should leave as soon as circumstances permit;

**Home  
Office PE**

- Working from home = NO PE for foreign enterprise (no permanency & home office NOT at enterprise's disposal)
- Different if used continuously for business even after COVID-19

**Construction  
PE**

Temporary construction interruption = INCLUDED in computing duration of site & determining PE

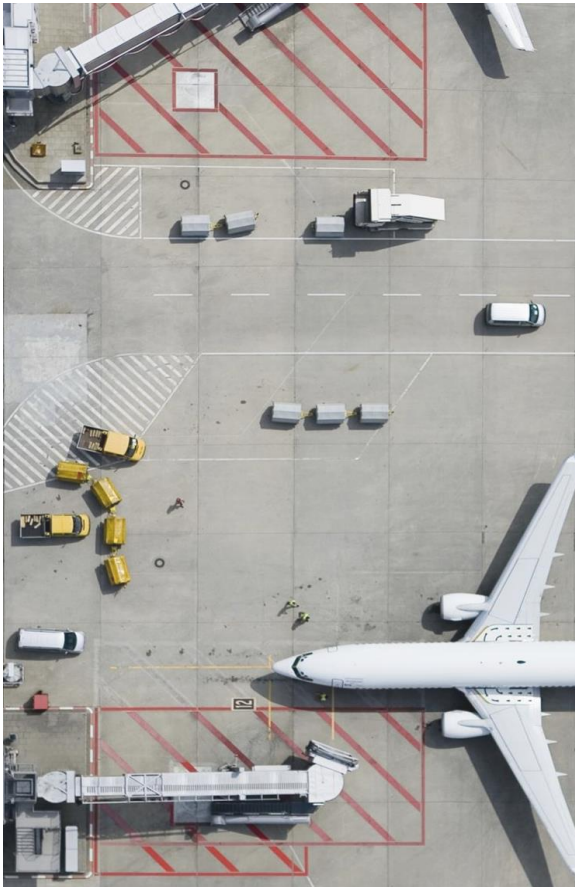
**Dependent  
Agent PE**

If Employee/Partner/Agent of NRFC continues to be in Phils. due to travel restrictions = extended period of stay NOT considered in counting NRFC's taxable presence

**INADVERTENT  
CREATION OF  
PERMANENT  
ESTABLISHMENT**



## RMC No. 83-2020 August 17, 2020



As an effect of Covid-19, there is no PE if:

- NRFC has no PE **before** Covid-19
- **No other changes** in NRFC's circumstances save for Ee/Partner/Agent extended stay due to travel restrictions
- Ee/Partner/Agent should **leave PH** as soon as circumstances would permit



## **RMC No. 83-2020**

### **August 17, 2020**

#### **Documentary Requirements:**

- Proof of extended presence due to COVID-19:
  - Authenticated sworn certification of facts
  - Contracts
  - Certified true copy of booking/flight itinerary (original/rebooked flight)
  - Travel advisory (cancellation)
  - Certified true copy (boarding pass/passport)
  - Other documents deemed necessary by BIR

## **RMC Nos. 74-2020 and 77-2020** **July 15 and 30, 2020**



- Suspension of running of Statute of Limitation starting March 16, 2020 until the lifting of the extreme community quarantine and for **sixty (60) days** thereafter\* (RMC 74-2020)
- "Extreme Community Quarantine" is understood to be "**Enhanced Community Quarantine**" (RMC 77-2020)

\*Original period of suspension under RMC 34-2020: "until the lifting of the state of national emergency.xxx"



## **RMC No. 72-2020**

### **July 17, 2020**

- Amends RMC No. 36-2020 (re: Further clarification on DST relief for qualified loans)
- Removes requirement of submission of photocopies of documents evidencing credit extensions/restructuring

# RMC No. 69-2020


## July 13, 2020

Revised procedures on cancellation of Permit to use (PTU) Cash Register Machines (CRM), Point of Sale (POS) Machines and other similar sales machines generating receipts/invoices

Processed by RDO/LT Office having jurisdiction over taxpayer's business address where machine was registered

TP to notify in writing BIR w/in 5 days from date machine was last used/withdrawn

Issue Cancellation Certificate w/in 7 days from receipt of request; w/in 3 working days from receipt of complete documents, if inspection dispensed with



Non-payment of penalties at time of cancellation request  
NOT a ground for non-issuance of Cancellation Certificate

## **RMC No. 61-2020**

### **June 19, 2020**

Deadline to avail tax amnesty on delinquencies further extended to **December 31, 2020\***

*\*(Prior deadline was on June 22, 2020)*



**REVENUE  
MEMORANDUM  
ORDERS  
("RMO")**



## **RMO Nos. 23-2020 and 25-2020 July 9 and 24, 2020**

- ATRIG for VAT exemptions on the importation of prescription drugs and medicines to be processed/issued at the RDO having jurisdiction over port of entry
- The RDO having jurisdiction over port of entry shall process applications for ATRIG by the manufacturers, distributors, wholesalers and retailers of drugs/medicines included in the DOH 'list of approved drugs/medicines" (RA 11467)





# **RMO No. 21-2020**

## **July 10, 2020**

Policies/procedures for inspection or supervision of destruction/disposal of inventory of goods/assets declared as waste/obsolete

Application to be filed with RDO/LT Office at least 7 days BEFORE proposed destruction date

BIR to inform applicant within 5 days as to the approved manner of witnessing and schedule of destruction/disposal.

Additional days for the destruction/disposal may be scheduled.

Expenses for account of taxpayer

"Third party" – BIR accredited tax practitioner or external auditor; subject to BIR approval

Valuation for disposed/destroyed inventory/assets is actual cost. Otherwise, adopt valuation used by taxpayer subject to adjustments.



# **RMO No. 21-2020**

## **July 10, 2020**

Policies/procedures for inspection or supervision of destruction/disposal of inventory of goods/assets declared as waste/obsolete

Submission of the complete documents

If witnessed by a third party, a video footage of activity, BEFORE, DURING and AFTER to be submitted to BIR

Certificate to be issued w/in 5 days from submission of complete documents

Certificate contains quantity of item, value/actual cost as of a particular date; keep as part of records and made available upon audit

Deduction of losses from inventory disposal to be allowed after witnessing and issuance of Certificate

Destruction/disposal of goods/articles subject to Excise Tax shall be witnessed/ validated by authorized official from LTS Excise Tax Division.

**THANK YOU**