Triple i Consulting

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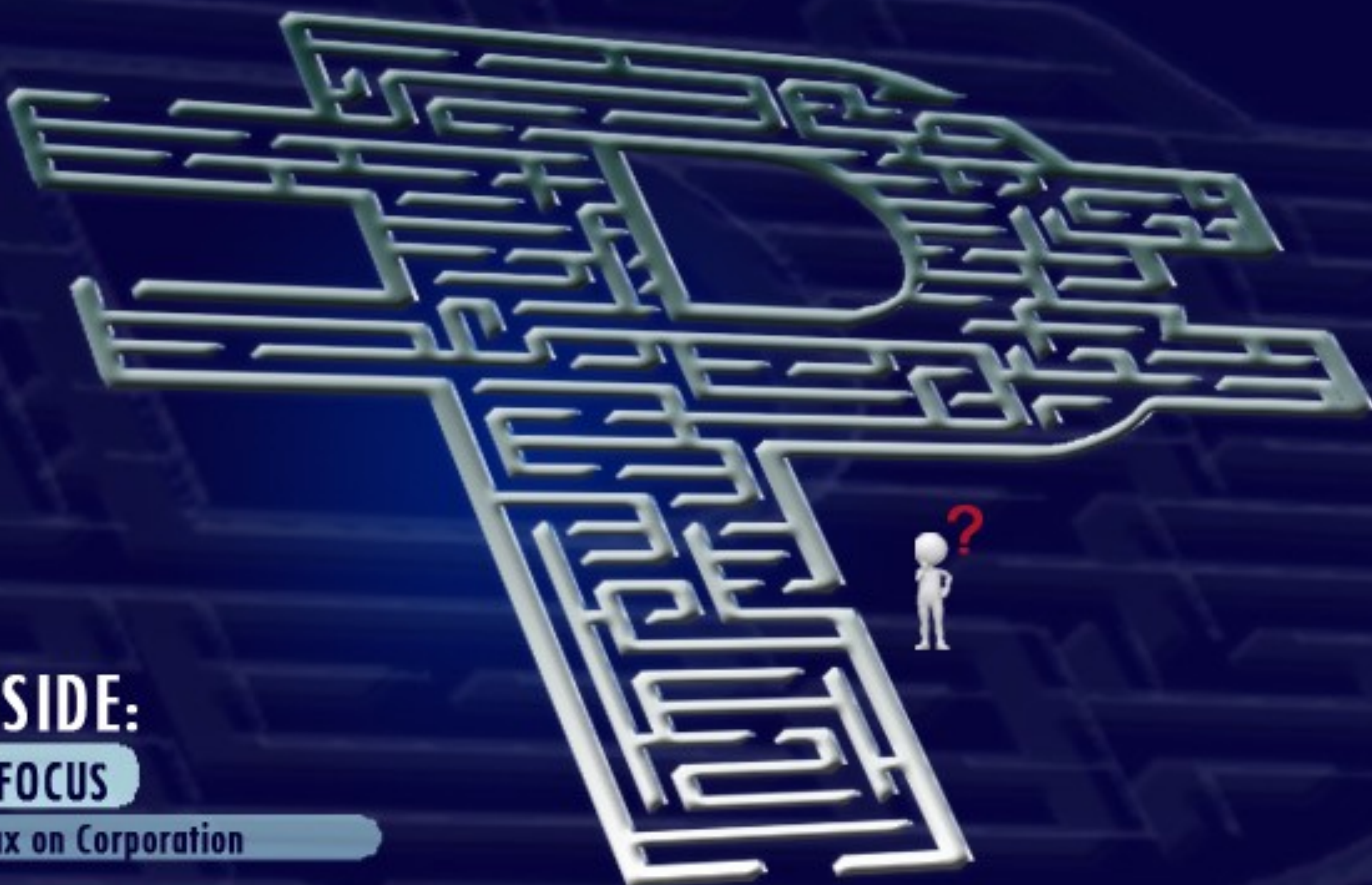
TAX GUIDE



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IN FOCUS

Corporations

The Philippines adopted the law of incorporation in determining the residency of corporations. Corporations may be domestic or foreign. Domestic corporations are those organized or created under Philippine law while a branch or foreign company set up in the Philippines is a resident foreign corporation.

INCOME TAX

Domestic Corporation

A domestic corporation is taxable on its world-wide income at 30% flat rate. Business expenses and direct costs paid or incurred during the taxable year such as salaries or wages, travel expenses, rentals, entertainment, interest, taxes, bad debts, depreciation, and other related expenses may be deducted from gross income to arrive at taxable income.

A minimum corporate income tax (MCIT) of 2% of gross income as of the end of the taxable year is imposed on domestic corporations beginning on the fourth taxable year immediately following the year when it commenced business operations. The corporation is liable to pay either MCIT or the regular income tax of 30%, whichever is higher.

Proprietary educational institutions and hospitals shall only pay 10% of their taxable income provided that income from other unrelated business activities aside from the primary purpose will not exceed 50% of gross revenue from all sources.

Dividends received by a domestic corporation from another domestic corporation are not subject to tax.

Capital gains from sale of real properties treated as capital assets are subject to 6% tax on the gross selling price or fair market value, whichever is higher.

Resident Foreign Corporation

Resident foreign corporations are those engaged in trade or business within the Philippines. They are generally subject to a tax equivalent to 30% of the taxable income derived only from Philippine sources. The 2% MCIT is also imposed on resident foreign corporations on their income derived within the Philippines and under the same conditions as a domestic corporation.

Branch profits remittances are subject to 15% tax based on the total profits applied or earmarked for remittance without any deduction for the tax component thereof, except for activities registered with the Philippine Economic Zone Authority and other special economic zones.

Interests of currency bank deposits are subject to 20% tax while interest incomes under the expanded foreign currency deposit system are subject to 7.5% tax.

Intercorporate dividends or dividends received by a resident foreign corporation from a domestic corporation are not subject to tax.

Some types of resident foreign corporations are taxed at preferential rates, as shown in Figure 1.

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Preferential Tax Rates for Resident Foreign Corporations	
Foreign Corporation	**Tax rate**
International Carriers	2.5% of Gross Philippine Billings
Offshore Banking Units	10% tax on interest income derived from foreign currency loans to residents
Regional or Area Headquarter	Exempt
Regional Operating Headquarter	10% of taxable income

Figure 1

Non-Resident Foreign Corporation

Foreign corporation not engaged in trade or business in the Philippines is liable to 30% tax on the gross income received from Philippine sources such as interest, dividends, rents, royalties, salaries, premiums (except reinsurance premiums), annuities, emoluments, profits and income, and capital gains, except capital gains from the sale of shares of stock not traded in stock exchange.

Some non-resident foreign corporations are subject to preferential tax rates, as shown in Figure 2.

Interests on foreign loans are subject to 20% tax.

Dividends received by non-resident foreign corporations from domestic corporations are subject to 30% tax but may be reduced to 15% if the country of the non-resident foreign corporation allows credit against the tax due from the non-resident foreign corporation taxes deemed to have been paid in the Philippines equivalent to 15%.

Net capital gains by domestic, resident, and non-resident foreign corporations from the sale of shares of stock in a domestic corporation not traded through local stock exchange are subject to tax of 5% for the first Php100,000 and 10% on the excess.

Preferential Tax Rates for Non-Resident Foreign Corporations	
Foreign Corporation	**Preferential tax rate**
Cinematographic Film Owner, Lessor or Distributor	25% of gross income
Owner or Lessor of Vessels Chartered By Philippine Nationals	4.5% of gross rentals, lease and charter fees
Owner or Lessor of Aircraft, Machinery and Other Equipment	7.5% of gross rentals or fees

Figure 2

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BUSINESS TAX AND OTHER TAXES

Value Added Tax **(VAT)**

VAT of 12% is imposed on any person who sells, barters, exchanges or leases goods or properties, renders services, or imports goods in the course of trade or business and whose aggregate annual sales or receipts exceed Php 1,919,500. It is an indirect tax and the amount may be passed on to the buyer, transferee or lessee of the goods, properties or services.

Export sales of goods and services are generally subject to 0% VAT, including those considered export sales under the Omnibus Investment Code and other special laws.

Those corporations that do not meet the threshold of Php 1,919,500 shall be registered as non-VAT and are liable to pay percentage tax of 3% of gross sales or receipts.

Percentage tax also applies to corporations engaged in certain activities such as those domestic carriers and keepers of garages, international air and shipping carriers, franchises of radio and television broadcasting, gas and water utilities, overseas dispatch, message or conversation originating from the Philippines, banks and non-bank financial intermediaries performing quasi-banking functions, insurance premium, amusement, winnings and sale of shares of stocks through the local stock exchange.

Excise Tax

Excise taxes apply to selected goods or articles manufactured or produced in the Philippines for domestic sale or consumption or for any other disposition and to things imported into the Philippines.

Some goods subject to excise taxes are wines and distilled spirits, alcohol products, fermented liquors, petroleum products, tobacco products, cigar and cigarettes, automobiles, jewelry and precious metals, perfumes and toilet waters, yachts and other vessels intended for pleasure or sports, and other mineral products.

Documentary Stamp Tax (DST)

DST is a tax on the privilege of executing documents, instruments, loan agreements and papers, and upon acceptances, assignments, sales and transfers of obligation, right or property.

The issuance of original or transfer of shares or certificates of stocks, bonds, debentures, certificates of stocks or indebtedness issued in foreign countries, certificates of profits or interest in property or accumulations, bank checks, drafts, certificates of deposit not bearing interests, all debt instruments, bill of exchange or drafts, letters of credit, insurance policies, annuity and pre-need plans, certificates, warehouse receipts, bill of lading or receipts, powers of attorney, lease and hiring agreements, mortgage, pledges or deeds of trust, deed of sale and conveyances of real property, charter parties and similar instruments are subject to DST in various rates.

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RECENT BIR ISSUANCES

MANDATORY SUBMISSION OF QUARTERLY SLSP

All VAT registered taxpayers are required to submit the quarterly summary list of sales and purchases (SLSP) starting 2012. Penalties shall be imposed on non-submission of SLSP.

(REVENUE REGULATIONS NO. 1-2012, February 20, 2012)

EFFECTIVITY OF ADJUSTED VAT THRESHOLD FOR REAL PROPERTIES

Starting January 1, 2012, sale of residential lot at Php 1,919,500 and below and residential house & lot valued at Php 3,199,200 and below are exempt from value-added tax (VAT).

Instruments executed and notarized on or after November 1, 2005 but prior to January 1, 2012 should have the threshold amounts of Php 1,500,000 for residential lot and Php 2,500,000 for residential house & lot and below to be exempt from VAT.

(REVENUE REGULATIONS NO. 3-2012, February 20, 2012)

FAILURE TO BEAT BANK CUT-OFF, PENALIZED

Previous one day late filing and remittance due to failure to beat the bank cut-off time is subject to penalty but may be abated or cancelled by the BIR. However, the rule was recently amended and such failure will be penalized accordingly.

(REVENUE REGULATIONS NO. 4-2012, March 28, 2012)

TAXATION OF SALE OF GOLD

Sale of gold and other metallic minerals is subject to 2% excise tax on the actual market value of the gross output at the time of removal or the value assessed by the Bureau of Customs in case of importation. This is also subject to 12% VAT if sold to persons and entities aside from the Bangko Sentral ng Pilipinas.

Further, sellers are subject to income tax just like regular taxpayers. Buyers are required to withhold 5% tax of the gross payment made to the sellers of gold.

(REVENUE REGULATIONS NO. 6-2012, April 2, 2012)

DE MINIMIS, BENEFITS AMENDED

Uniform and clothing allowances of employees not exceeding Php 5,000 per annum are not subject to income tax. This is part of the facilities and privileges considered relatively small value, hence, not taxable.

(REVENUE REGULATIONS NO. 8-2012, May 11, 2012)

TAX OF INVOLUNTARY SALES

Owners and mortgagors who fail to redeem foreclosed or auctioned of properties within the redemption period shall be subject to taxes on such involuntary sales. This includes capital gains tax for capital asset, creditable withholding tax (CWT), income tax and VAT for ordinary asset as well documentary stamp tax (DST) on the documents executed.

Capital gains tax should be filed and paid within 30 days from the expiration of redemption period while CWT is payable

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within 10 days following the end of the month after expiration of the statutory redemption period, except from the month of December which should be filed on or before January 15 of the following year.

Ordinary assets are subject to VAT whose return must be filed on or before the 20th or 25th day of the month following the month when the redemption prescribes.

DST is subject to tax within 5 days after the close of the month after the lapse of the applicable statutory redemption period.

(REVENUE REGULATIONS NO. 9-2012, June 1, 2012)

JOINT VENTURE, NOT TAXABLE

A joint venture or consortium formed for the purpose of undertaking construction projects are not taxable as a corporation, but should meet the following requirements:

1. It should be for the undertaking of a construction project;
2. It should involve joining or pooling or resources by local contracts licensed as general contractor by the Philippine Contractors Accreditation Board (PCAB);
3. The local contractors are engaged in construction business; and
4. The joint venture must be likewise licensed by the PCAB.

Joint ventures involving foreign contractors, to be exempt from tax, must be covered by a special license as contractor by the PCAB and the construction project is certified by the appropriate government office that it is foreign financed or internally funded project and the international bidding is allowed under the Bilateral Agreement entered into by and between the Philippine Government and the foreign or international financing institution.

(REVENUE REGULATIONS NO. 10-2012, June 1, 2012)

Triple i Consulting is the first and only ISO Registered Management Consultancy in the Philippines.

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- Other Tax Services

Triple i Consulting provides tailor made solutions to ensure your company achieves its business goals in the Philippines.

For comments and feedback, please email us at info@tripleiconsulting.com or call (+632) 856-9631.

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