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GSE LAW LEGAL UPDATES

IN THIS ISSUE

STATUTE

- Republic Act No. 12023 (An Act Amending Sections 105, 108, 109, 110, 113, 114, 115, 128, 236 and 288 and Adding New Sections 108-A and 108-B of the National Internal Revenue Code of 1997, As Amended)

BANKING

- BSP Memorandum No. M-2024-033 re Information Sharing of Bank Reports with the Philippine Deposit Insurance Corporation

PEZA

- Memorandum Circular No. 2024-042 re FIRB Advisory No. 005-2024 – ATIR and ABR Submission through the FIRMS for Taxable Year 2024

PRIVACY

- Implementation of registration fees and charges, and submission of Sworn Declaration and Undertaking for Exemption from Data Processing System Registration

TAXATION

- RMO No. 45-2024 re Amendment of certain provisions of Revenue Memorandum Order No. 39-2022 on the BIR Service Desk System in relation to the number of requesters per office
- RMO No. 44-2024 re the Revised Guidelines for monitoring of Withholding Taxes remitted by National Government Agencies thru the Electronic Tax Remittance Advice System
- RMO No. 43-2024 re the Implementation and Maintenance of BIR OneHub Portal
- RMO No. 42-2024 re Amendment of certain provisions of Revenue Memorandum Order No. 23-2024 regarding VAT refund claims automatically considered as high-risk or requiring full verification, in relation to the risk-based approach in the verification and processing of Value-Added Tax refunds
- RMC No. 115-2024 re the Clarification on the implementation of the risk-based approach in verifying and processing VAT refund claims
- RMC No. 117-2024 re Revised BIR Form No. 1900 [Application for Permit to Use Loose-Leaf Books of Accounts/Invoices and Other Accounting Records] October 2024 (ENCS)
- RMC No. 116-2024 re Provisions of the Ease of Paying Taxes Act applicable to the Power Industry
- RMC No. 114-2024 re the Revocation of Department Order No. 062-2024 issued by the Department of Finance
- RMC No. 113-2024 re the Updates on the Online Registration and Update System (ORUS)
- RMC No. 112-2024 re the Affixture of loose documentary stamp taxes to Tax Clearance Certificates

Statute

VAT ON DIGITAL SERVICES

On 02 October 2024, President Ferdinand R. Marcos Jr. signed Republic Act No. 12023 or the “Act Amending Sections 105, 108, 109, 110, 113, 114, 115, 128, 236 and 288 and Adding New Sections 108-A and 108-B of the National Internal Revenue Code of 1997, As Amended” which includes “digital services” in the scope of services subject to value-added tax (VAT).

“*Digital services*” refers to any service that is supplied over the internet or other electronic network with the use of information technology and where the supply of the service is essentially automated, including:

- Online search engine;
- Online marketplace or e-marketplace;
- Cloud services;
- Online media and advertising;
- Online platform; or
- Digital goods

Remittance of 12% VAT on Digital Services

Generally, all digital service providers (DSPs) are liable to remit 12% VAT on digital services.

	VAT-registered consumer	Non-VAT registered consumer
VAT-registered Resident DSP (R-DSP)	R-DSP is liable to pay 12% VAT	
Non-VAT registered R-DSP		
VAT-registered Non-resident-DSP (NR-DSP)	Consumer is required to pay 12% Withholding VAT	NR-DSP is required to pay 12% VAT
Non-VAT registered NR-DSP		NR-DSP is required to pay 12% VAT based on gross receipts

NR-DSPs must also take note of the following:

1. The Commissioner of Internal Revenue has the power to suspend NR-DSPs from performing digital services in the Philippines as a consequence of non-registration.
2. NR-DSPs are not allowed to claim creditable input tax.
3. VAT-registered NR-DSPs are required to issue Digital Sales or Commercial Invoice for all transactions. Further, NR-DSPs are exempted from accounting requirements such as maintenance of subsidiary sales and purchase of journals.
4. VAT-registered online marketplaces shall also be liable to remit VAT on transactions of non-resident sellers that go through its platform provided that:
 - The NR-DSP either directly or indirectly sets any of the terms and conditions under which the supply of goods is made; or
 - The NR-DSP is involved in the ordering or delivery of goods, whether directly or indirectly.
5. Payment for services of non-resident DSPs who are not VAT-registered shall be subject to 12% withholding tax at the time of payment

Exemptions to 12% VAT on Digital Services

The following shall be exempted from 12% VAT on digital services:

1. Educational services, including online courses, online seminars, and online trainings, rendered by private educational institutions, duly accredited by the Department of Education (DepEd), the Commission on Higher Education (CHED), the Technical Education and Skills Development Authority (TESDA), and those rendered by government educational institutions; and sale of online subscription-based services to DepEd, CHED, TESDA, and educational institutions recognized by said government agencies; and
2. Services of bank, non-bank financial intermediaries performing quasi-banking functions, and other non-bank financial intermediaries, including those rendered through different digital platforms.

[Click here for the full text of Republic Act No. 12023](#)

BSP MEMORANDUM NO. M-2024-033 RE INFORMATION SHARING OF BANK REPORTS WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION

On 21 October 2024, the Bangko Sentral ng Pilipinas (BSP) released Memorandum No. M-2024-033 which announces the BSP's and Philippine Deposit Insurance Corporation's (PDIC) issuance of new regulations regarding the information exchange agreed on the sharing and exchange of bank submitted reports and certain other reports. The information sharing agreement aims to improve the effectiveness of the operations of both the BSP and PDIC.

[Click here for the full text of BSP Memorandum No. M-2024-033](#)

PEZA

MEMORANDUM CIRCULAR NO. 2024-042 RE SUBMISSION OF ATIR AND ABR FOR TAXABLE YEAR 2024

On 17 September 2024, the Philippine Economic Zone Authority (PEZA) issued Memorandum Circular (MC) No. 2024-042. MC No. 2024-042 informs all PEZA-registered business enterprises (RBEs) and all Zone Administrators, Zone Managers, and Acting Zone Managers regarding the issuance of the Fiscal Incentives Review Board (FIRB) Advisory No. 005-2024 on the mode of submission of the Annual Tax Incentives Report (ATIR) and Annual Benefits Report (ABR).

All ATIR and ABR for the taxable year 2024 shall be submitted through the electronic ATIR and ABR data entry and submission module in the Fiscal Incentives Registration and Monitoring System (FIRMS). PEZA will not anymore accept submissions of ATIR and ABR through the Annual Compliance Management System (ACMS) for calendar and fiscal year 2024.

[Click here for the full text of PEZA Memorandum Circular No. 2024-042](#)



NPC IMPLEMENTS REGISTRATION FEES AND CHARGES, AND SUBMISSION OF SWORN DECLARATION AND UNDERTAKING FOR EXEMPTION FROM DATA PROCESSING SYSTEM REGISTRATION

On 01 October 2024, the National Privacy Commission (NPC) announced its upgrade to the NPC Registration System (NPCRS). A new schedule of fees and charges was likewise implemented, as well as the new feature on the submission of the Sworn Declaration and Undertaking (SDAU) for exemption from registration of Data Processing Systems (DPS).

[Click here for the full issuance from NPC](#)



Related issuance:
[NPC Circular No. 2023-01](#)

Taxation

RMO NO. 45-2024 RE THE BIR SERVICE DESK SYSTEM

On 18 September 2024, the Bureau of Internal Revenue (BIR) issued Revenue Memorandum Order (RMO) No. 45-2024 which amends RMO No. 39-2022 regarding the required number of Requester/s per BIR Office/Division.

RMO No. 45-2024 became effective on 18 October 2024.

[Click here for the full text of BIR RMO No. 45-2024](#)

RMO NO. 44-2024 RE THE REVISED GUIDELINES FOR MONITORING OF WITHHOLDING TAXES REMITTED BY NATIONAL GOVERNMENT AGENCIES THRU THE ELECTRONIC TAX REMITTANCE ADVICE SYSTEM

On 15 October 2024, the BIR issued RMO No. 44-2024 which directs specific divisions of the BIR to observe guidelines regarding the monitoring of withholding taxes remitted by national government agencies.

[Click here for the full text of BIR RMO No. 44-2024](#)



Attachments to the issuance

[Annex A – Summary of Withholding Tax Collection Report of National Government Agencies thru eTRA](#)

[Annex B – Report on Discrepancies on Withholding Tax Collection Report of National Government Agencies thru e-TRA](#)

[Annex C – Tax Remittance Advice Debit Memo](#)

[Annex D – Report on Adjustments to Erroneous Entries Committed by NGAs](#)

[Annex E – Consolidated Report on Validated Adjustments to Erroneous Entries Committed by NGAs](#)

[Annex F – Consolidated Statistical Report on RDOs' Performance on NGA Error Resolutions](#)

[Annex G – Weekly Withholding Tax Collection Report thru eTRA](#)

[Annex H – Status Report on the Enrollment and Usage of eTRA System](#)

[Annex I – Level of Compliance of the National Government Agencies \(NGAs\) on the Enrollment and Usage of the eTRA System](#)

RMO NO. 43-2024 RE THE BIR ONEHUB PORTAL

On 02 October 2024, the BIR released RMO No. 43-2024 dated 08 March 2024 which implements BIR's OneHub Portal, consistent with its Digitalization Roadmap.

OneHub Portal establishes a Digital Workplace for BIR officials and employees that will enable them to have quick access to basic information, instruction, news, announcements, and resources within the BIR.

[Click here for the full text of RMO No. 43-2024](#)

RMO NO. 42-2024 RE VAT REFUND CLAIMS AUTOMATICALLY CONSIDERED AS “HIGH-RISK” IN RELATION TO THE RISK-BASED APPROACH VERIFICATION

On 02 October 2024, the BIR issued RMO No. 42-2024 which amends provisions of RMO No. 23-2024 on the implementation of the risk-based approach in verifying VAT refund claims under Section 112(A) of the National Internal Revenue Code, as amended. RMO No. 42-2024 addresses issues on the verification of VAT refund claims under the Ease of Paying Taxes Act to make the process more efficient.

Under RMO No. 42-2024, all applications with incomplete or missing information on the schedules of sales and purchases shall automatically be classified as high-risk and shall require 100% verification of VAT refund claims.

[Click here for the full text of RMO No. 42-2024](#)

RMC NO. 115-2024 RE FURTHER CLARIFICATION OF THE RISK-BASED APPROACH IN VERIFICATION AND PROCESSING OF VAT REFUND CLAIMS

In relation to RMO No. 42-2024, the BIR issued Revenue Memorandum Circular (RMC) No. 115-2024 which further clarifies the policies and procedures on the implementation of the risk-based approach in verifying and processing VAT refund claims under the Ease of Payment Taxes Act.

RMC No. 115-2024 highlights that all documentary requirements mandated by the BIR for purposes of VAT refund shall be submitted regardless of identified risk level, otherwise the submission shall be considered a high-risk VAT refund claim.

Further, incomplete requirements shall result in the non-acceptance of the VAT refund application.

[Click here for the full text of RMC No. 115-2024](#)




Attachment

[Annex A.1 – Revised Checklist of Mandatory Requirements on Claims for VAT Credit / Refund](#)

RMC NO. 117-2024 RE REVISED BIR FORM NO. 1900

On 17 October 2024, the BIR issued RMC No. 117-2024 to circularize the availability of Revised BIR Form No. 1900 for the application for permit to use loose-leaf books of accounts, invoices, and other accounting records.

 [Click here for the full text of RMC No. 117-2024](#)



**Amended BIR
Form No. 1900**

RMC NO. 116-2024 RE THE PROVISIONS OF THE EASE OF PAYING TAXES ACT APPLICABLE TO THE POWER INDUSTRY

On 18 October 2024, BIR released RMC No. 116-2024 dated 21 August 2024 to clarify certain provisions of the Ease of Paying Taxes Act applicable to the Power Industry.

The RMC explains that, for sale of services, gross sales of Distribution Utility (DUs) Companies and Electric Cooperatives (ECs) shall exclude VAT and those amounts earmarked for payment to third parties or received as reimbursement for payment on behalf of another which do not redound to the benefit of the seller.

DUs and ECs shall issue an invoice to customers to include the sale and transmission of electricity and ancillary services, including the VAT of the Generation Companies and Transmission Companies. However, it is the customers engaged in business based on the invoices issued by the DUs and ECs that shall be the proper claimant of input taxes. Thus, the DUs and ECs shall not claim any input taxes from such transactions.

On the other hand, the basis of the income tax and VAT liabilities of Generation Companies and Transmission Companies shall be the amount they invoiced, which was included in the invoice issued by the DUs and ECs to customers.

Retail Electricity Suppliers (RES) shall likewise not claim any input taxes on pass-through charges, or the transmission and distribution charges from the sale of power.

All payments by DUs, ECs, and RES to Generation Companies and Transmission Companies regarding generation, transmission and other VATable charges shall be subject to VAT.

Government-mandated charges

The following government-mandated charges shall not be subject to Output Tax and Creditable Withholding Tax on VAT and Income:

- Energy Tax under Batas Pambansa (BP) Blg. 36
- Universal Charges under Sec. 34 of Republic Act No. 9136 (EPIRA)
- Benefits to Host Communities under Sec. 66 of EPIRA and DOE Energy Regulations No. 1-94
- Feed-in Tariff Allowance (FIT-ALL) under Energy Regulatory Commission (ERC) Resolution No. 24, s. 2013
- National and Local Franchise Taxes under Sec. 9 of Republic Act No. 9511 and Art. III of ERC Res. No. 02 s. 2021
- Real Property Tax under Art. II of ERC Res No. 02 s. 2021

Declaration of VAT for Generation Companies and Transmission Companies

Generation Companies and Transmission Companies shall issue an invoice to DUs, ECs, and RES for the whole amount of the generation and transmission fees, including the VAT for the billing period.

The DUs, ECs and RES shall thereafter provide the following:

- Certification of zero-rated or exempt transactions to the Generation Companies and Transmission Companies on or before the 5th day of the month following the invoice period; and
- Applicable adjustment documents (debit memo, credit memo, journal voucher, negative invoice, etc).

 [Click here for the full text of RMC No. 116-2024](#)



Attachments to the issuance

[Annex A – Distribution Utilities/Electric Cooperatives](#)

[Annex B – Inventory of Outstanding Deferred VAT as of April 27, 2024](#)

[Annex C – Summary List of Remittances of Deferred VAT Using BIR Form No. 0605](#)

RMC NO. 114-2024 RE THE REVOCATION OF DEPARTMENT OF FINANCE ORDER NO. 062-2024

On 18 October 2024, the BIR released RMC No. 114-2024 dated 11 October 2024 which circularizes Department of Finance (DOF) Department Order No. 072-2024 dated 30 September 2024. DOF DO No. 072-2024 revokes the implementation of DOF DO No. 062-2024 and filing of refund for taxes erroneously paid as a result of the increase in zonal values of real properties in areas covered by DOF DO No. 062-2024.

 [Click here for the full text of RMC No. 114-2024](#)



**Related issuance:
Department Order No. 72-2024**

RMC NO. 113-2024 RE UPDATES TO THE ONLINE REGISTRATION AND UPDATE SYSTEM

On 15 October 2024, the BIR issued RMC No. 113-2024 which formally announces the availability of the following features of the Online Registration and Updated System (ORUS):

- Update Taxpayer Information (01 October 2024)
- Resumption of Business Registration and Other Registration-Related Transactions (10 October 2024)

RMC No. 113-2024 further provides the procedures for the foregoing functionalities in ORUS.

All taxpayers who do not have an ORUS account yet and opted to use the said online registration facility are required to enroll or create an account in ORUS

[Click here for the full text of RMC No. 113-2024](#)



[Link to BIR ORUS](#)

RMC NO. 112-2024 RE THE PROPER SALE AND AFFIXTURE OF LOOSE DOCUMENTARY STAMP TAXES TO TAX CLEARANCE CERTIFICATES

On 15 October 2024, the BIR released RMC No. 112-2024 dated 02 October 2024 which clarifies that the requirement of presenting the original copy of the duly signed taxable document before the taxpayer may be allowed to purchase loose documentary stamp tax (DST) does not apply to Tax Clearance Certificate (TCC) applications.

Thus, taxpayers applying for TCC shall be allowed to purchase a loose documentary stamp as part of the documentary requirements under the BIR Citizen's Charter.

[Click here for the full text of RMC No. 112-2024](#)



Related issuance:
RMC No. 92-2024

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