

**TAX MANAGEMENT ASSOCIATION**

**OF THE PHILIPPINES, INC.**

**TMAP TAX UPDATES**

**DECEMBER 16, 2020 – JANUARY 15, 2021**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **ISSUANCEIss** | **DATE ISSUED** | **SUBJECT** | | **PAGE NO.** | |
| **REVENUE REGULATIONS** | | | | | |
| Revenue Regulations No. 34-2020 | December 18, 2020 | To streamline the guidelines and procedures prescribed by RR No. 19-2020 for the submission of BIR Form No. 1709 (RPT Form), Transfer Pricing (TP) Documentation and other supporting documents by providing safe harbors and materiality thresholds. | | |  | |
|  | | | | | | |
| **REVENUE MEMORANDUM CIRCULARS** | | | | | | |
| Revenue Memorandum Circular No.136-2020 -submitted already | December 17, 2020 | | Clarifies the suspension of the statute of limitation provided under Revenue Regulations (RR) No. 11-2020- | |  | |
| Revenue Memorandum Circular No. 138-2020 | December 23, 2020 | | Clarification on the availment of Net Operating Loss Carry-over (NOLCO) for taxpayers adopting fiscal year | |  | |
| Revenue Memorandum Circular No. 139-2020 issued | December 23, 2020 | | Guidelines on the utilization of the 5% tax credit under the PERA Act | |  | |
| Revenue Memorandum Circular No. 1-2021 | December 17, 2020 | | Consolidated Price of Sugar at Millsite for the Month of November 2020 | |  | |
| Revenue Memorandum Circular No. 2-2021 | January 6, 2021 | | Guidelines Relative to the Postponement of Effectivity of Enlisting/Delisting of Large Taxpayers | |  | |
| Revenue Memorandum Circular No. 4-2021 | December 22, 2020 | | Guidelines in the Filing of Tax Returns Including the Required Attachments and Payment of Internal Revenue Taxes | |  | |
| Revenue Memorandum Circular No. 5-2021 | December 28, 2020 | | Simplified Policies on the Application for Registration of Computerized Accounting System (CAS), Computerized Books of Accounts (CBA) and/or its Components, including the Electronic Storage System (ESS), Middleware and Other Similar Systems | |  | |
| Revenue Memorandum Circular No. 6-2021 | January 8, 2021 | | Prescribes the revised BIR Form No. 2200-M [Excise Tax Return for Mineral Products] | |  | |
| Revenue Memorandum Circular No. 7-2021 | January 8, 2021 | | Availability of the Alphalist Data Entry and Validation Module (Version 7.0) and its Updated File Structures, Standard File Naming Convention, and Job Aids | |  | |
| Revenue Memorandum Circular No. 8-2021 | January 11, 2021 | | Circularizes Republic Act No. 11467, entitled “An Act Amending Sections 109, 141, 142, 143, 144, 147, 152, 263, 263-A, 265, and 288-4, and Adding a New Section 290-A to Republic Act No. 8424, as Amended, Otherwise Known as the National Internal Revenue Code of 1997, and for Other Purposes", which provides, among others, the VAT exemption of sale or importation of prescription drugs and medicines for diabetes, high cholesterol, and hypertension beginning January 27, 2020, and increase in excise taxes on alcohol products, tobacco products and e-cigarettes. | |  | |
| **REVENUE MEMORANDUM ORDERS** | | | | | | |
| **ISSUANCE** | **DATE ISSUED** | | **SUBJECT** | | **PAGE NO.** | |
| Revenue Memorandum Order No. 47-2020 | December 23, 2020 | | Consolidated and Updated Guidelines and Procedures on the Processing of Claims for Value-Added Tax Credit/ Refund Except Those Under the Authority and Jurisdiction of the Legal Group | |  | |
| Revenue Memorandum Order No. 1-2021 | January 4, 2021 | | Revised Office Audit Threshold for Cases to be Audited/Investigated by the Office Audit Section (OAS) of the Assessment Division in the Regional Offices | |  | |
| **SC Cases** | | | | | | |
| **ISSUANCE** | **DATE ISSUED** | | **SUBJECT** | | **PAGE NO.** | |
| The City of Makati vs. The Municipality of Bakun and Luzon Hydro Corporation  G.R. No. 225226 | July 7, 2020 | | Local Business Tax | |  | |
| Commissioner of Internal Revenue vs. Federation of Golf Clubs of the Philippines, Inc.  Supreme Court (First Division) G.R. No. 226449 | July 28, 2020 | | VAT on Membership fees | |  | |
| **CTA Cases** | | | | | | |
| **ISSUANCE** | **DATE ISSUED** | | **SUBJECT** | | **PAGE NO.** | |
| Classic Fine Foods Philippines, Inc. vs. Commissioner of Internal Revenue  CTA Case No. 9391 | December 17, 2020 | | Deductions | |  | |
| Service Resources, Inc. vs. Commissioner of Internal Revenue  CTA No. 9978 | January 4, 2021 | | TCC/Refund | |  | |
| Linde Philippines Inc. vs. Commissioner of Internal Revenue  CTA En Banc No. 2194 | January 5, 2021 | | Tax Audit | |  | |
| Dizon Farms Produce, Inc. vs. Commissioner of Internal Revenue  CTA Case No. 9711 | January 5, 2021 | | Tax Audit | |  | |
| Philex Mining Corporation vs. Commissioner of Internal Revenue  CTA Case No. 10037 | January 5, 2021 | | VAT | |  | |
| Level Up, Inc. vs. Commissioner of Internal Revenue  CTA En Banc No. 2069 (CTA Case No. 9424) | January 6, 2021 | | VAT | |  | |
| People of the Philippines vs. Ulysses Palconet Consebido  CTA En Banc Criminal Case No. 069 (CTA Criminal Case No. O-701) | January 6, 2021 | | Violation of the Tax Code | |  | |
| The Municipal Treasurer of the Municipality of Claver vs. Platinum Group Metals Corporation  CTA En Banc No. 2157 (CTA AC No. 182) | January 7, 2021 | | Local Business Tax | |  | |
| Red Ribbon Bakeshop, Inc. vs. Commissioner of Internal Revenue  CTA Case No. 9121 | January 7, 2021 | | Tax Assessment | |  | |
| Prime Investment Korea Inc. vs. Commissioner of Internal Revenue  CTA En Banc No. 2129 | January 8, 2021 | | Income Tax | |  | |
| People of the Philippines vs. Robiegie Corporation  CTA En Banc Case No. 2188 | January 8, 2021 | | Tax Audit | |  | |
| Ammex I-Support Corporation vs. Commissioner of Internal Revenue  CTA Case No. 9906 | January 8, 2021 | | VAT | |  | |
| Halliburton Worldwide Limited – Philippine Branch vs. Commissioner of Internal Revenue  CTA Case No. 9670 | January 11, 2021 | | VAT | |  | |
| Four Seas Trading Corporation vs. Commissioner of Internal Revenue  CTA Case No. 9915 | January 11, 2021 | | Due process | |  | |
| Negros Sugar Farmers Multi-Purpose Cooperative vs. Commissioner of Internal Revenue  CTA Case No. 9810 | January 11, 2021 | | Appeal | |  | |
| SMCC Philippines, Inc. vs. Commissioner of Internal Revenue  CTA Case No. 9082 | January 12, 2021 | | Vat refund | |  | |

|  |  |  |  |
| --- | --- | --- | --- |
| **Bureau of Customs** | | | |
| **ISSUANCE** | **DATE ISSUED** | **SUBJECT** | **PAGE NO.** |
| Customs Administrative Order (CAO) No. 14-2020 |  | Accreditation of VASP |  |
| Customs Memorandum Order (CMO) No. 29-2020 |  | Safeguard Duty on Imported Cement |  |
| CMO No. 30-2020 |  | Guidelines for the Implementation of the General Transport Surety Bond (GTSB) through Automated Bonds Management System (ABMS) |  |
|  |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **BOI ISSUANCE** | | | |
| **ISSUANCE** | **DATE ISSUED** | **SUBJECT** | **PAGE NO.** |
| Memorandum Circular No. 2020-011 | October 15, 2020  (posted on BOI website on January 6, 2021) | One-year extension on the compliance of BOI-registered enterprises with the terms and conditions of their BOI-registered projects |  |
| **PEZA ISSUANCE** | | | |
| **ISSUANCE** | **DATE ISSUED** | **SUBJECT** | **PAGE NO.** |
| Memorandum Circular No. 2021-04 | January 8, 2021 | Extension of MC No. 2020-011 Entitled "PEZA Assistance to Ecozone I.T. Enterprises in Responding to COVID-19 (Corona Virus Disease)" |  |
|  |  |  |  |
| **BSP ISSUANCE** | | | |
| **ISSUANCE** | **DATE ISSUED** | **SUBJECT** | **PAGE NO.** |
| Circular No. 1106 Restructured Service Fees for Bank’s Deposit and Withdrawal Transactions | December 23, 2020 | Restructured Service Fees for Bank’s Deposit and Withdrawal Transactions |  |
| Circular No. 1107 Prudential Requirements for Designated Clearing and Settlement Banks | December 23, 2020 | Clearing and Settlement Banks |  |
| Memorandum No. 093: Amendment to Memorandum M-2020-080 dated 9 October 2020 on the Electronic Submission of the EPFS Monthly Report Template | December 16, 2020 |  |  |
| Memorandum No. 094: Single Reserve Week from 18 to 31 December 2020 and the Corresponding Computation for the Single Reserve Week | December 18, 2020 | Single Reserve Week |  |
| Memorandum No. 095: Extension of the Temporary Relief Measure on the Transactions with PhilPaSS until the Last Business Day of Year 2021 | December 16, 2020 | Extension of temporary relief measures on PhilPaSS transactions |  |
| Memorandum No. 096 dated: Availability and Security of Automated Teller Machines (ATMs) and Digital Financial Services (DFS) | December 21, 2020 | ATMs and DFS |  |
| Memorandum No. 097: Guidelines on the Submission of Quarterly Report on Appraised Commercial Properties (QRACP) for the Generation of the Commercial Property Price Index (CPPI) | December 28, 2020 | Commercial Property Quarterly Report |  |
| Memorandum No. 001: Amendments to the Standard Operating Procedures for Philippine Holidays | January 11, 2021 | SOP for Philippine Holidays |  |
| Memorandum No. 002: Regulatory Relief on the Non-imposition of Sanctions for Breach in Single Borrower’s Limit by Foreign Bank Branches Established Prior to Republic Act No. 10641 | January 4, 2021 | Single Borrower’s Limit |  |
| Memorandum No. 003: Guidelines on the Electronic Submission of the Report on Reclassification of Debt Securities (RRDS) Out of the Fair Value Category | January 8, 2021 | Report on Reclassification of Debt Securities |  |
| Memorandum No. 004: Retention of Existing Procedures on Deposits and Withdrawals | January 11, 2021 | Deposits and withhdrawals |  |
| Memorandum No. 005: Report on the Risk Assessment of Cash, Cross-Border and Cross-Sector Transactions | January 13, 2021 | Risk Assessment |  |
| Memorandum No. 006: Advisory on Organization Changes in the Payments and Currency Management Operations Sub-Sector | January 14, 2021 | Payments and Currency Management Operations |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **SEC ISSUANCE** | | | |
| **ISSUANCE** | **DATE ISSUED** | **SUBJECT** | **PAGE NO.** |
| SEC Memorandum Circular No. 34 Series of 2020 | 15 December 2020 | Deferral of the Philippine Interpretation Committee (PIC) Question & Answer No. 2018-12 and IFRS Interpretations Committee (IFRIC) Agenda Decision on Over Time Transfer of Constructed Goods for Real Estate Industry |  |
| SEC Memorandum Circular No. 37 Series of 2020 | 22 December 2020 | Regulatory Relief Measures to Manage the Effect of the COVID-19 Pandemic |  |
| SEC Memorandum Circular No. 36 Series of 2020 | 22 December 2020 | 2020 Compliance Officer’s Certification |  |
| SEC Memorandum Circular No. 35 Series of 2020 | 28 December 2020 | Financial Reporting Relief in light of Covid-19 Pandemic |  |
| SEC Notice Series of 2020 dated 28 December 2020 | 28 December 2020 | Submission of email and cellular phones deadline |  |
| SEC Notice Series of 2021 | 8 January 2021 | Payment Facilities Schedule |  |
| SEC Notice Series of 2021 | 13 January 2021 | Notice to Retain Corporate Term |  |

**DISCUSSION**

**Bureau of Internal Revenue (BIR) Issuances**

1. **REVENUE REGULATIONS**

**REGULATIONS NO. 34-2020 (December 18, 2020) was issued to streamline the guidelines and procedures prescribed by RR No. 19-2020 for the submission of BIR Form No. 1709 (RPT Form), Transfer Pricing (TP) Documentation and other supporting documents by providing safe harbors and materiality thresholds.**

* The following are required to file and submit the new RPT Form (simplified version in lieu of the old form), together with the Annual Income Tax Return (AITR):

1. Large Taxpayers
2. Taxpayers enjoying tax incentives, i.e. Board of Investments (BOI)-registered and economic zone enterprises, those enjoying Income Tax Holiday (ITH) or subject to preferential income tax rate
3. Taxpayers reporting net losses for the current taxable year and the immediately preceding two (2) consecutive taxable years
4. A related party, as defined in RR No. 19-2020, which has transactions with (a), (b) or (c).  For this purpose, key management personnel (KMP), as defined under Section 3(7) of RR No. 19-2020, shall no longer be required to file and submit the RPT Form, nor shall there be any requirement to report any transaction between the KMP and the reporting entity/parent company of the latter in the RPT Form.

* The RPT Form shall also be attached to short period returns required to be filed under existing laws or regulations starting 2021 and subsequent years.
* The RPT Form now requires a taxpayer to confirm if it has prepared a TP Documentation that is compliant with the documentation requirements of RR No. 2-2013 or the TP Regulations.
* Mandatory preparation and submission of TP Documentation for the above taxpayers who meet the following materiality thresholds:

1. Annual gross sales/revenue for the subject taxable period exceeding One Hundred Fifty Million Pesos (P150,000,000) and the total amount of related party transactions with foreign and domestic related parties exceed Ninety Million Pesos (P90,000,000).

In computing the above threshold, the following items shall be included:

1. Amounts received and/or receivable from related parties or paid and/or payable to related parties during the taxable year but excluding compensation paid to KMP, dividends and branch profit remittances, and
2. Outstanding balances of loans and non-trade amounts due from/to all related parties.

RP transactions covered by an Advance Pricing Agreement (APA) need not be disclosed in the RPT Form but shall nonetheless be included in the computation of the amount of RP transactions following the prescribed formula, or

1. RP transactions meeting the following materiality threshold:
2. If involving sale of tangible goods in the aggregate amount exceeding Sixty Million Pesos (P60,000,000) within the taxable year
3. If involving service transaction, payment of interest, utilization of intangible goods or other related party transaction in the aggregate amount exceeding Fifteen Million Pesos (P15,000,000) within the taxable year, or
4. If TP documentation was required to be prepared during the immediately preceding taxable period for exceeding either (a) or (b) above.

* The TP Documentation and other supporting documents as set out in Section 6 of RR No. 19-2020 shall no longer be attached to the RPT Form, but shall be submitted within thirty (30) calendar days upon receipt of request by the Commission or his/her duly authorized representative, pursuant to a duly issued Letter of Authority covering all internal revenue taxes, subject to non-extendible period of thirty (30) calendar days based on meritorious grounds.
* Taxpayers who are not required to file and submit the RPT Form as enumerated above are required to disclose in the Notes to the Financial Statements that they are not covered by the requirements and procedures for RP transactions provided under this RR, in addition to the requirements provided under RR No. 21-2002, as amended by RR No. 15-2010.
* Any violation of the provisions of this issuance shall be subject to penalties provided in Sections 250, 266, and other relevant provisions of the NIRC, as amended.
* This RR shall take effect immediately following its publication in a newspaper of general circulation. (Editor’s Note: RR No. 34-2020 was published on 23 December 2020 in The Philippine Star)
* The pertinent provisions of RR No. 19-2020, its clarifying Revenue Memorandum Circular No. 76-2020 and other relevant issuances that are inconsistent herewith are repealed, amended or modified accordingly.

1. **REVENUE MEMORANDUM CIRCULARS**

**REVENUE MEMORANDUM CIRCULAR NO. 138-2020 (December 23, 2020) issued on December 23, 2020 - Clarifying Revenue Regulations No. 25-2020 on the availment of Net Operating Loss Carry-over (NOLCO) for taxpayers adopting fiscal year**

* In September 30, 2020, Revenue Regulations No. 25-2020 was issued to implement Section 4 (bbbb) of Republic Act No. 11494 or the "Bayanihan to Recover as One Act" relative to the Net Operating Loss Carry-over (NOLCO) incurred by businesses for taxable years 2020 and 2021. Based on the said regulations, the business or enterprise which incurred net operating loss for taxable years 2020 and 2021 shall be allowed to carry over the same as a deduction from its gross income for the next five (5) consecutive taxable years immediately following the year of such loss.
* In the regulations, “fiscal year” means an accounting period of twelve (12) months ending on the last day of any month other than December. Taxable years 2020 and 2021 shall include all those corporations with fiscal years ending on or before June 30, 2021, and June 30, 2022, respectively.
* Revenue Memorandum Circular No. 138-2020 was issued to clarify the regulations and identify the fiscal years that are counted under taxable years 2020 and 2021. The following fiscal year ending on the stated months are counted as follows:

|  |  |
| --- | --- |
| **Taxable Year 2020** | **Taxable Year 2021** |
| FY ending July 31, 2020 | FY ending July 31, 2021 |
| FY ending August 31, 2020 | FY ending August 31, 2021 |
| FY ending September 30, 2020 | FY ending September 30, 2021 |
| FY ending October 31, 2020 | FY ending October 31, 2021 |
| FY ending November 30, 2020 | FY ending November 30, 2021 |
| FY ending January 31, 2021 | FY ending January 31, 2022 |
| FY ending February 28, 2021 | FY ending February 28, 2022 |
| FY ending March 31, 2021 | FY ending March 31, 2022 |
| FY ending April 30, 2021 | FY ending April 30, 2022 |
| FY ending May 31, 2021 | FY ending May 31, 2022 |
| FY ending June 30, 2021 | FY ending June 30, 2022 |

* The circular emphasizes that companies with fiscal years ending before July 31, 2020 and fiscal years ending after June 30, 2022 which incurred net operating loss are only allowed to carry over the loss as a deduction from its gross income for the next three (3) consecutive taxable years under Section 34 (D)(3) of the Tax Code, as amended.

**RMC No. 139-2020 issued on December 23, 2020**

*RMC No. 139-2020 prescribes the guidelines on the utilization of the 5% tax credit prescribed under the incentive provisions of Republic Act No. 9505 otherwise known as the Personal Equity and Retirement Account (PERA) Act of 2008*

|  |  |
| --- | --- |
| **Issues** | **Guidelines/Procedures** |
| Q1.  What document will evidence the 5% tax credit? | A1.   The name of the document is the PERA Tax Credit Certificate (PERA TCC) containing security features to ensure authenticity. |
| Q2.  Who shall request for the issuance of PERA TCC and to whom it shall be applied? | A2.   Qualified contributors shall directly request for the issuance of PERA TCC from the PERA Administrator to whom they have placed their contributions. In cases of employers who contribute a share to the account of their qualified employee, only the qualified employee can request for the issuance of PERA TCC. The PERA Administrator shall release the PERA TCC to the qualified contributors or their authorized representatives. |
| Q3.   What internal revenue taxes shall be paid by the qualified contributor using the PERA TCC? What BIR Forms shall be accomplished by a qualified contributor in filing the tax returns and payment of the applicable taxes? | A3.   The PERA TCC shall be applied against the internal revenue taxes and the BIR Forms to be accomplished shall depend on the source of income of the qualified contributor from which the savings or contributions to his or her account where derived from.  *(Kindly refer to the list of applicable BIR forms identified according to the source of income of the qualified contributor* as enumerated in the RMC.*)*    In case of changes in the contributor's source of income during the taxable year, the PERA TCC shall contain such restrictions prescribing the type of taxes upon which the said certificate shall be applied to, based on the contributor's status/classification as indicated in the annual report of the PERA Administrator. Accordingly, the applicable internal revenue taxes shall be paid and the corresponding BIR forms to be accomplished.    *(Kindly refer to the list of applicable BIR forms identified according to the status/classification of the qualified contributor.)* |
| Q4.  How will the qualified contributor accomplish the tax return using the PERA TCC? | A4.   The amount of the PERA TCC shall be indicated in the tax return as deduction from the tax due of the contributor. Specifically, there is a need to indicate the phrase "5% PERA TCC" and its corresponding amount in the boxes provided for in the line item of the tax return which states the phrase "Other Tax Credits/Payments (specify)" located immediately after the line item stating "Tax Due".    In case the amount of PERA TCC exceeds the tax due, net of the creditable taxes, the excess shall not be considered a refund but the same shall be eligible for the issuance of PERA TCC. |
| Q5. Where will the tax return be filed and the corresponding tax be paid? | A5.   The accomplished tax return shall be filed using the eBIRForm facility and the tax due, if any, shall be paid using the available modes of payment of the BIR. The duly received hard copies of the tax returns, together with copy/ies of the PERA TCC and the other prescribed attachments, shall be submitted to the Revenue District Office (RDO) where the contributor is duly registered, pursuant to the existing revenue guidelines and procedures. |
| Q6.  How can an employer utilize the PERA TCC in computing the withholding tax of the qualified contributor-employee? | A6.   Upon receipt of the PERA TCC from the PERA Administrator, the qualified contributor-employee shall submit the same to his or her employer. The employer shall apply the amount of the PERA TCC in the annual year-end adjustments for computing the net withholding tax due of the qualified contributor-employee.    If the total tax actually withheld and remitted to the BIR is more than the difference between the total tax due and the gross amount of PERA TCC, the excess shall be refunded to the qualified contributor-employee. However, if the gross amount of the PERA TCC shall exceed the total tax due, the excess shall be carried over and deducted from the withholding tax of the qualified contributor-employee in the next taxable year. On the other hand, the total amount actually withheld and remitted to the BIR 'shall be refunded by the employer to the qualified contributor-employee. |
| Q7.  What will the employer do with the PERA TCC submitted by the qualified contributor-employee? | A7.   The employer shall keep the submitted PERA TCC and produce the same when requested for inspection or verification by authorized BIR revenue personnel.    Further, the applicable details of the certificate shall be indicated in the column provided for the purpose in the prescribed Annual Alphabetical List of Employees, including the Certificate of Compensation Payment/Tax Withheld for Compensation Payment With or Without Tax Withheld (BIR Form No. 2316) of the qualified contributor-employee. |
| Q8.  How will the employer’s contribution to the share in the qualified contributor-employee be declared as deduction from its income? | A8.   For employers with share in its employee's PERA contribution, the employer's share not exceeding the total amount actually contributed may be reflected in the income tax return as deductible expense from its gross sales. For uniformity, the phrase "Share in Qualified Employee's PERA Contribution" shall be used as the account name. |
| Q9. What shall be the liabilities of a qualified contributor who shall use a spurious PERA TCC for the payment of his or her internal revenue taxes? | A9.   Without prejudice to the filing of appropriate criminal charges, the qualified contributor who uses spurious PERA TCC shall be liable to pay the amount utilized with 50% penalty for fraud and 12% interest per annum. |
| Q10.How shall the BIR validate the availments of PERA TCCs? | A10. For purposes of validating the availments of PERA TCCs, the Chief, Audit Information Tax Incentives & Exemption Division (AITIED) shall transmit to the concerned Office in the Information Systems Group (ISG) a list of taxpayers who are qualified contributors who have been issued PERA TCCs. The concerned ISG Office shall generate a report containing, among others, the qualified contributors who have deducted the amounts of PERA TCCs in their tax returns, including those deductions but without the corresponding information from the AITIED list. Copies of this report shall be transmitted to Chief, AITIED and the Chief, Collection Section of the concerned Revenue District Office.  The Collection Section of the RDO shall perform the following procedures:     * 1. Collate the tax returns and attachments filed by the qualified contributors under their jurisdiction.      * 1. Validate the correctness of the computations in the tax returns.      * 1. Based on the list received from the concerned ISG Office, validate the PERA TCC(s) attached to the tax return.      * 1. Encode in the ePERA system the validated amount of utilized PERA TCC within ten (10) days from the date of the tax return was filed in the eBIRForm facility.   In cases of non-availability of the online filing facility and the manual filing of tax returns should be made with the RDO (e.g., ONETT transactions), the validated amount of utilized PERA TCC shall be encoded immediately upon receipt of the tax return.     * 1. Send written notice to the qualified contributors for the collection of the tax deficiency and penalties, if any, by reason of wrongful computation of taxes or by reason of the use of spurious PERA TCC. |

**REVENUE MEMORANDUM CIRCULAR 1-2021 (dated December 17, 2021 issued on January 5, 2021) Consolidated Price of Sugar Millsite for the Month of November 2020**

While the Sugar Regulatory (Administration)-issued weekly Price of Sugar Millsite reflects the comparative prices between the previous and current years, the consolidated schedule (Annex “A”) on the weekly issuance of Operations Memoranda (OM), more particularly OM Nos. 79-2020, 81-2020, 88-2020 and 90-2020 contains only that of the current year for purposes of imposing the one percent (1%) expanded withholding tax on sugar prescribed under the provisions of RR No. 2-98, as amended by RR No. 11-2014.

**REVENUE MEMORANDUM CIRCULAR 2-2021 (issued on January 8, 2021) Guidelines Relative to the Postponement of Effectivity of Enlisting/Delisting of Large Taxpayers**

Bases: RMC No. 112-2020

* The transactions of affected enlisted taxpayers shall remain to be handled by the RDO where they are registered prior to July 1, 2020.
* The transactions of delisted taxpayers will now be handled by the RDO having jurisdiction over the said taxpayers.

**RMC No. 4-2021 (issued on January 8, 2021) Guidelines in the Filing of Tax Returns Including the Required Attachments and Payment of Internal Revenue Taxes**

* Taxpayers required to use or voluntarily opt to use the eBIR Forms shall file the tax returns electronically and pay the corresponding taxes due thereon through Authorized Agent Banks (AABs), Revenue Collection Officers (RCO) under the RDO where the taxpayer is registered through the Mobile Revenue Collection Officer System (MRCOS) in areas where there are no AABs, or other Electronic Payment modes allowed.
  + Taxpayers who shall avail of the electronic payment (ePay) may access the allowed ePay facilities by accessing the BIR website.
  + Taxpayers who will avail of Mobile Payment (GCash or PayMaya) shall download and install the GCash or PayMaya mobile application from the Google Play Store or Apple App Store or Huawei AppGallery.
  + Taxpayers shall bear any convenience fee that may be charged by banks and/or mobile companies for using their online payment facilities.
* Taxpayers required to use or voluntarily opt to enroll in the eFPS shall file the return electronically and pay the corresponding taxes due thereon through the eFPS-AABs where they are enrolled.
  + Taxpayers who are not yet enrolled in eFPS and have not yet enrolled in any eFPS-AAB shall use the eBIRForms for e-filing and pay the corresponding taxes through any payment facilities available.
  + In case of newly created tax returns that are not yet available in the eFPS facility but already available in the eBIR Forms, taxpayers shall file the said returns using the eBIR Forms and pay through any payment channel enumerated in the first bullet.
* Taxpayers who are otherwise not required to file electronically (either through the eBIR Forms or the eFPS), nor voluntarily opt to do so, shall use the electronic or computer-generated returns or photocopied returns in its original format and in Folio/Legal size bond paper. The corresponding taxes due thereon shall be paid through the AABs under the jurisdiction of the concerned RDO where the taxpayer is registered or RCOs under the RDO where the taxpayer is registered through the MRCOS in areas where there are no AABs.
* Taxpayers who are not mandated to use the eFPS and eBIR Forms Facility are encouraged to electronically file their returns through the eBIR Forms Facility and pay the corresponding taxes due thereon through any payment channels mentioned in the first bullet.
* For submission of attachments, electronically filed and/or paid returns using eBIR Forms or eFPS without any attachment required, taxpayers need not submit printed copy of e-filed tax returns to the office under the Large Taxpayers Service/Revenue District Offices. Taxpayers with required attachments to their duly filed and paid tax returns shall be submitted through [esubmission@bir.gov.ph](mailto:esubmission@bir.gov.ph).
  + For attachments to Annual/Quarterly ITRs duly filed electronically, concerned taxpayers may submit via Electronic Audited Financial Statement (eAFS) system the claimed tax credit certificates in lieu of attaching the physical copy of their claimed tax credits in the Quarterly ITRs. The email confirmation received from eAFS shall serve as proof of submission of said attachments. Other submissions made through SAWT shall continue to observe procedures per existing regulations.
  + Submission and storage of original copies of attachments shall observe the provisions of relevant issuances.
* Filing of “No Payment Returns” by non-eFPS users shall be made electronically through the eBIR Forms facility. Taxpayers who filed “No Payment Returns” electronically shall likewise be required to file for their subsequent tax filings electronically, regardless of payments.
* Senior Citizen (SC) or Persons with Disabilities (PWDs) filing for their own returns, employees deriving purely compensation income from two or more employers, concurrently or successively, and employees qualified for substituted filing can manually file their “No Payment Returns” with the RDO where they are registered using the electronic or computer-generated returns or photocopied returns in its original format and in Legal/Folio size bond paper
* In general, taxpayers who are required to file electronically but filed and paid manually shall be liable for violation tantamount to “Wrong Venue” filing
* In case of unavailability of eFPS covered by a duly released advisory, taxpayers shall electronically file through the eBIR Forms facility and pay the corresponding tax due thereon through the payment facilities provided for in the first bullet above. However, in case of unavailability of both eFPS and eBIR Forms facility through a duly released advisory, taxpayers shall observe the procedures in manual filing and payment of taxes as provided in the third bullet above.

**RMC No. 5-2021 (issued on January 8, 2021) Simplified Policies on the Application for Registration of Computerized Accounting System (CAS), Computerized Books of Accounts (CBA) and/or its Components, including the Electronic Storage System (ESS), Middleware and Other Similar Systems**

* All taxpayers intending to use CAS, CBA and/or its components, including the ESS, Middleware and other similar systems shall not be required to secure Permit to Use (PTU), instead, shall be registered subject to the following policies:
  + Register the “System” to the Revenue District Office (RDO) where the taxpayer is registered. BIR Form No. 1900 (Application for Authority to Use Computerized Accounting System or Components thereof/Loose-Leaf Books of Accounts) shall no longer be required for the submission of application for registration of the “System”.
  + When discovered to have violated the standards during post-evaluation or audit, the taxpayer-user shall be subject to penalties provided under RMO No. 7-2015 and other existing revenue issuances.
  + Upon submission of complete documentary requirements, an Acknowledgement Certificate (AC) shall be issued within 3 working days from receipt of the complete documents by the RDO where the taxpayer-user of the system is registered. Hence, Permit to Use CAS, CBA and/or Components shall no longer be required for the use and registration of the “System” upon approval of this Circular.
  + System demonstration or pre-evaluation shall not be required prior to the use of the “System”. However, post-evaluation shall be conducted by the concerned RDO to determine compliance of the “System” registered with the Bureau.
  + All taxpayers with existing PTU CAS, CBA and/or its Components shall NOT be required to apply for registration. The approved PTU previously issued by the Bureau shall still be valid subject to certain exceptions.
  + Taxpayer must submit a new application for registration in case of major system enhancement. In case a taxpayer is found to have used an enhanced/upgraded system/software/application without registering with BIR prior to the use of such enhanced “system”, the PTU originally issued shall be automatically revoked or registration shall have no effect from the time the enhanced/upgraded system/software/application is adopted by the taxpayer and may still be subjected to applicable penalty under existing revenue issuances.
  + In case of any minor system enhancement, the taxpayer must submit a written notification to their registered RDO/LT Office stating the specific minor enhancements on the system.

**RMC 6-2021 issued on January 8, 2021-** Prescribes the use of therevised BIR Form No. 2200-M [Excise Tax Return for Mineral Products] January 2018 (ENCS), which is already available in the BIR website. However, the form is 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 BIR Form No. 2200-M in eFPS and in Offline eBIRForms Package v7.7 in filing and paying the Excise Tax due. Once the return becomes available in the eFPS and in the Offline eBIRForms Package, a separate revenue issuance shall be released to announce its availability.

Manual filers shall download the PDF version of the form, print the form and completely fill out the applicable fields, otherwise penalties under Sec. 250 of the Tax Code, as amended, shall be imposed. Payment of the due thereon, if any, shall be made thru:

1. 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.

1. Online Payment

* Thru GCash Mobile Payment; or
* Landbank of the Philippines (LBP) Link Biz Portal, for taxpayers who have ATM account with LBP and/or holders of Bancnet ATM/Debit Card; or
* DBP Tax Online, for holders of VISA/MasterCard Credit Card and/or Bancnet ATM/Debit Card; 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; or
* Paymaya Mobile Payment.

**REVENUE MEMORANDUM CIRCULAR NO. 7-2021 (issued on January 8, 2021)** **Availability of the Alphalist Data Entry and Validation Module (Version 7.0) and its Updated File Structures, Standard File Naming Convention, and JobAids**

* The enhanced version now includes the alphalists for the following:
  + BIR Form Nos. 1600-PT, 1600- V.T, 1604-C, 1604-F, 1604-E;
  + The new BIR Form No. 1621 (Quarterly Remittance Return of Tax Withheld on the Amount Withdrawn from Decedent's Deposit Account)
* In addition, the generation process of the annual alphalists for 1604-E and 1604-F has been simplified under the Quarterly Alphalists of Payees, thus eliminating the need of manual re-encoding the information.
* In this connection, the revised file structures of the alphalists enumerated below, the revised standard file naming convention, and the revised job aids are contained in Annexes “A". "B", and "C" of this Circular

**REVENUE MEMORANDUM CIRCULAR NO. 8-2021 (issued on January 8, 2021)** circularizes Republic Act (RA) No. 11467 which provided, among others, the VAT exemption of sale or importation of prescription drugs and medicines for diabetes, high cholesterol, and hypertension, and the increase in excise taxes on alcohol products, tobacco products and e-cigarettes. The effectivity is on January 27, 2021.

1. **REVENUE MEMORANDUM ORDER (“RMO”)**

**REVENUE MEMORANDUM ORDER NO. 47-2020 (January 8, 2021)** **Consolidated and Updated Guidelines and Procedures on the Processing of Claims for Value-Added Tax Credit/ Refund Except Those Under the Authority and Jurisdiction of the Legal Group**

* All offices concerned shall prioritize the processing of VAT credit/refund claims filed over other claims not requiring the immediate issuance of Tax Credit Certificates (TCCs)/refund checks.
* The processing offices authorized to receive “Application for VAT Credit/Refund Claims” (BIR Form No. 1914) are as follows:
  + The VAT Credit Audit Division (VCAD) in the National Office shall receive claims of direct exporters regardless of the percentage of export sales to total sales and whose claims are anchored under Section 112 (A) of the Tax Code, as amended with the exception of the claims with a mix of VAT zero-rated sales emanating from sales of power or fuel from renewable energy sources pursuant to Section 108(B)(7) of the Tax Code, as amended;
  + The Revenue District Office (RDO)/Large Taxpayers Audit Division (LTAD) under the Large Taxpayers Service (LTS) where the taxpayer is registered having jurisdiction over the taxpayer-claimant shall receive claims of taxpayers engaged in other VAT zero-rated taxpayers, other than direct exporters, such as renewable energy developers pursuant to Section 108(B)(7) of the Tax Code, as amended, and those with indirect exports classified as effectively VAT zero-rated sales, pursuant to Section 112 (A) of the Tax Code, as amended, and in Section II(2)(a) of this Order;
  + The RDO/LTAD having jurisdiction over the taxpayer-claimant shall receive claims of taxpayers whose VAT registration has been cancelled and those claims for recovery of erroneously or illegally assessed or collected VAT pursuant to Sections 112 (B) and 229, respectively, of the Tax Code, as amended.
* Only applications with complete documentary requirements, as enumerated in the Checklist of Requirements (Annexes A.1, A.2 or A.3), whichever is applicable, and which are filed within the prescribed period, shall be received by the authorized processing office.
* One of the documentary requirements is the Delinquency Verification Certificate (DVC) prescribed in Revenue Memorandum Circular No. 64-2019 (Annex “B”) showing that the taxpayer has no outstanding (final and executory) tax liabilities as defined under Section II (1) of Revenue Memorandum Order No. 11-2014. Hence, the application shall not be accepted if such tax liabilities appear on the DVC, except for outstanding VAT liability which may be deducted from the approved BIR portion of the claim.

Applications where the DVC shows delinquent accounts other than VAT shall not be received. The claimant has to settle first the tax liabilities so that a DVC with no tax liabilities can be issued by the concerned DVC-issuing office. If the delinquent accounts pertain to VAT liability and the amount is lower than the amount of claim on local purchases, the application shall be accepted.

For claims where the outstanding VAT liability has been deducted from the claim, the processing office shall prepare a list of taxpayers whose claims for tax refunds were deducted with outstanding delinquent tax liabilities therefrom and furnish the same to the Revenue Accounting Division (RAD) for claims filed in the BIR National Office or Finance Division for claims filed in the Regional Offices together with the copy of the approved report.

Even if the outstanding liability is VAT but the claim is purely from importations or the claim includes input VAT on importations, and the BIR portion thereof is not enough to cover payment for the VAT liability, the application shall not be accepted unless there is proof that the liability has been paid in full by the taxpayer.

* Tax Verification Notices (TVNs) shall be issued by the head of the processing office to authorize the verification of VAT credit refund claims filed under Sections 112 and Section 229 of the Tax Code, as amended. The TVNs shall still be manually issued until such time that the Tax Verification Notice Monitoring System (TVNMS)/Case Management System (CMS) are fully operational. The received application shall be encoded in the Tax Credit Refund module under the Internal Revenue Integrated System (IRIS) once the said system is deployed to concerned BIR offices.
* Pursuant to Section 112 (C) of the Tax Code, as amended, the time frame to grant claims for VAT refund is ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application. Thus, the start of the 90-day period is from the actual filing of the application with complete documents duly received by the processing office.
* The claims shall be processed based on submitted documents for verification by the assigned Revenue Officer (RO)/Group Supervisor (GS). This process shall not be construed as an audit/investigation; hence, the claimant may be issued subsequently an electronic Letter of Authority (LA) by an authorized office for that purpose. However, the books of accounts and accounting records that may have relevance to the claim of the taxpayer may be examined and verified upon request of the assigned RO.
* The reports of verification from the processing offices shall be forwarded to the following offices for review prior to approval by the approving official:
  + Tax Audit Review Division (TARD) for dockets from the VCAD
  + Regional Assessment Division for dockets from the RDO
  + Office of the concerned Head Revenue Executive Assistant of the LTS for dockets from the LTAD
* The following are the revenue officials authorized to approve/disapprove the claims:

|  |  |  |
| --- | --- | --- |
| **Processing Office** | **Amount of Claim** | **Approving Revenue Official** |
| VCAD | Not more than ₱ 50 Million  More than ₱ 50 Million up to ₱ 150 Million  More than ₱ 150 Million | Assistant Commissioner (ACIR)  Assessment Service (AS)  Deputy Commissioner (DCIR) – Operations Group (OG)  Commissioner (CIR) |
| LTAD under LTS | Regardless of amount | ACIR-LTS |
| RDO | Regardless of amount | Regional Director |

* The result of the verification of the claim, whether approval or denial, shall be communicated to the taxpayer-claimant, which shall be signed by the authorized revenue official and shall be sent by the originating processing office.
* Manually issued TCCs shall be converted by the concerned office to the Tax Credit Refund System in the ITS until any subsequent development upon the roll-out of the Internal Revenue Integrated System (IRIS).

**RMO No. 1-2021 (issued on January 4, 2021) Revised Office Audit Threshold for Cases to be Audited/Investigated by the Office Audit Section (OAS) of the Assessment Division in the Regional Offices**

* The threshold for the issuance of electronic Letters of Authority (eLAs) to cover the audit/investigation of taxpayers under the jurisdiction of the Regional Office shall be as follows:

| **RR** | **RDOs** | **Gross Sales/Receipts** |
| --- | --- | --- |
| 1 – Calasiao | All RDOs | Ten Million Pesos  (P 10,000,000.00) and below |
| 2 – Cordillera Administrative Region | 8 – Baguio City  9 – La Trinidad, Benguet | Five Million Pesos  (P 5,000,000.00) and below |
| 7 – Bangued, Abra  10 – Bontoc, Mt. Province  11 – Tabuk City, Kalinga  12 – Lagawe, Ifugao | Three Million Pesos  (P 3,000,000.00) and below |
| 3 – Tuguegarao City | 13 – Tuguegarao, Cagayan  15 – Naguilan, Isabela | P 5,000,000.00 and below |
| 14 – Bayombong, Nueva Viscaya  16 – Cabarroguis, Quirino | P 3,000,000.00 and below |
| 4 – San Fernando, Pampanga | 21A – North Pampanga  21B – South Pampanga | P 10,000,000.00 and below |
| 17A – Tarlac, Tarlac City  17B – Paniqui, Tarlac  18 – Olongapo City  19 – Subic Bay Freeport Zone  20 – Balanga, Bataan  21C - Clark Freeport Zone  22 – Baler, Aurora  23A – North Nueva Ecija  23B – South Nueva Ecija | P 5,000,000.00 and below |
| 5 – Caloocan City | All RDOs | P 10,000,000.00 and below |
| 6 – Manila | 29 – Tondo – San Nicolas  30 – Binondo  31 – Sta. Cruz  32 – Quiapo-Sampaloc-Sta. Mesa-San Miguel  33 – Intramuros-Ermita-Malate  34 – Paco-Pandacan-Sta. Ana-San Andres | P 10,000,000.00 and below |
| 36 – Puerto Princesa | P 3,000,000.00 and below |
| 7A – Quezon City | All RDOs | Twenty Million Pesos  (P 20,000,000.00) and below |
| 7B – East NCR | All RDOs | P 20,000,000.00 and below |
| 8A – Makati City | All RDOs | P 20,000,000.00 and below |
| 8B – South NCR | All RDOs | P 20,000,000.00 and below |
| 9A – CaBaMiRo | 54A – Trece Martirez City, East Cavite  54B – Kawit, West Cavite  58 – Batangas City  59 – Lipa City | P 10,000,000.00 and below |
| 35 – Romblon  37 – San Jose, Occidental Mindoro  63 – Calapan, Oriental Mindoro | P 5,000,000.00 and below |
| 9B – LaQueMar | 55 – San Pablo City  56 – Calamba, Laguna  57 – Binan, Laguna  60 – Lucena City | P 10,000,000.00 and below |
| 61 – Gumaca, Quezon  62 – Boac, Marinduque | P 5,000,000.00 and below |
| 10 – Legazpi City | 64 – Talisay, Camarines Norte  65 – Naga City  66 – Iriga City  67 – Legazpi City, Albay  68 – Sorsogon, Sorsogon | P 5,000,000.00 and below |
| 69 – Virac, Catanduanes  70 – Masbate, Masbate | P 3,000,000.00 and below |
| 11 – Iloilo City | 74 – Iloilo City | P 10,000,000.00 and below |
| 71 – Kalibo, Aklan  72 – Roxas City  73 – San Jose, Antique  75 – Zarraga, Iloilo City | P 5,000,000.00 and below |
| 12 – Bacolod City | 77 – Bacolod City | P 10,000,000.00 and below |
| 76 – Victorias City, Negros Occidental  78 – Binalbagan, Negros Occidental  79 – Dumaguete City | P 5,000,000.00 and below |
| 13 – Cebu City | 80 – Mandaue City  81 – Cebu City North  82 – Cebu City South | P 10,000,000.00 and below |
| 83 – Talisay, Cebu  84 – Tagbilaran City | P 5,000,000.00 and below |
| 14 – Eastern Visayas Region | 88 – Tacloban City | P 5,000,000.00 and below |
| 85 – Catarman, Northern Samar  86 – Borongan, Eastern Samar  87 – Calbayog City, Samar  89 – Ormoc City  90 – Maasin, Southern Leyte | P 3,000,000.00 and below |
| 15 – Zamboanga City | 91 – Dipolog City  93A – Zamboanga City, Zamboanga del Sur | P 5,000,000.00 and below |
| 92 – Pagadian City, Zamboanga del Sur  93B – Zamboanga Sibugay  94 – Isabela, Basilan  95 – Jolo, Sulu  96 – Bongao, Tawi-Tawi | P 3,000,000.00 and below |
| 16 – Cagayan de Oro City | 98 – Cagayan de Oro City | P 10,000,000.00 and below |
| 97 – Gingoog City  99 – Malaybalay, Bukidnon  100 – Ozamis City  101 – Iligan City  102 – Marawi City | P 5,000,000.00 and below |
| 17 – Butuan City | 103 – Butuan City | P 5,000,000.00 and below |
| 104 – Bayugan, Agusan del Sur  105 – Surigao City  106 – Tandag, Surigao del Sur | P 3,000,000.00 and below |
| 18 – Koronadal City | 107 – Cotabato City  108 – Kidapawan, North Cotabato  109 – Tacurong, Sultan Kudarat | P 3,000,000.00 and below |
| 110 – General Santos City  111 – Koronadal, South Cotabato | P 5,000,000.00 and below |
| 19 – Davao City | 112 – Tagum, Davao Del Norte  114 – Mati, Davao Oriental  115 – Digos, Davao del Sur | P 5,000,000.00 and below |
| 113A – West Davao City  113B – East Davao City | P 10,000,000.00 and below |

Supreme Court Cases

**The City of Makati vs. The Municipality of Bakun and Luzon Hydro Corporation**

Supreme Court (First Division) G.R. No. 225226

July 7, 2020

The SC held that an administrative office is not the same as a project office for purposes of applying the sales allocation rules for local business tax purposes. As such, the city or municipality where an administrative office is located is not entitled to a portion of the local business tax.

**Commissioner of Internal Revenue vs. Federation of Golf Clubs of the Philippines, Inc.**

Supreme Court (First Division) G.R. No. 226449

July 28, 2020

The SC held that membership fees or association dues collected by recreational clubs are not subject to income tax since these are considered as capital and not income. Neither are these considered as gross revenues for VAT purposes since recreational clubs are not selling services to its members.

**CTA Cases**

**Classic Fine Foods Philippines, Inc. vs. Commissioner of Internal Revenue**

CTA Case No. 9391

17 December 2020

The CTA held that deductions for income tax purposes partake of the nature of tax exemptions and are strictly construed against the taxpayer, who must prove by convincing evidence that it is entitled to the deduction claimed.

**Service Resources, Inc. vs. Commissioner of Internal Revenue**

CTA No. 9978

04 January 2021

The CTA reiterated the following requirements for entitlement of a corporate taxpayer to a refund or issuance of TCC involving excess withholding taxes: (1) The claim for refund was filed within the two-year reglementary period pursuant to Section 229 of the Tax Cod; (2) It is shown on the ITR that the income payment received is being declared part of the taxpayer's gross income; and (3) The fact of withholding is established by a copy of the withholding tax statement, duly issued by the payor to the payee, showing the amount paid and income tax withheld from that amount.

**Linde Philippines Inc. vs. Commissioner of Internal Revenue**

CTA En Banc No. 2194

5 January 2021

The CTA held that the authority of a revenue officer to conduct the audit investigation goes into the validity of an assessment. Stated differently, an assessment arising from the conduct of audit and examination of a taxpayer's books of accounts and other accounting records by a revenue officer who is not duly authorized to do so is a complete nullity. A void assessment bears no valid fruit. It is only the CIR or his duly authorized representatives who can authorize the audit examination of taxpayers for purposes of assessment of any deficiency taxes. Stated differently, unless duly authorized by the CIR himself or by his duly authorized representatives, an examination of the taxpayer by a revenue officer cannot be validly made.

To be entitled to a refund of erroneously or illegally collected tax, the following requisites must be satisfied: (a)That there must be an erroneous or illegal collection of tax, or a penalty collected without authority, or sum excessively or wrongfully collected; (b)That the claim for refund has been duly filed with the Commissioner, within two (2) years after the payment of tax or penalty; and (c) That the suit or proceeding is instituted with this Court within two (2) years from the date of payment of the tax or penalty.

**Dizon Farms Produce, Inc. vs. Commissioner of Internal Revenue**

CTA Case No. 9711

05 January 2021

The CTA held that Section 3 of Revenue Regulations (RR) No. 12 – 99, as amended by RR 18 – 2013 expressly provides that if a taxpayer, within fifteen (15) days from the date of receipt of the Preliminary Assessment Notice, responds that he/it disagrees with the findings of deficiency tax or taxes, a Formal Letter of Demand / Final Assessment Notice shall be issued within fifteen (15) days from filing/submission of the taxpayer’s response.

**Philex Mining Corporation vs. Commissioner of Internal Revenue**

CTA Case No. 10037

5 January 2021

The CTA held that the party claiming for Input VAT credit/refund must not only prove entitlement to the claim but also compliance with all the documentary and evidentiary requirements. Input VAT claimed for credit/refund must not be supported by mere photocopies.

**Level Up, Inc. vs. Commissioner of Internal Revenue**

CTA En Banc No. 2069 (CTA Case No. 9424)

6 January 2021

The CTA held that the taxpayer may only be assessed in the succeeding quarter the excess input tax has been carried forward. BIR cannot disallow excess input tax carried forward to succeeding period in the current period of assessment because it is beyond the scope of the assessment of the BIR.

Summary List of Purchases (SLP) alone will not suffice to substantiate/establish existence of purchase of goods or services.

**People of the Philippines vs. Ulysses Palconet Consebido**

CTA En Banc Criminal Case No. 069 (CTA Criminal Case No. O-701)

6 January 2021

The CTA held that both the date of discovery and the institution of judicial proceedings for investigation and punishment are significant events in the prosecution of any infraction of the Tax Code. It was observed that as long as the period from the discovery and institution of judicial proceedings for its investigation and punishment up to the filing of the Information in court does not exceed five (5) years, then the government’s right to file a criminal action is not yet prescribed.

**The Municipal Treasurer of the Municipality of Claver vs. Platinum Group Metals Corporation**

CTA En Banc No. 2157 (CTA AC No. 182)

7 January 2021

The CTA held that in order for the tax base used in assessing Local Business Tax to be in accordance with the Local Government Code, the same should be based on gross receipts or the amount of consideration actually or constructively received. The consideration should be under the control of respondent without imposed restrictions as to its use. A Notice of Assessment issued upon a tax base not in accordance with the mandates of law shall render it void.

**Red Ribbon Bakeshop, Inc. vs. Commissioner of Internal Revenue**

CTA Case No. 9121

7 January 2021

The CTA held that the Revenue Officer (RO) conducting the audit investigation must be named in the Letter of Authority (LOA). In case the RO is changed, a new LOA must be issued. The issuance of a Memorandum of Assignment (MOA) is not an acceptable substitute for a LOA.

**Prime Investment Korea Inc. vs. Commissioner of Internal Revenue**

CTA En Banc No. 2129

8 January 2021

The CTA held that income from junket operations is classified as “other related services” and is subject to corporate income tax.

**People of the Philippines vs. Robiegie Corporation**

CTA En Banc Case No. 2188

January 8, 2021

The CTA held that all audit investigations must be conducted by a designated Revenue Officer (RO), duly authorized to perform audit and examination of taxpayer's books and accounting records, pursuant to a Letter of Authority (LOA). In case of re-assignment or transfer of cases to another RO, it is mandatory that a new LOA shall be issued in favor of the latter.

**Ammex I-Support Corporation vs. Commissioner of Internal Revenue**

CTA Case No. 9906

January 8, 2021

The CTA held that certain essential elements must be present for a sale or supply of services to be subject to the VAT zero-rate, namely, (a) the services rendered should be other than processing, manufacturing, or repacking of goods; (b) the recipient of the services is a foreign corporation and the said corporation is doing business outside the Philippines or is a nonresident person not engaged in business who is outside the Philippines when the services were performed; (c) the service must be performed in the Philippines by a VAT-registered person; and (d) the payment for such services should be in acceptable foreign currency accounted for in accordance with the BSP rules.

**Halliburton Worldwide Limited – Philippine Branch vs. Commissioner of Internal Revenue**

CTA Case No. 9670

11 January 2021

The CTA held that for a sale transaction to a Renewable Energy (RE) Developer to qualify for VAT zero-rating under Republic Act (RA) No. 9513 and its Implementing Rules and Regulations (IRR), the taxpayer must be able to present three (3) documents – the Department of Energy (DOE) Certificate of Registration, the Registration with the Board of Investments (BOI), and the DOE Certificate of Endorsement.

**Four Seas Trading Corporation vs. Commissioner of Internal Revenue**

CTA Case No. 9915

11 January 2021

The CTA held that tax assessments issued in violation of the due process rights of a taxpayer are null and void.

**Negros Sugar Farmers Multi-Purpose Cooperative vs. Commissioner of Internal Revenue**

CTA Case No. 9810

11 January 2021

The CTA held that a Motion for Reconsideration (MR), couched as “Petition to Set Aside/Recall Final Decision”, of the decision of the Commissioner of Internal Revenue’s (CIR) authorized representative, filed before the latter, will not toll the running of the 30-day period to appeal such representative’s decision to the Court of Tax Appeals (CTA) or the CIR himself.

**SMCC Philippines, Inc. vs. Commissioner of Internal Revenue**

CTA Case No. 9082

12 January 2021

The CTA held that 120+30-day periods to appeal the decision or inaction of the Bureau of Internal Revenue (BIR) in a VAT refund application filed before the effectivity of the Tax Reform for Acceleration and Inclusion (TRAIN) Act are both mandatory and jurisdictional. Failure to comply with such periods is a ground for the denial of the VAT refund application.

Bureau of Customs Issuances

**Customs Administrative Order (CAO) No. 14-2020**

*CAO No. 14-2020 establishes the administrative and operational guidelines for the accreditation and supervision of VASP pursuant to Section 109, Chapter 2, Title I, Sections 1200, Chapter 1 Title XII, Section 1513, Title XV and other relevant provisions of the Customs Modernization and Tariff Act (CMTA).*

* The CAO covers the accreditation and supervision of the VASP.
* VASP shall refer to any BOC-accredited Information and Communications Technology (ICT) company who may provide the services enumerated under this CAO and collect transaction fees as authorized by the BOC.
* VASP services include, but are not limited to, the following:
  + Provide technical solutions to supplement the capabilities of the BOC e-Customs systems;
  + Provide available VASP technical assistance nationwide;
  + Provide support to the BOC in prosecuting violations of tariff and customs laws;
  + Receive and transmit electronic data to concerned BOC offices and stakeholders;
  + Act on the responses and messages returned by the BOC gateway/system;
  + Other services as may defined and determined by the BOC Commissioner.
* The accreditation of VASP/s shall be valid for a period of 3 years.
* The accreditation may be renewed after due evaluation of the quality of their performance as measured by the SLA and continued compliance with the eligibility requirements.
  + The validity of the renewed accreditation shall be a period of 1 year.
  + The application for renewal shall be filed at least 1 month prior to the expiration of the original period.
  + if the BOC fails to act thereon, the accreditation shall automatically be extended on a daily basis.
* The BOC may, subject to prior notice, pre-terminate the accreditation of the VASP for any of the following grounds:
  + Violation of the provisions of CAO No. 14-2020 and related rules and regulations;
  + Violation of the CMTA, Data Privacy Act, Philippine Competition Act and other related laws;
  + Actions inimical to the security and integrity of BOC operations; and
  + Other grounds as provided under this CAO or as determined by the BOC.
* For purposes of customs procedure, electronic data transmitted by the VASPs, such as documents, permits, licenses or certificates shall be acceptable and shall have legal effect, validity or enforceability as any other document or legal writing. Upon compliance by the VASP of the requirements, the BOC shall recognize the authenticity and reliability of the electronic documents by transmitting the acceptance or approval of the same in the form of electronic data messages or electronic documents.
* CAO No. 14-2020 shall take effect after 30 days following the completion of its publication at the Official Gazette or a newspaper of general circulation.

*(Editor’s Note: CAO No. 14-2020 was published on December 23, 2020 in The Manila Times, p. C2)*

\*\*\*\*\*

**Collection of General Safeguard Duty on Imported Cement pursuant to Department of Trade and Industry (DTI) Order No. 20-08**

**Customs Memorandum Order (CMO) No. 29-2020**

*CMO No. 29-2020 covers the Collection of General Safeguard Duty on Imported Cement pursuant to Department of Trade and Industry (DTI) Order No. 20-08 issued on 26 October 2020.*

* CMO 29-2020 aims to inform the BOC officers as well as the public for the imposition and collection of a definitive safeguard duty of Php 245 per metric ton (mt) or Php 9.80 per 40kg bag for all imported cement classified under AHTN Headings 2523.29.90 and 2523.90.00, regardless of origin and those which were imported within the period of 22 October 2020 to 21 October 2021.
* All District Collectors are directed to impose and collect the Safeguard Duties provided under the DTI Order and within the period stated immediately upon receipt of the CMO pursuant to Rule 13.3 (b) of the Implementing Rules and Regulations Governing the Imposition of Safeguard Measure under Republic Act (RA) No. 8800 (Safeguard Measures Act).

*(Editor’s Note: CMO No. 29-2020 is yet to be published)*

\*\*\*\*\*

**Guidelines for the Implementation of the General Transport Surety Bond (GTSB) through Automated Bonds Management System (ABMS)**

**CMO No. 30-2020**

*CMO No. 30-2020 provides the guidelines to implement the ABMS for GTSB in all customs port.*

* CMO 30-2020 shall apply to all Transit Bond Accounts opened under the Electronic to Mobile (E2M) Customs System in all Collection Districts, including sub-ports and other BOC offices.
* An ABMS is a BOC-wide system for processing bond transactions established pursuant to CMO No. 14-2012. It monitors and ages bond balances and flags those that have matured.
* The guidelines are as follows:
  + All surety companies must be registered in the Client Profile Registration System (CPRS) of the E2M Customs System.
  + Transit bond policies filed shall be approved at the Bonds Division of the port.
  + Approved bond policies filed on the current year at the port of discharge will expire on the 31st day of January of the following year.
  + Surety companies shall apply for GTSB in the port where the goods are discharged and shall only be used at the port it was applied for.
  + Approved Transit bond policy can be applied to multiple electronically lodged goods declaration of the importer as long as the policy bond has sufficient funds or available amount.
  + Only the approved bond policy can be used on the Terms of Payment upon filing of the Transit Single Administrative Document (TSAD) in the E2M system and Bond Credit as payment instrument (payment code 52) shall be used. Upon registration of the TSAD, the ABMS shall change the status of the bond policy to CHARGED if there is available fund balance.
  + All Transit shipments transferred to Free Zones from the port of discharge must be *Tagged Arrived* in the E2M Transit System.
  + Once the TSAD is *Tagged Arrived* by the authorized Customs Officer at the port of destination, the ABMS shall automatically revert the amount charged to the original bond balance.
  + The failure of the importer to cause the timely arrival of the GTSB-secured containers at the designated destination without valid reason shall be a sufficient ground for the forfeiture of the bond.
* CMO No. 30-2020 shall take effect 15 days after its complete publication in the Official Gazette or newspaper of general circulation.

*(Editor’s Note: CMO No. 30-2020 was published on January 13, 2021 in The Manila Times, p. A7)*

**BOI and PEZA Issuances**

**BOI**

**BOI MEMORANDUM CIRCULAR (MC) NO. 2020-011 dated October 15, 2020** (posted on the BOI website on January 6, 2021) -extends compliance of BOI-registered enterprises with the terms and conditions of their BOI-registered projects for one year subject to terms and conditions.

**PEZA**

**PEZA MEMORANDUM CIRCULAR (MC) NO. 2021-04 dated January 8, 201-** extends MC No. 2020-011 Entitled "PEZA Assistance to Ecozone I.T. Enterprises in Responding to COVID-19 (Corona Virus Disease)" until September 12, 2021 such that no prior LOA is required for the movement of I.T. equipment and other assets of Ecozone I.T. Enterprises from their PEZA-registered I.T. Center facilities. However, prior to the movement/withdrawal of I.T. equipment and other assets from their PEZA-registered I.T. Center facilities, certain documentary requirements shall be submitted and surety bond be deposited by the Ecozone I.T. Enterprise to the office of the PEZA Zone Manager of the PEZA I.T. Center where the I.T. equipment and other assets are located.

**Bangko Sentral ng Pilipinas Issuances**

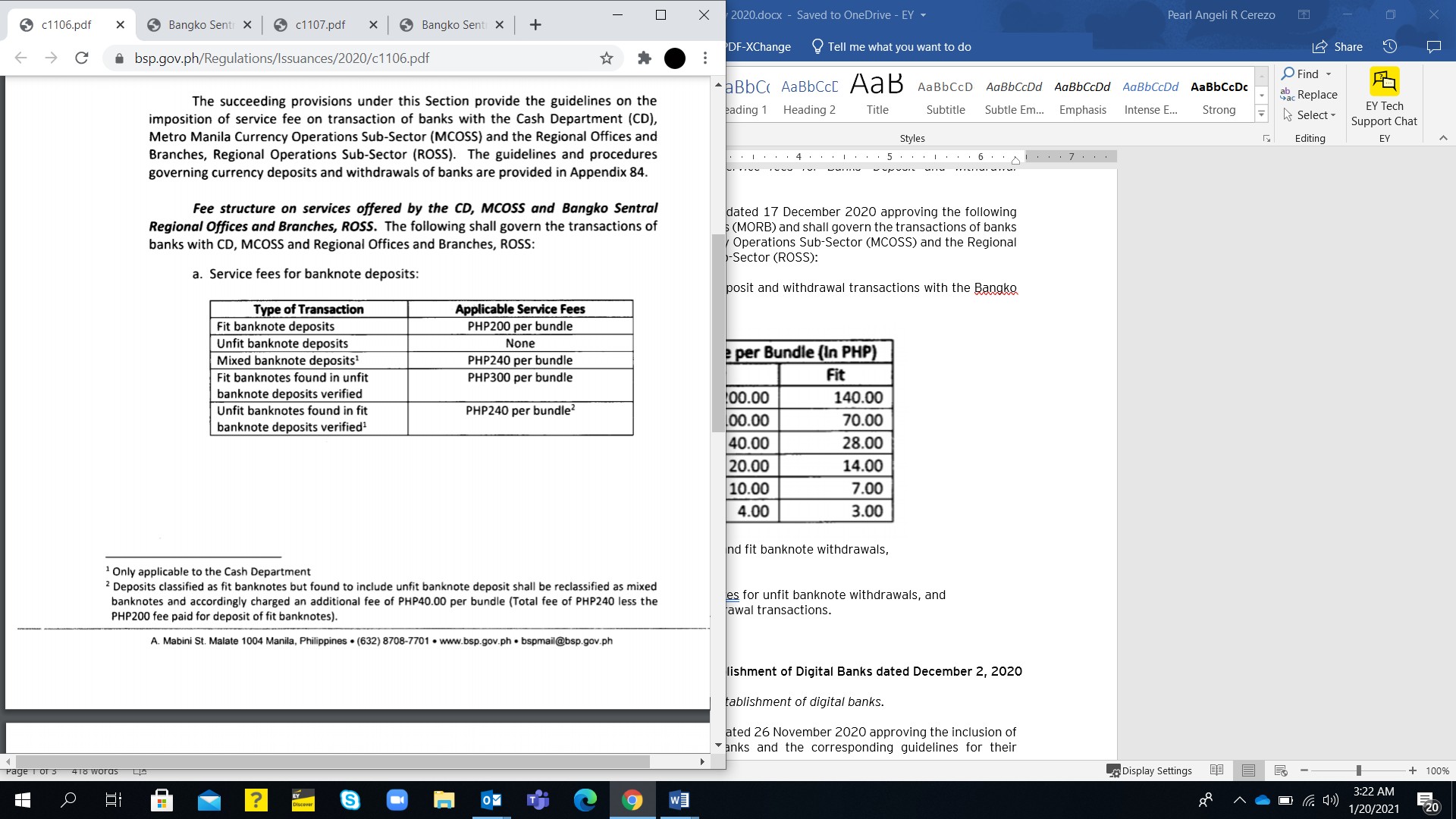
**Circular No. 1106 Restructured Service Fees for Bank’s Deposit and Withdrawal Transactions**

December 23, 2020

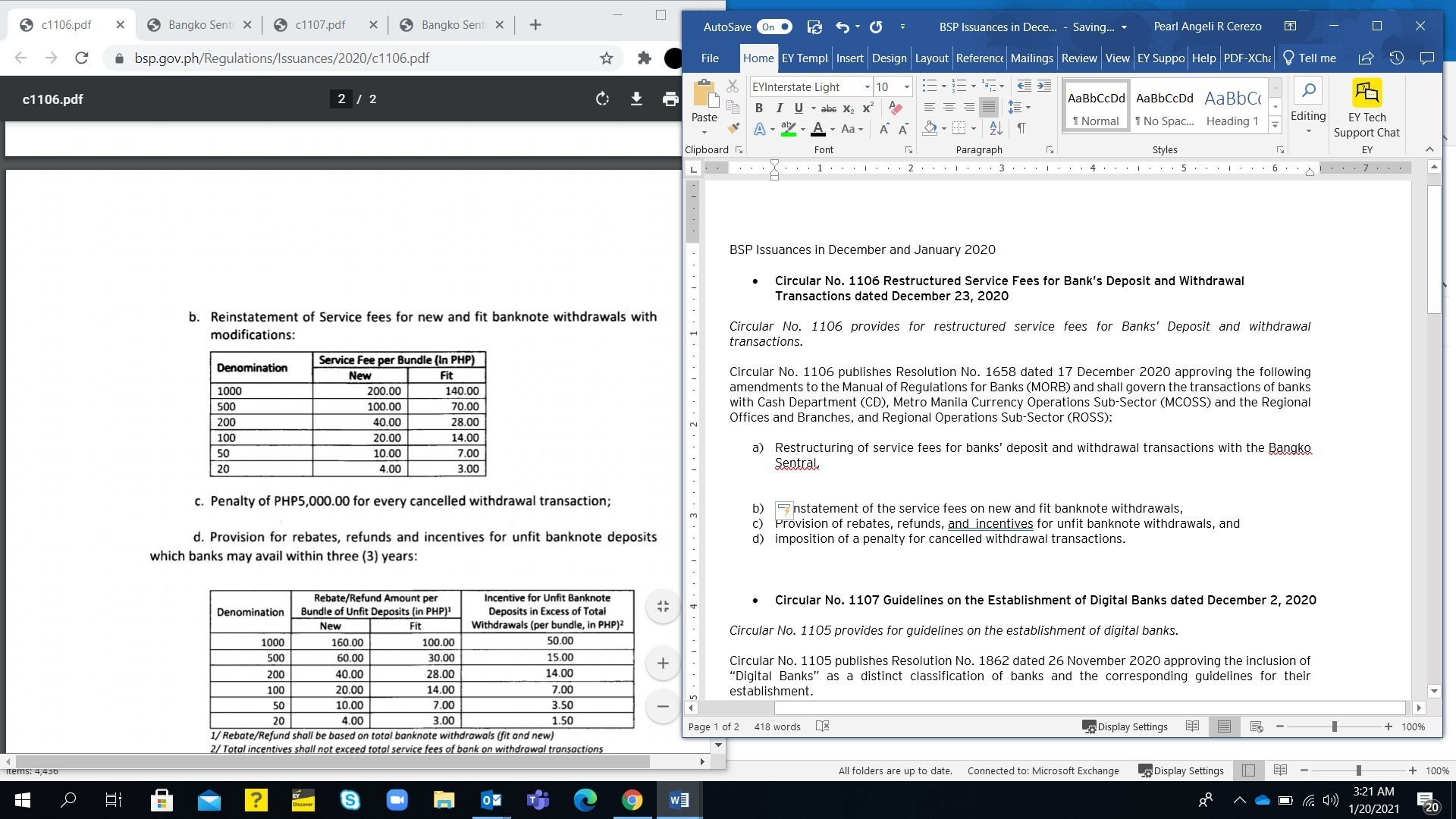
*Circular No. 1106 provides for restructured service fees for Banks’ Deposit and withdrawal transactions.*

Circular No. 1106 publishes Resolution No. 1658 dated 17 December 2020 approvingthe following amendments to the Manual of Regulations for Banks (MORB) and shall govern the transactions of banks with Cash Department (CD), Metro Manila Currency Operations Sub-Sector (MCOSS) and the Regional Offices and Branches, and Regional Operations Sub-Sector (ROSS):

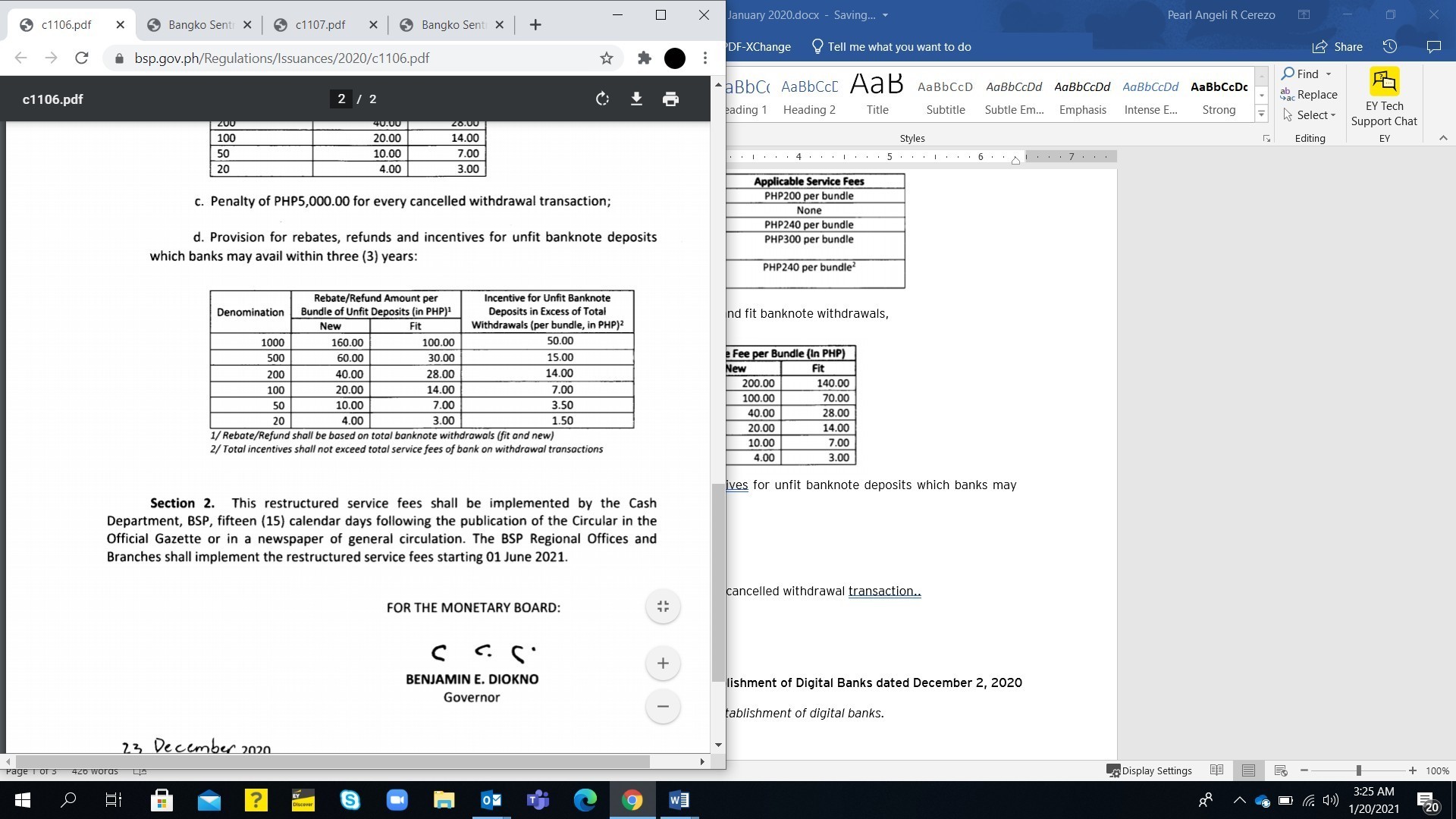
1. Restructuring of service fees for banks’ deposit and withdrawal transactions with the Bangko Sentral,



1. Reinstatement of the service fees on new and fit banknote withdrawals,



1. Provision of rebates, refunds, and incentives for unfit banknote deposits which banks may avail within 3 years:



1. imposition of PHP 5,000 penalty for every cancelled withdrawal transaction.

**Circular No. 1107 Prudential Requirements for Designated Clearing and Settlement Banks**

December 23, 2020

*Circular No. 1107 provides prudential requirements for designated clearing and settlement banks.*

Circular No. 1107 publishes Resolution No. 1606 dated 10 December 2020 approvingthe prudential requirements for designated clearing and settlement banks for purposes of compliance with directors, officers, stockholders and their related interests (DOSRI) regulations, as well as foreign currency deposit unit (FCDU asset cover and minimum capital requirements.

Transactions not covered now include (1) Interbank call loan transactions; and (2) Short-term exposures of designated clearing and settlement bank to other financial institutions that own or control directly or indirectly such clearing and settlement bank, pursuant to its function as designated clearing and settlement bank.

As to capital requirements of foreign banks, any net due from head office, branches and subsidiaries outside the Philippines, excluding accumulated net earnings shall be deducted from capital. On the other hand, as to risk-based capital for foreign bank branch, any net due from head office, branches, and subsidiaries outside the Philippines excluding accumulated net earnings shall be deducted from CET1 capital.

**Memorandum No. 093: Amendment to Memorandum M-2020-080 dated 9 October 2020 on the Electronic Submission of the EPFS Monthly Report Template**

December 16, 2020

*Memorandum No. 093 provides for amendment to Memorandum M-2020-080 dated 9 October 2020 on the Electronic Submission of the EPFS Monthly Report Template.*

All BSP Supervised Financial Institutions (BSFIs) shall observe the following revised process and deadline for the submission of the EPFS monthly report template covering the years 2018, 2019, and 2020:

1. The new deadline for the submission of the monthly report template for the years 2018, 2019 and 2020 shall be on or before 29 January 2021. There shall be a total of 14 email submissions, as detailed in the succeeding sections.
2. Only one report each covering the years 2018 and 2019, respectively, shall be submitted using the monthly report template. The submissions for 2018 and 2019 shall be considered as a December submission covering the cumulative transactions for that particular year and shall use the following subject line - EPFS , DD MMMM YYYY (e.g. 31 December 2018 or 2019).
3. The reports for the years 2018 and 2019 using the monthly report template shall be submitted in separate emails along with the corresponding Control Prooflist and following the file names prescribed under Memorandum M-2020-080.
4. The monthly reports beginning January 2020 shall cover each particular month, and shall be submitted as one month per email for a total of 12 email submissions all due on or before 29 January 2021.

**Memorandum No. 094: Single Reserve Week from 18 to 31 December 2020 and the Corresponding Computation for the Single Reserve Week**

December 18, 2020

*Memorandum No. 094 provides for the Single Reserve Week from 18 to 31 December 2020 and the corresponding computation for the Single Reserve Week*

In computing the reserve requirement for reference weeks 18 to 24 December 2020 and 25 to 31 December 2020, please be guided by the following:

1. The following dates are proclaimed non-working holidays, thus considered as non-reserve days:

* 25 December 2020, Friday - Christmas Day and 30 December 2020, Wednesday – Rizal Day as Regular Holidays; and
* 24 December 2020, Thursday and 31 December 2020, Thursday as Special Non-Working Days

1. Accordingly, the reserve position as computed at the close of business of 23 December 2020 shall be carried over up to 27 December 2020. Likewise, the reserve position as computed at the close of business of 29 December 2020 shall be carried over up to 3 January 2021.
2. The reserve weeks 18 to 24 December 2020 and 25 to 31 December 2020 shall be considered as a single reserve week for the purpose of determining “abuse” of the privilege of offsetting reserve deficiencies against excess reserve during that reserve week.
3. The original deadlines for the two reserve reports ending 24 December 2020 and 31 December 2020, respectively, remains the same and shall be subject to the usual penalties for reporting violations.

**Memorandum No. 095: Extension of the Temporary Relief Measure on the Transactions with PhilPaSS until the Last Business Day of Year 2021**

December 16, 2020

*Memorandum No. 095 provides extension of the Temporary Relief Measure on the transactions with PhilPaSS until the last business day of year 2021.*

The temporary waiver of fees of fund transfer transactions made through the Philippine Payment and Settlement System (PhilPaSS) under the BSP Memorandum M-2020-027 dated 21 April 2020 is extended until the last business day of year 2021.

**Memorandum No. 096: Availability and Security of Automated Teller Machines (ATMs) and Digital Financial Services (DFS)**

December 21, 2020

*Memorandum No. 096 provides for the availability and security of Automated Teller Machines (ATMs) and Digital Financial Services (DFS).*

All BSP Supervised Financial Institutions (BSFIs) shall actively augment existing capabilities and implement strategies to fulfill customer requirements. Given the continuing community quarantine protocols, BSFIs play a crucial role to ensure that ATMs have sufficient levels of cash and their operations comply with physical distancing protocols.

Further, BSFIs should sustain the public’s growing preference to utilize digital channels in fulfilling basic financial and payment transactions. Cyberattacks and electronic fraud are likewise observed to be escalating during long weekends and holidays. Hence, it is crucial for BSFIs to put in place mechanisms, resources and processes to ensure security of DFS and responsiveness to customer concerns. Likewise, customers should also be reminded to be alert and immediately report to concerned BSFIs any unusual transactions or activities in their accounts.

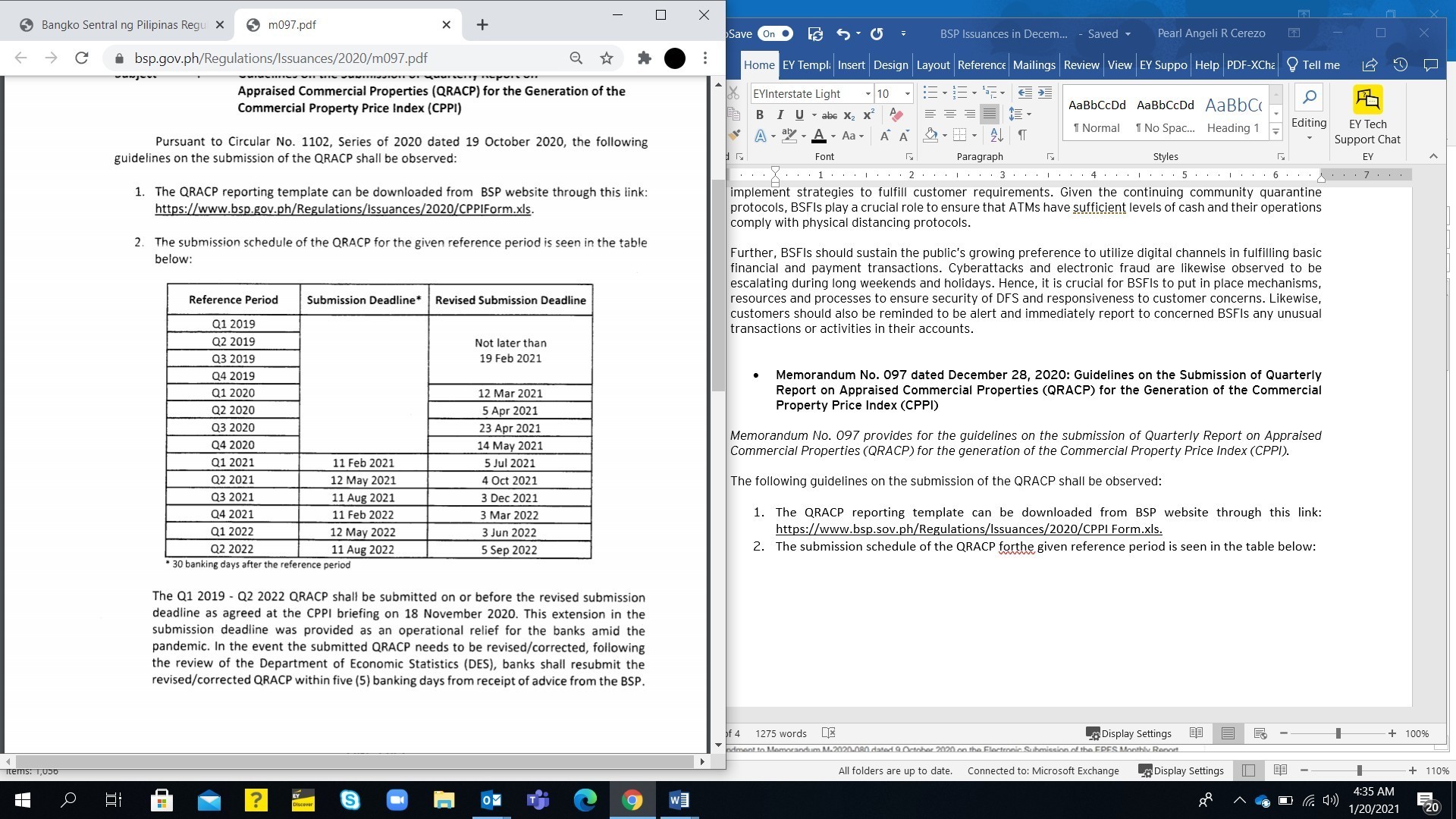
**Memorandum No. 097: Guidelines on the Submission of Quarterly Report on Appraised Commercial Properties (QRACP) for the Generation of the Commercial Property Price Index (CPPI)**

December 28, 2020

*Memorandum No. 097 provides for the guidelines on the submission of Quarterly Report on Appraised Commercial Properties (QRACP) for the generation of the Commercial Property Price Index (CPPI).*

The following guidelines on the submission of the QRACP shall be observed:

1. The QRACP reporting template can be downloaded from BSP website through this link: [https://www.bsp.sov.ph/Regulations/lssuances/2020/CPPI Form.xls](https://www.bsp.sov.ph/Regulations/lssuances/2020/CPPI%20Form.xls).
2. The submission schedule of the QRACP for the given reference period is seen in the table below:



1. Beginning Q3 2022, the submission of the DES-CPPI Form L (in excel format) and its scanned Certification Form, which has been duly notarized and signed by the authorized officials of the banks and saved as a Portable Document Format (PDF), shall follow the prescribed submission deadline indicated in said Circular.
2. The QRACP shall be electronically submitted to e-mail address: at eslisdes@bsp.gov.ph. In the subject line of the email, the name of the bank and reference period should be indicated following the format below: "CPPf cBank name>, , "e.g., "CPP| Bank One, Q1 2019"
3. The file name of QRACP shall follow the prescribed format below: "Reference Quarter," €.8., "Q1 2019 QRACP Bank One"
4. Non-compliance with the reporting standards and failure to submit within the prescribed submission deadline shall be subject to monetary penalties applicable under Manual of Regulations for Banks.

**Memorandum No. 001: Amendments to the Standard Operating Procedures for Philippine Holidays**

January 11, 2021

*Memorandum No. 001 provides for the amendments to the Standard Operating Procedures (SOP) for Philippine Holidays.*

This shall cover all Banks and Quasi-Banks (QBs).

The Standard Operating Procedures (SOP) for Philippine Holidays as provided under Appendix 88/Q-Sf of the Manual of Regulations for Banks (MORB)/Manual of Regulations for Non-Bank Financial Institutions (MORNBFI), respectively, is hereby amended as part of the thrust of the Bangko Sentral to support the domestic financial markets.

The revised SOP aims to provide clarity on the Bangko Sentral services available on holidays involving only the public sector and in emergency situations. It also provides the treatment of said days for purposes of determining compliance with the reserve requirements.

**Memorandum No. 002: Regulatory Relief on the Non-imposition of Sanctions for Breach in Single Borrower’s Limit by Foreign Bank Branches Established Prior to Republic Act No. 10641**

January 4, 2021

*Memorandum No. 002 provides for the Regulatory Relief on the Non-imposition of Sanctions for Breach in Single Borrower’s Limit by Foreign Bank Branches Established Prior to Republic Act No. 10641.*

The regulatory relief shall cover all Foreign Bank Branches Established Prior to Republic Act No. 10641.

Existing foreign bank branches established in the Philippines prior to Republic Act No. 10641 that breach the SBL shall not be subject to sanctions prescribed under Section 362 of the MORB until 31 December 2O21: Provided, That the amount of the new loan, credit accommodation, or guarantee extended as well as the restructured, renewed, and refinanced existing credit exposures, beginning 01 January 2021 until 31 December 2021, shall not exceed the prescribed percentage limit using as reference point twice the level of capital as defined under Section 103 of the MORB (Capital requirements of foreign bank).

**Memorandum No. 003: Guidelines on the Electronic Submission of the Report on Reclassification of Debt Securities (RRDS) Out of the Fair Value Category**

January 8, 2021

*Memorandum No. 003 provides for guidelines on the electronic submission of the Report on Reclassification of Debt Securities (RRDS) out of the Fair Value Category.*

The guidelines shall cover all BSP Supervised Financial Institutions (BSFIs).

The following guidelines shall be observed for the electronic submission of the RRDS on or before 29 January 2021:

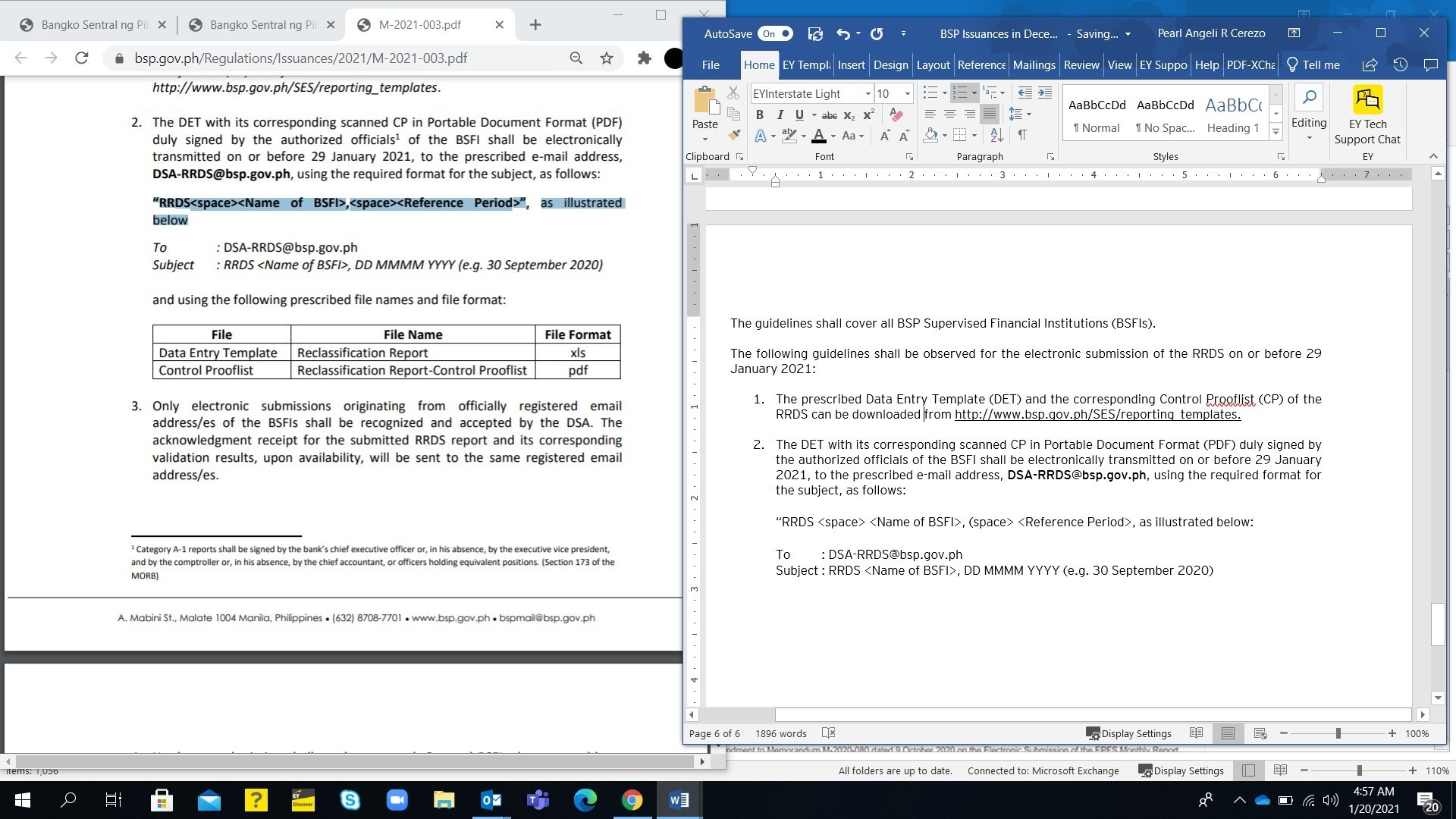
1. The prescribed Data Entry Template (DET) and the corresponding Control Prooflist (CP) of the RRDS can be downloaded from http://www.bsp.gov.ph/SES/reporting\_templates.
2. The DET with its corresponding scanned CP in Portable Document Format (PDF) duly signed by the authorized officials of the BSFI shall be electronically transmitted on or before 29 January 2021, to the prescribed e-mail address, **DSA-RRDS@bsp.gov.ph**, using the required format for the subject, as follows:

“RRDS <space> <Name of BSFI>, (space> <Reference Period>, as illustrated below:

To : [DSA-RRDS@bsp.gov.ph](mailto:DSA-RRDS@bsp.gov.ph)

Subject : RRDS <Name of BSFI>, DD MMMM YYYY (e.g. 30 September 2020)

And using the following prescribed file names and file format:



1. Only electronic submissions originating from officially registered email address/es of the BSFIs shall be recognized and accepted by the DSA. The acknowledgment receipt for the submitted RRDS report and its corresponding validation results, upon availability, will be sent to the same registered email address/es.
2. Hard copy submission shall not be accepted. Covered BSFIs that are unable to transmit via email may submit the DET and its accompanying scanned CP using any portable storage device (e.g., USB flash drive) through messengerial or postal services within the prescribed deadline addressed to:

The Director

Department of Supervisory Analytics (DSA)

Bangko Sentral ng Pilipinas

11th Floor, Multi-Storey Building

BSP Complex, A. Mabini Street, Malate

1004 Manila

Note that the following may result in an erroneous or failed submission, among others:

1. Failure to use/send the correct/updated templates;
2. Failure to use an officially registered email address;
3. Transmitting to the wrong email address;
4. Failure to use the prescribed subject line or reporting date;
5. Failure to use the prescribed file names;
6. Failure to use the correct file formats; and
7. Incomplete entry in the updated templates.

**Memorandum No. 004: Retention of Existing Procedures on Deposits and Withdrawals**

January 11, 2021

*Memorandum No. 004 provides for retention of existing procedures on deposits and withdrawals.*

This shall apply to all Authorized Agent Banks (AABs).

The Guidelines and Procedures Governing Currency Deposits and Withdrawals of Banks for Credit to and Debit from their Demand Deposit Accounts with the Bangko Sentral (Appendix 84 of the MORB, Annex A) shall remain effective.

Further, the following procedures shall also govern deposit and withdrawal transactions of authorized agent banks (AABs) with the Bangko Sentral:

1. For transactions with the Cash Department (CD) of the Payments and Currency Management Operations Sub-Sector (PCMOSs)
2. AABs shall issue a letter of authority in favor of the Bangko Sentral, through the PCMOSs, to debit their respective Demand Deposit Accounts (DDAs) maintained with the Bangko Sentral, for the service fee on their transactions on the day of deposit/withdrawal.
3. AABs shall prepare separate deposit slip/s for new/fit, mixed and unfit notes, which will serve as basis for the imposition of applicable service fees for new/fit and mixed notes.
4. For transactions with the BSP Regional Offices and Branches {ROBs) of the Regional Operations Sub-sector (ROSs)
5. AABs shall issue a letter of authority in favor of the Bangko Sentral, through ROSs, to debit their respective DDA maintained with the Bangko Sentral for the service fee on their transactions on the day of deposit/withdrawal.
6. AABs shall continue to prepare separate deposit slip/s for fit and unfit notes, which will serve as the basis for the imposition of applicable service fees for fit notes.
7. The BSP ROBs shall accept deposit of bundled fit notes packed in sealed plastic containers in uniform quantity of twenty (20) bundles of one (1) or various denominations.

**Memorandum No. 005: Report on the Risk Assessment of Cash, Cross-Border and Cross-Sector Transactions**

January 13, 2021

*Memorandum No. 005 provides for report on the risk assessment of Cash, Cross-Border and Cross-Sector Transactions.*

This shall apply to all BSP-Supervised Financial Institutions (BSFIs).

The report on risk assessment of cash, cross-border, and cross-sector transactions is part of the broader sectoral risk assessment (SRA) being conducted by the Bangko Sentral. It represents the first phase of the SRA that focused on the assessment of risks attendant to cash, cross-border, and cross-sector transactions. The assessment seeks to understand, analyze, and assess the ML/TF/PF risks arising from cash transactions of banks and other BSFIs, the flow of suspected criminal proceeds through cross-border transactions, and the risks across certain sectors.

BSFIs are expected to consider the findings and conclusions in the report in their respective institutional risk assessments and implement necessary measures to address the identified risk areas.

**Memorandum No. 006: Advisory on Organization Changes in the Payments and Currency Management Operations Sub-Sector**

January 14, 2021

*Memorandum No. 006 provides for advisory on organization changes in the Payments and Currency Management Operations Sub-Sector.*

This shall apply to all Authorized Agent Banks (AABs).

Under the Payments and Currency Management Sector (PCMS) is the restructured Payments and Currency Management Operations Sub-Sector (PCMOSS, formerly the Metro Manila Currency Operations Sub-Sector), which is mandated to oversee the operations and activities of the Cash Department (CD) and the Payments and Settlements Office (PSO).

The PCMOSS shall lead the development and implementation of tactical strategies to ensure efficient currency distribution, and sound and secure settlement of financial market transactions and other critical interbank fund transfers through the BSP-operated Philippine Payment and Settlement System (PhilPaSS). It shall ensure timely and adequate currency distribution in Metro Manila and other assigned areas. It shall also be responsible for the retirement of unfit currency notes and coins and the promotion of proactive partnerships with AABs, government agencies, and private institutions. Moreover, it shall maintain the efficient and safe conduct of settlement transactions in support of the smooth functioning of the financial system and the digital transformation initiative of the BSP.

**SEC Opinions and Issuances**

**Deferral of the Philippine Interpretation Committee (PIC) Question & Answer No. 2018-12 and IFRS Interpretations Committee (IFRIC) Agenda Decision on Over Time Transfer of Constructed Goods for Real Estate Industry**

**SEC Memorandum Circular No. 34 Series of 2020**

15 December 2020

*The SEC deferred the application of the provisions of the PIC Q&A No. 2018-12 on the accounting for significant financing component and the exclusion of land in the calculation of Percentage of Completion (POC) and IFRIC Agenda Decision on Over Time Transfers of Constructed Goods under PAS 23-Borrowing Cost for another period of three (3) years, or until 2023.*

To allow the real estate industry more time to assess implementation issues in light of the COVID-19 pandemic, the SEC deferred the application of the provisions of the PIC Q&A No. 2018-12 with respect to the accounting for significant financing component and the exclusion of land in the calculation of POC and IFRIC Agenda Decision on Over Time Transfers of Constructed Goods under PAS 23-Borrowing Cost for another period of three (3) years, or until 2023.

* A real estate company may opt not to avail of any of the relief provided above and comply in full with the requirements of PIC Q&A 2018-12 and IFRIC Agenda Decision in respect of the relief not availed of.
* Real estate companies which opted for the deferral shall be required to disclose in the Notes to the Financial Statements the accounting policies applied, a discussion of the deferral of the subject implementation issues, and a qualitative discussion of the impact in the financial statements had the concerned application guidelines been adopted. Should any of the deferral options result in an accounting policy change, such accounting change will have to be accounted for under Philippine Accounting Standard 8, *Accounting Policies, Changes in Accounting Estimates and Errors*, i.e., retrospectively, together with the corresponding required quantitative disclosures.
* The regulatory relief, once adopted and recorded for financial reporting purposes, are not considered in accordance with PFRS. Real estate companies which opt to avail of the deferral shall specify in the “Basis of Preparation of the Financial Statements” section of the financial statements the relief availed of and indicate that the financial statements are prepared in accordance with PFRS, as modified by the application of the above financial reporting reliefs. The circular prescribes wordings that should be complied with.
* Where the external auditor has been engaged to perform an audit engagement in accordance with PSA on these financial statements which have been prepared using PFRS as modified by the application of the financial reporting relief issued and approved by the SEC, the external auditor shall reflect in the opinion paragraph that the financial statements are prepared in accordance with the compliance framework described in the notes to the financial statements. The external auditor shall also include an Emphasis of Matter paragraph in the auditor’s report to draw attention to the basis of accounting that has been used in the preparation of the financial statements.

**Regulatory Relief Measures to Manage the Effect of the COVID-19 Pandemic**

**SEC Memorandum Circular No. 37 Series of 2020**

22 December 2020

*Pursuant to Republic Act (R.A.) No. 11494, or the Bayanihan to Recover as One Act, the SEC provides the following regulatory reliefs to financing companies (FCs) and lending companies (LCs) and the corresponding guidelines to help the covered entities manage the effects of the COVID-19 pandemic:*

1. *Relaxation of the required maintaining net worth of FCs under Section 11 of the R.A. No. 8556 or the Financing Company Act of 1998 (FCA) Implementing Rules and Regulations (IRR);*
2. *Relaxation of the required investment in financing and lending activities under Section 9(b) of the FCA IRR, and Rule 3(f) of the R.A. No. 9474 or the Lending Company Regulation Act of 2007 (LCRA) IRR, subject to the evaluation of the SEC;*
3. *Relaxation of the period of commencement of financing and lending operations under Sections 5(b) and 6(d) of the FCA IRR, and Rule 3(e) of the LCA IRR, respectively.*

FCs and LCs that intend to avail of the regulatory reliefs are required to submit: (1) a Letter-notification, signed by the company’s President or, in his absence/unavailability, an officer of equivalent rank, stating the company’s intention to avail of the regulatory reliefs, the specific regulatory relief to be availed, and the reason therefor, including a detailed explanation of the debt relief measures provided by the company to its borrowers and a statement that it is in good standing with the SEC, and; (2) Resolution of the Board of Directors authorizing the company to avail of the reliefs.

The SEC shall evaluate the application to avail of the regulatory reliefs on a case-to-case basis and shall communicate its decision on the application to the company.

The regulatory reliefs shall be effective for one (1) year from effectivity of the Memorandum Circular.

*[Editor’s Note: This circular was published in the Philippine Star and Manila Standard on 13 January 2021. It shall take effect immediately.]*

**2020 Compliance Officer’s Certification**

**SEC Memorandum Circular No. 36 Series of 2020**

22 December 2020

*Public Companies (PCs) and Registered Issuers (RIs) shall be required to submit a Compliance Officer’s Certification, in lieu of the Annual Corporate Governance Report, certifying that the company has substantially adopted in its Manual on Corporate Governance all of the recommendations under the Code of Corporate Governance for PCs and RIs.*

* The Certification shall also identify and explain any deviation to the recommendations provided under the Corporate Governance Code, if applicable.
* It shall be signed under oath by the company’s Compliance Officer and countersigned by its President or Chief Executive Officer.
* Three (3) copies of a duly accomplished, signed and notarized CG Form-2020 shall be submitted to the Commission on or before 29 January 2021 and shall cover all relevant information for the covered year 2020.
* PCs and RIs that are listed in the Philippine Stock Exchange are excluded from the coverage of the circular.
* Publicly-listed PCs and RIs shall continue to submit an Integrated Annual Corporate Governance Report in accordance with SEC Memorandum Circular No. 15, Series of 2017.
* Non-compliance with the above requirement shall subject erring companies to the following penalties.

*[Editor’s Note: This circular was published in the* Philippine Star *and Manila Standard on 13 January 2021. It shall take effect fifteen (15) days after publication, or on 28 January 2021].*

**Financial Reporting Relief in light of Covid-19 Pandemic**

**SEC Memorandum Circular No. 35 Series of 2020**

28 December 2020

*To provide relief to licensed financing companies (FCs) and lending companies (LCs), and*

*accredited microfinance NGOs (MF-NGOs) in light of the Covid-19 Pandemic, SEC shall allow staggered booking of provision for credit losses calculated in accordance with the requirements of Philippine Financial Reporting Standards (PFRS), PFRS for Small and Medium-Sized Entities (SMEs), or PFRS for Small Entities (SEs), as applicable, for annual period ending on or after December 31, 2020 (to consider those with fiscal year-end) for a maximum period of five (5) years using straight-line amortization method to be recognized in the profit or loss.*

FCs, LCs and MF-NGOs shall continue to report actual past due and nonperforming loans and provision for credit losses in their reports submitted to the Corporate Governance and Finance Department. The accounting relief is considered a deviation from the requirements of PFRS, PFRS for SMEs and PFRS for SEs.

For FCs, LCs and MF-NGOs that opts to avail of the relief should adopt the following:

* Prepare their Audited Financial Statements (AFS) in accordance with an industry-specific framework, as modified by the application of the financial reporting reliefs issued and approved by the SEC.
* Specify in the *“Basis of Preparation of the Financial Statements”* section of the financial statements the relief availed of and indicate that the availment thereof covers only current-year transactions. The circular provides the prescribed wordings in the presentation in the financial statements.
* Disclose a qualitative disclosure of the impact of the relief availed of. The following information should be provided in tabular format in the Note to Financial Statements that contains the *“Basis for Preparation of the Financial Statements”*:

1. Impact on the affected financial statement line items if the provision for credit losses was measured and recorded in accordance with PFRS, PFRS for SMEs, or PFRS for SEs, as applicable (loans and receivables, allowance for credit losses, provision for credit losses, retained earnings, deferred tax asset and expense, earnings per share [for listed companies], etc.)
2. Amount of allowance recognized/amortized for the period
3. Balance of unrecognized (unamortized) allowance

* Comply with the requirements of the financial reporting standards in doing the above adjustments when it reverts to full PFRSs, PFRS for SMEs, or PFRS for SEs, as applicable, after the period of relief. The industry-specific accounting framework shall form part of the applicable financial reporting framework for the purpose of preparing and filing general purpose financial statements pursuant to the Revised SRC Rule 68.

For those which may avail of the relief but the impact on the financial statements is deemed not material:

* They may still represent in the notes that the financial statements are presented in full compliance with their applicable financial reporting framework. The disclosure requirements for such relief are not mandatory.

Where the external auditor has been engaged to perform an audit engagement in accordance with PSA on these annual financial statements, which have been prepared using PFRS/PFRS for SMEs/PFRS for SEs, as modified by the application of the financial reporting relief issued and approved by the SEC, it shall adopt the following:

* Reflect in the opinion paragraph that the financial statements are prepared in accordance with the compliance framework described in the notes to the financial statements.
* Include an Emphasis of Matter paragraph in the auditor’s report to draw attention to the basis of accounting that has been used in the preparation of the financial statements.

**SEC Notice Series of 2020**

28 December 2020

*The SEC extends the deadline for submission of primary and alternative email addresses and cellular phone numbers until February 22 without penalty.*

Registered entities have until February 22 to comply with the requirements of SEC Memorandum Circular 28, Series of 2020 to submit their primary and alternative email addresses and cellular phone numbers. The online submission via [MC28\_S2020@sec.gov.ph](mailto:MC28_S2020@sec.gov.ph) may be done on or before the deadline without penalty. Hard copies may be filed via submission to or appointment with the Information Communication Technology Department – Electronic Records Management Division (ICTD-ERMD) Receiving Unit or through SEC Express Nationwide Submission using an accredited courier or through the Philippine Postal Office.

Corporations, associations and partnerships with certificates of registration issued after January 23, 2021 have thirty (30) days from the issuance of the certificate of registration to comply with SEC MC 28, without penalty.

**SEC Notice Series of 2021**

8 January 2021

*The SEC advised that the SEC payment facilities at the SEC Main Office (PICC Complex, Pasay City) and SEC Office (Ortigas, EDSA Mandaluyong City) will remain open from Monday to Friday, except holidays.*

However, the cashiers at the SEC Satellite Offices will remain closed until further notice.

**SEC Notice Series of 2021**

13 January 2021

*The SEC reminds existing corporations, registered prior to the effectivity of the Revised Corporation Code (RCC) on 23 February 2019, who intend to retain their corporate term to file the* ***Notice to Retain Specific Corporate Term*** *on or before 23 February 2021.*

Existing corporations may file the Notice with attached Director’s Certificate electronically through the e-mail, [MC22\_S2020@sec.gov.ph](mailto:MC22_S2020@sec.gov.ph). Hard copies of the Notice and Director’s Certificate must also be formally filed with the Company Registration and Monitoring Department (CRMD) Receiving Unit for the issuance of the ***Certificate of Filing of Notice to Retain Specific Corporate Term***.

Corporations who fail to file the Notice by 23 February 2021 shall be deemed to have selected a perpetual term.