



This MAP Tax Bulletin for March 2022 was contributed by P&A Grant Thornton.

BIR Issuances

- **RMC No. 18-2022 issued on February 04, 2022** – Circularizes RA No. 11597 (Philippine Veterans Bank Act)
- **RMC No. 19-2022 issued on February 04, 2022** – Clarifications and guidelines on tax-free exchanges of properties under Section 40(C)(2) of the Tax Code, as amended by CREATE
- **RMC No. 20-2022 issued on February 17, 2022** – Clarifications on filing of Request for Confirmation, Tax Treaty Relief Applications and tax sparing applications
- **RMC No. 21-2022 issued on February 21, 2022** – Work-around procedures on reporting of input VAT on purchases or importations of capital goods in the VAT returns
- **RMC No. 22-2022 issued on February 21, 2022** – Compliance requirements for individual candidates, political parties, and campaign contributors involved in the May 9, 2022 national and local elections
- **Bank Bulletin No. 2022-03 issued on February 02, 2022** – Out-of-District filing and payment allowed in areas placed under Alert Level 3 or higher

SEC Issuances

- **SEC MC No. 02 series of 2022 issued on February 08, 2022** – 2021 Filing of AFS and GIS through eFAST; OTC submission of reports shall no longer be accepted

BIR Issuances

Circularizes RA No. 11597 (Philippine Veterans Bank Act) (Revenue Memorandum Circular No. 18-2022 issued on February 4, 2022)

Pursuant to RA No. 11597, the Philippine Veterans Bank which shall be commonly called the Veterans Bank, is created. Its principal domicile and place of business shall be at PVB Building, 101 V.A. Rufino corner Dela Rosa Streets, Legaspi Village, Makati City, but which may establish branches or agencies in other provinces and cities as its Board of Directors may decide.

Under the said act, the transfer of the share/s in the bank of a veteran to the widow, orphan or compulsory heir of a veteran by way of succession or donation shall not be subject to tax.

Clarifications and guidelines on tax-free exchanges of properties under Section 40 (C)(2) of the Tax Code, as amended by CREATE (Revenue Memorandum Circular No. 19-2022 issued on February 04, 2022)

Pursuant to Section 40 (C)(2) of the Tax Code of 1997, as amended by CREATE Act, reorganizations and transfer of property to controlled corporations are covered by tax-free exchanges of properties. Reorganizations include (a) mergers or consolidations, (b) acquisition of a controlled corporation, (c) acquisition of all or substantially all of properties of another corporation, (d) recapitalization, and (e) reincorporation.

The term "control", when used in a tax free-exchange of properties, shall mean ownership of stocks in a corporation after the transfer of property possessing at least fifty-one percent (51%) of the total voting power of all classes of stocks entitled to vote. The collective and not the individual ownership of all classes of stocks entitled to vote of the transferor or transferors shall be used in determining the presence of control.

Determination of substituted basis

Since in a tax free-exchange, recognition of gain or loss on the exchanges of properties are merely deferred, the substituted basis of the properties transferred and shares received must clearly be established and properly monitored in order that in case of their subsequent sale or disposition, any gain shall be taxed accordingly.

The substituted basis shall be the basis for determining gain or loss on a subsequent sale or disposition of properties subject of the tax-free exchange transactions. As clarified by the BIR, existing rules on the determination of substituted basis shall still be followed. *(see full copy of the RMC for detailed rules on substituted basis)*

Monitoring of the substituted basis of the properties

For proper monitoring of the substituted basis, the parties to the tax-free exchange/ reorganization should comply with the reporting requirements as set forth under Revenue Regulations No. 18-2001 including but not limited to incorporating in the income tax return of the parties a complete statement of facts pertinent to the non-recognition of gain or loss upon such exchange and annotation in the TCT, CCT and certificates of stock the original or historical cost of acquisition of the properties.

Tax treatment of exchange of properties pursuant to section 40 (C) (2) of the Tax Code

Covered transactions of the tax-free exchanges shall be exempt from capital gains tax, creditable withholding tax, income tax, donor's tax, value-added tax, and documentary stamp tax (DST) on conveyances of real properties and shares of stocks. However, original issuance of shares in exchange for properties shall be subject to DST.

Venue for the issuance of the Certificate Authorizing Registration (CAR)

CAR shall be processed at the RDO having jurisdiction over the place where the property is located, in case of a real property, or in case of shares of stock, the RDO where the issuing corporation is registered.

In case the transaction involves transfer of multiple real properties and/or shares of stocks situated in various locations covered by different RDOs, the CAR shall be processed with the RDO having jurisdiction over the place where the transferee corporation is registered.

The CAR shall specify, among others, that the transaction involved is a tax-free, the date of transaction, and the substituted basis of the properties subject.

Parties to the transaction shall submit the documentary requirements (Annex B of RMC 19-2022). https://www.bir.gov.ph/images/bir_files/internal_communications_2/RMCs/2022%20RMCs/RMC%20No.%2019-2022%20Annex%20B.pdf

Conduct of post-transaction audit

Following the issuance of CAR, the concerned RDO shall conduct a post audit of said transactions pursuant to existing revenue issuances on tax audit and assessment, to determine the taxability thereof.

If after audit, the transaction is found to be not entitled to the tax deferral treatment, the transaction shall be subject to the applicable taxes, plus interest, penalty and surcharge. However, the result of the audit shall not invalidate the CAR previously issued for the transfer of the properties.

Option to request for legal opinion

Though a prior BIR ruling is not required, the taxpayer is not precluded from requesting a ruling/legal opinion with the Law and Legislative Division (LLD) of the BIR National Office in order to clarify legal issue/s that may affect the transactions, including the taxability of such transaction.

The LLD shall evaluate whether or not the request involves question/s of law that would merit the issuance of a ruling. Otherwise, it shall endorse the request to the concerned RDO for appropriate action.

Clarifications on filing of Request for Confirmation (RFC), Tax Treaty Relief Applications (TTRA) and tax sparing applications (Revenue Memorandum Circular No. 20-2022 issued on February 17, 2022)

There are two types of Certificate of Entitlement (COE) issued by the ITAD-BIR:

- For recurring transactions, the COE issued by the BIR contains a proviso stating that the same ruling shall apply to future or subsequent income payments to the same nonresident-income payee/recipient provided that the conditions set forth therein are present. This type of COE is intended for dividends, branch profit remittances, interest, royalties, income from air and shipping transport and other income such as guarantee or substitution fees.
- The other type of COE limits the applicability of the ruling to a particular transaction or period of engagement and is usually issued for business profits, capital gains, income of teachers, and income from services (dependent or independent).

Based on the foregoing, the BIR issued the following guidelines/clarifications in the filing of RFC, TTRA and tax sparing applications:

Recurring transactions

- Taxpayers who were already issued with COE, the tenor thereof allows the ruling to be applied to subsequent future income payments, shall no longer file a new application every time an income of similar nature is paid to the same nonresident.
- In applying the confirmed treaty benefit to future income payments, the income payor or withholding agent shall always be guided by the requisites mentioned in the COE. Thus, if the COE mentions tax residency as a requisite for continuous enjoyment of treaty benefit, the income payor must require the nonresident to submit first a Tax Residency Certificate (TRC) for such relevant year before making any payment.
- A new RFC, TTRA or tax sparing application shall only be filed if any of the requisites mentioned in the COE is absent.

Non-recurring Transactions

- For business profits, income from services (dependent or independent), capital gains, income derived by teachers, and such other income

from non-recurring transactions, RFCs or TTRAs shall still be filed following the procedures and requirements prescribed in Revenue Memorandum Order No. 14-2021 and Revenue Memorandum Circular No. 77- 2021.

- In case annual updating is required for long-term contract of services, the taxpayer shall only submit the following:
 - a. TRC of the nonresident for the relevant year;
 - b. Sworn Certification stating the following:
 - i. services provided by the foreign enterprise
 - ii. place of performance of such services
 - iii. individuals who rendered the services on behalf of the foreign enterprise, their positions/designations and professional background
 - iv. duration of stay in the Philippines of said individuals;
 - c. Certified true copy of their passports or a Certification duly issued by the Bureau of Immigration stating their dates of arrival in, and departure from, the Philippines;
 - d. Certificate of Completion of the project duly signed by the income recipient and duly accepted by the domestic income payor, if applicable;
 - e. Invoice/s duly issued by the income recipient in accordance with the invoicing requirements of the country of residence, if applicable; and
 - f. Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income, if applicable.

Documents to be submitted during audit

- During a tax audit, the income payor shall submit or present a copy of the duly issued COE and proof of satisfaction of the requisites cited therein. The tax auditor, on the other hand, shall ensure the authenticity of the submitted documents.

Work-around procedures on reporting of input VAT on purchases or importations of capital goods in the VAT returns (Revenue Memorandum Circular No. 21-2022 issued on February 21, 2022)

Under the TRAIN Law, starting January 1, 2022, all input tax on purchases of capital goods shall already be allowed to be claimed outright upon purchase/payment and shall no longer be subject to amortization.

However, under eFPS and eBIR Forms, the balance of input tax to be carried to succeeding period for purchase of capital goods exceeding P1 Million is computed automatically by these systems. To address this concern, the taxpayer shall indicate "1" as the estimated and recognized useful life of the capital goods exceeding P1 Million and encode the total input taxes claimed from purchase/s of capital goods exceeding P1 Million under Column "G" in Schedule 3(A) of BIR Forms 2550M/Q in order to show a nil amount of "Balance of Input Tax to be Carried to Next Period".

Taxpayers with unutilized input VAT on capital goods purchased or imported prior to January 1, 2022, shall be allowed to amortize the same as scheduled until fully utilized. Hence, Schedule 3(B) of BIR Forms 2550M/Q shall still be filled out. However, if the depreciable capital good is sold/transferred within the period of five (5) years or prior to the exhaustion of the amortizable input tax thereon, the entire unamortized input tax on the capital goods sold/transferred can be claimed as input tax credit during the month/quarter when the sale or transfer was made.

Compliance requirements for individual candidates, political parties, and campaign contributors involved in the May 9, 2022 national and local elections (Revenue Memorandum Circular No. 22-2022 issued on February 21, 2022)

All candidates, political parties/party list groups and campaign contributors, are required to register with the BIR, issue official receipts and withhold taxes. It shall be the duty of every individual candidate and

political parties/party list groups, upon the filing of the certificate of candidacy, whether for local or national position to register, or to update their registration with the BIR for those who have previously registered as Withholding Agents.

The registration shall be made with the RDO having jurisdiction over the political subdivision where the candidate is seeking election, and, if this is not applicable, registration shall be made at the RDO having jurisdiction over their principal residence or registered head/principal office address.

The RDO shall maintain the list of all registered candidates and political parties/party list groups for monitoring and updating of its registration record after election.

Registration requirements

a. Individual candidates

Individual candidates shall be registered as "Professional - In General" and tagged as "Politician" under the special code in the BIR registration system.

The individual candidates shall be required to submit the following:

- i. Duly accomplished BIR Form No. 1901;
- ii. Any identification issued by an authorized government body; and
- iii. Certificate of Candidacy (COC) from the Commission on Election (COMELEC).

b. Political parties

Political parties/party list groups shall be tagged as "Political Party" under special code in the BIR registration system.

The political parties/party list groups shall be required to submit the following:

- i. Duly accomplished BIR Form No. 1903; and
- ii. COC from the COMELEC.

c. Campaign contributors

- i. Individual campaign contributors - shall be registered with the RDO having jurisdiction over his place of residence using BIR Form No. 1904.
- ii. Nonindividual campaign contributors - shall be registered with the RDO having jurisdiction over its principal place of business/head office using BIR Form No. 1903.

Tax Compliance requirements (All candidates and political parties)

- a. Pay an Annual Registration Fee (ARF) of five hundred pesos (P500) and be issued a Certificate of Registration (COR). COR is no longer required to be issued for individual candidates who are not engaged in business.
- b. Keep books and other accounting records such as Cash Receipts Journal (basis for Statement of Contributions for submission to COMELEC), Cash Disbursement Book (basis for Statement of Expenditures for submission to COMELEC) or their equivalent and register the same to the concerned RDO. All political parties/party list groups and candidates shall be responsible for the preservation of records and contributions and expenditures, together with all pertinent documents, shall be retained in accordance with the rules on preservation of books of accounts and other accounting records provided in Section 235 in relation to Sections 203 and 222 of the NIRC of 1997.

Individual candidates may opt to use a simplified set of bookkeeping records, as long as it can provide accurate information.

- c. Register Non-VAT Official Receipts (ORs) to be issued for every contribution received, whether in cash or kind valued at Fair Market Value. The original copies of such ORs shall be issued to

the contributor/donor while the duplicate shall be retained by the issuing candidate/political party/party list.

Candidates may opt to buy BIR Printed Receipts or apply for an Authority to Print using BIR Form No. 1906 with the concerned RDO.

- d. Declare as taxable income the unutilized/excess campaign funds, as well as donations utilized before the campaign period, net of the candidate's or political party/party list's campaign expenditures.

It should be noted that no further deduction, either itemized or optional, shall be made against the said taxable income. Further, any candidate or political party/party list group, whether winning or losing, who fails to file with COMELEC the Statement of Contributions and Expenditures required under Omnibus Election Code shall be automatically precluded from claiming such expenditures as deductions from the campaign contributions making the entire amount directly subject to income tax.

- e. Subject to donor's tax donations made by corporations in violation of Section 36(9)t of the Corporation Code of the Philippines. Such donations may not be deducted as political contribution on the part of the Donor/corporation. Only contributions in cash or in kind duly reported to COMELEC, are exempt from the imposition of Donor's Tax.
- f. Withhold on income payments made by political candidates and political parties/party-list groups on their purchases of goods and services as campaign expenditures, and income payments made by individuals or juridical persons for their purchases of goods and services intended to be given as campaign contribution to political parties and candidates shall be subject to five percent (5%) Creditable Withholding Tax (CWT). Likewise, BIR Form No. 2307 (Certificate of Creditable Tax Withheld at Source) shall be issued upon demand.

CWT shall be filed and remitted not later than the last day of the month following the close of the quarter during which the withholding was made. As withholding agents, they are also required to submit the Quarterly Alphalist of Payees (QAP).

Expenses that were not subjected to the 5% CWT as herein required are not considered utilized campaign funds, and the candidates, political parties/party-list groups are precluded from claiming such expenditures as deductions from his/her/its campaign contributions. As such, the full amount corresponding to said expense shall be reported as unutilized campaign funds subject to income tax.

Post-election

Every candidate and Treasurer of the political parties/party list groups shall submit the Statement of Contributions and Expenditures to COMELEC and RDO where the candidates/political parties/party list groups are registered within 30 days after the election. The registration of individuals in their capacity as candidates shall automatically end 10 days after the deadline of filing of the Quarterly Remittance Return of Creditable Income Taxes Withheld (BIR Form 1601 EQ) following the day of the election.

Out of District (OOD) filing and payment allowed in areas placed under Alert Level 3 or higher (Bank Bulletin No. 2022-03 issued on February 02, 2022)

In relation to RR No. 1-2022 issued on January 27, 2022, this BB No. 2022-03 provides that affected taxpayers within the RRs and RDOs may also file their returns and pay their corresponding taxes due thereon to the nearest Authorized Agent Banks (AABs) or to the BIR Revenue Collection Officer (RCO), notwithstanding Revenue District Office jurisdiction.

SEC Issuances

Schedule for Filing of AFS and GIS through eFAST; OTC submission of reports shall no longer be accepted (SEC MC No. 02 s. of 2022 issued on February 08, 2022)

To maintain an organized and orderly filing of audited financial statements (AFS) and general information sheet (GIS) amidst the threat of the Covid 19 (Omicron Virus), SEC adopts the use of the Electronic Filing and Submission Tool (eFAST) in the filing of the said reports.

Schedule of Filing AFS

Covered Companies	Deadline of Submission										
Corporation whose accounting period ends on December 31, 2021	Depending on the last numerical digit of their SEC registration or license number in accordance with the following schedule: <table style="margin-left: auto; margin-right: auto;"> <tr> <td>July 1 to 15</td> <td>1 and 2</td> </tr> <tr> <td>July 16 to 31</td> <td>3 and 4</td> </tr> <tr> <td>August 1 to 15</td> <td>5 and 6</td> </tr> <tr> <td>August 16 to 31</td> <td>7 and 8</td> </tr> <tr> <td>September 1 to 15</td> <td>9 and 10</td> </tr> </table> Any corporation may file on or before their deadline through eFAST.	July 1 to 15	1 and 2	July 16 to 31	3 and 4	August 1 to 15	5 and 6	August 16 to 31	7 and 8	September 1 to 15	9 and 10
July 1 to 15	1 and 2										
July 16 to 31	3 and 4										
August 1 to 15	5 and 6										
August 16 to 31	7 and 8										
September 1 to 15	9 and 10										
Corporation whose accounting period ends on a date other than December 31, 2021	Within 120 calendar days from the end of fiscal year										
Broker dealers whose fiscal year ends on a date other than December 31	Within 110 calendar days from the end of fiscal year										
Corporation whose securities are listed on the Philippine Stock Exchange (PSE) and corporations which are covered under Section 17.2 of the SRC (not including those companies which filed Notification of Suspension to file reports under Section 17 of the SRC (SEC Form 17-EX)	Within 105 calendar days after the end of their fiscal year, as attachments to their Annual Reports (SEC Form 17-A). Due to current circumstances, said entities are given an extension until May 15, 2022 to file their SEC Form 17-A. Given this, the filing of SEC Form 17-L shall not be available anymore.										

All corporations may file their AFS regardless of the last numerical digit of their registration or license number on or before the first day stated in the coding schedule pertaining to said digit.

Late filings or filing after respective due dates shall be accepted starting September 16, 2022 and shall be subject to the prescribed penalties which shall be computed from the date of the last day of filing schedule.

The AFS, other than the consolidated financial statements, shall have the stamp "received" by the BIR or its authorized banks, unless the BIR allows an alternative proof of submissions for its authorized banks (e.g. bank slips) and/ or other facilities.

The basic components of the AFS as prescribed under Revised SRC Rule 68, shall be submitted by the filers. Failure to comply with any of the formal

requirements under the said Rule, including the prescribed qualifications for independent auditors and/or any material deficiency or misstatement that may be found upon evaluation of the specific contents thereof, shall be considered a sufficient ground for the imposition of penalties by SEC. The acceptance and receipt by the Commission of the financial statements shall be without prejudice to such penalties.

The requirement for an AFS shall be based on the threshold provided in the Revised Securities Regulations Code Rule 68. Corporations which do not meet such threshold may file an unaudited FS accompanied by a duly notarized Treasurer's Certification.

Filing GIS

All corporations shall file their GIS within 30 calendar days from:

- a. Stock Corporations: date of annual stockholders' meeting

- b. Non-stock Corporations: date of actual members' meeting
- c. Foreign Corporation: anniversary date of the issuance of the SEC license

All corporations are required to file their AFS and GIS through eFAST. Other reports not available in the eFAST may be submitted by sending through email at ictdsubmission@sec.gov.ph. Submission of reports Over-the-Counter (OTC) and/or through mail/courier via SENS shall no longer be accepted.

All reports submitted through eFAST are scanned or digital copies of the manually signed or digitally signed reports. The responsibility to ensure the integrity and authenticity of the e-signature rests upon the signatory or authorized signatory of the filer. All electronic transactions referred to in this memorandum shall be governed by the existing and prevailing laws and regulations, as applicable.