

# Philippines

## 1. Government requirements

### Registration requirements

#### Registration with the Bureau of Internal Revenue (BIR)

The National Internal Revenue Code of the Philippines (Republic Act No. 8424, as last amended by Republic Act (RA) No. 10963 otherwise known as the Tax Reform for Acceleration and Inclusion (TRAIN)), requires that every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with the rules and regulations. The withholding tax on compensation income is a method of collecting the income tax at source upon receipt of the income to all employed individuals, whether citizens or aliens, deriving income from compensation for services rendered in the Philippines.

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#### Registration with other government agencies

Both employer and employees are also required to register with the following government agencies:

1. Social Security System (SSS) — RA No. 8282
2. Philippine Health Insurance Corporation (PhilHealth) — RA No. 7875
3. Home Development Mutual Fund (HDMF) — RA No. 9679

SSS provides social insurance program, health and retirement benefits to employees. PhilHealth covers health insurance coverage for medications of the employees and their dependents. HDMF offers affordable shelter financing, short-term loans and access to housing programs.

### Ongoing compliance requirements

#### Monthly payroll tax

The employer, as a withholding tax agent, is required to file the monthly WTW return using the Monthly Remittance Return of Income Taxes Withheld on Compensation (BIR Form 1601-C). The deadline for filing of tax return and payment of related tax liability depends on the classification of the taxpayer, as follows:

1. Manual taxpayers — the WTW return and related tax liability shall be filed and paid, respectively, on or before the 10th day of the month following the month when the withholding was made, except for taxes withheld in December, which shall be filed and paid on or before 15 January of the succeeding year.
2. Taxpayers enrolled in the Electronic Filing and Payment System (EFPS) —
  - The filing of tax return shall be made on a staggered basis depending on the industry classification of the taxpayer (i.e., 11th to 15th day following month-end)

- The payment of tax liability shall be made on or before the 15th day of the month following the month when the withholding was made, except for taxes withheld in December, which shall be paid on or before 20 January of the succeeding year.

### **Monthly statutory contributions**

Every employer is required to deduct from the employee's compensation the required statutory contributions (i.e., SSS, PhilHealth and HDMF). The employer shall remit its share and employee's share in the statutory contributions to the concerned government agencies. The deadline for remittance, which shall be in the following month when the deduction was made, is as follows:

1. SSS — depends on the 10th digit of the employer's SSS number (i.e., 10th, 15th, 20th, 25th or last day of the month)
2. PhilHealth — depends on the last digit of the employer's PhilHealth number (i.e., 11th to 15th or 16th to 20th day of the month)
3. HDMF — depends on the first letter of employer or business name (i.e., 10th to 14th, 15th to 19th, 20th to 24th or 25th to last day of the month)

### **Year-end payroll tax compliance**

Every calendar year-end, the employer is required to compute the annual tax to be withheld on the employee's compensation and compare it with the taxes already withheld in the previous months (i.e., January to November).

In case of deficiency tax, the employer shall withhold the additional tax from the compensation of employee in December. On the other hand, in case of excess tax, the employer shall credit and refund the excess tax to the employees not later than 25 January of the following year.

The employer is required to submit the Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (BIR Form No. 1604-CF), including the alphabetical list of employees/payees, to the BIR on or before 31 January of the year following the calendar year when the compensation payment and other income payments subjected to final withholding taxes were paid or accrued.

In addition, the employer is also required to issue the Certificate of Compensation Payment or Income Tax Withheld (BIR Form No. 2316) to the employees on or before 31 January of the succeeding calendar year and submit the signed duplicate copy to the BIR on or before February 28 of the succeeding calendar year. The form shall present the total compensation income received by the employee and the total amount of tax withheld from said compensation during the calendar year.

## **2. Pension requirements**

### **Registration of retirement plan**

In cases where the employer provides retirement benefits to the employees through a formal retirement plan, the employer shall register the retirement plan with the BIR and secure certification from it to qualify for income tax exemption. In securing the certification, the employer must file a written application and submit the documents required by the BIR. The documents to be submitted depends on whether the retirement plan is a trustee plan, non-trusteed/insured plan or multi-employer plan.

## Ongoing compliance requirements

### Retirement benefits

RA No. 7641 mandates that all employees may retire upon reaching the retirement age established in the collective bargaining agreement (CBA) or other applicable employment contract. The employee shall be entitled to receive the retirement benefits earned under existing law, and the CBA and other agreements. The retirement benefits under the CBA and other agreements shall not be less than those provided in RA No. 7641.

In the absence of a retirement plan or agreement providing for retirement benefits of employees, an employee upon reaching the age of 60 years or the compulsory retirement age of 65 years, and who has served at least 5 years, may retire and shall be entitled to retirement pay equivalent to at least half a month's salary for every year of service, a fraction of at least six months being considered as one whole year.

The following retirement benefits are exempt from income tax:

1. Retirements benefits received under RA No. 7641
2. Those received by employees in accordance with reasonable private benefit plan maintained by the employer, provided that the following conditions are met:
  - a. The retiring employee has been in the service of the same employer for at least 10 years
  - b. The employee is not less than 50 years of age at the time of retirement
  - c. The retirement benefits shall be availed by an employee only once

## 3. Employment obligations

### Minimum wage

The Wage Rationalization Act (RA No. 6727) mandates the fixing of minimum wages applicable to different industry sectors. These are: non-agriculture, agriculture plantation, agriculture non-plantation, cottage/handicraft and retail/ service.

The Regional Tripartite Wages and Productivity Boards (RTWPB) determine the daily minimum wage rates in each region. The Regional Wage Orders issued by RTWPB prescribe the daily minimum wage rates per industry per locality within the region and in some instances depending on the number of workers and the capitalization of enterprises.

Compensation income of a minimum wage earner (MWE), who is being paid with statutory minimum wage, shall be exempt from income tax. Holiday pay, overtime pay, night shift differential pays, and hazard pay earned by the MWE shall likewise be covered by income tax exemption. Additional compensation such as commissions, honoraria, fringe benefits, benefits in excess of the allowable statutory amount of PHP90,000, taxable allowances, and other taxable income given to an MWE by the same employer other than those which are expressly exempt from income tax shall be subject to withholding tax using the withholding tax table. Likewise, MWE receiving other income from other sources in addition to compensation income, such as income from other concurrent employers, from the conduct of trade, business, or practice of profession, except income subject to final tax, are subject to income tax only to the extent of income other than statutory minimum wage, holiday pay, overtime pay, night shift differential pays, and hazard pay earned during the taxable year.

## Leave entitlement

Every employee who has rendered at least one year of service shall be entitled to a yearly service incentive leave (SIL) of five days with pay. In addition, the following leave entitlement shall be granted to certain employees with full pay:

1. Maternity leave (RA No. 1161, as amended by RA No. 8282 and as further amended by RA No. 11210) — 105 days (additional 15 days for solo parents)
2. Paternity leave (RA No. 8187) — seven days
3. Solo parent leave (RA No. 8972, as amended by RA No. 11210) — seven days
4. Others
  - a. Others
  - b. Leave for women and their children who are victims of violence (RA No. 9262) — 10 days

## Rest hours

Normal hours of work of any employee shall not exceed eight hours a day. In addition, it shall also be the duty of every employer to give his employees not less than 60 minutes time-off for their regular meals. However, in the following cases, the employer may give a meal period of not less than 20 minutes provided that said shorter meal period is credited as compensable hours worked of the employee:

1. Work is non-manual work in nature or does not involve strenuous physical exertion
2. The establishment regularly operates not less than 16 hours a day
3. There is urgent work to be performed on machineries, equipment or installations to avoid serious loss which the employer would otherwise suffer
4. The work is necessary to prevent serious loss of perishable goods

Rest periods or coffee breaks running from 5 to 20 minutes shall be considered as compensable working time except in certain cases when a meal period of not less than 20 minutes may be given by the employer. (Presidential Decree No. 442, s. 1974)

Any work performed beyond eight hours a day shall be considered an overtime work which shall entitle the said employee to an additional compensation equivalent to his or her regular wage plus at least 25% thereof. On the other hand, work performed beyond eight hours on a holiday or rest day shall be paid an additional compensation equivalent to the rate of the first eight hours on a holiday or rest day plus at least 30% thereof. It shall also be the duty of every employer, whether operating for profit or not, to provide each of his employees a rest period of not less than 24 consecutive hours after every 6 consecutive normal work days.

## 13th Month Pay

Pursuant to the provisions of Presidential Decree No. 851 and its implementing rules and regulations requiring employers in the private sector to pay their rank and file employees a 13th Month Pay on or before December 24 of every year, all covered employers are hereby reminded to comply with the following rules:

- a) "Thirteenth-month pay" shall mean one twelfth (1/12) of the basic salary of an employee within a calendar year;
- b) Basic salary" shall include all remunerations or earnings paid by an employer to an employee for services rendered but may not include cost-of-living allowances, profit-sharing payments, cash equivalent of unused vacation and sick leave credits, overtime pay, premium pay, night differential, holiday pay, and all allowances and monetary benefits which are not considered, or integrated as part of the regular or basic salary of the employee.

13th month pay and other benefits in excess of the P90,000 threshold are taxable (i.e. Section 32 (B) (7) (e) of the Tax code) and shall be included in the computation of the employees' gross income.

#### De minimis benefits

De minimis benefits are benefits of relatively small values provided by the employers to the employee on top of the basic compensation intended for the general welfare of the employees. Being of relatively small values, the same is not being considered as taxable compensation and as such, not subject to income tax and withholding tax on compensation.

To further appreciate the tax exemptions, below is the updated list of de minimis benefits in the Philippines both to managerial and rank-and-file employees with some items updated in amounts by Revenue Regulations No. 11-2018 (RR 11-2018), the implementing rule of Tax Reform for Acceleration and Inclusion (TRAIN) or Republic Act No. 10963 effective January 1, 2018 for guidance and easy reference.

1. Monetized unused vacation leave credits of private employees not exceeding 10 days during the year
2. Monetized value of vacation and sick leave credits paid to government official and employees
3. Medical cash allowance to dependents of employees, not exceeding P1,500 per employee per semester or P250 per month
4. Rice subsidy of P2,000 or one sack of rice (50 kilograms) per month amounting to not more than P2,000
5. Uniform and clothing allowance not exceeding P6,000 per annum
6. Actual medical assistance, e.g., medical allowance to cover medical and healthcare needs, annual, medical or executive check-up, maternity assistance, and routine consultations, not exceeding P10,000 per annum
7. Laundry allowance not exceeding P300 per month
8. Employee's achievement awards, e.g., for length of service or safety achievement, which must be in the form of tangible personal property other than cash or gift certificate, with an annual monetary value not exceeding P10,000 received by the employee under an established written plan which does not discriminate in favor of highly paid employees
9. Gifts made during Christmas and major anniversary celebrations not exceeding P5,000 per employee per annum
10. Daily meal allowance for overtime work and night/ graveyard shifts not exceeding 25% of the basic minimum wage on a per region basis
11. Benefits received by an employee by virtue of a collective bargaining agreement (CBA) and productivity incentive schemes provided that the total monetary value received from both CBA and productivity incentive schemes combined do not exceed P10,000 per employee per taxable year

As further provided under Revenue Regulations No.15- 2011 that has become effective starting the year 2011, all other benefits given by employers which are not included in the above enumeration shall not be considered "de minimis benefits, and hence, shall be subject to income tax as well as withholding tax on compensation income. If the employer provides more than the limitations, the amount in excess of the limit would be taxable and subject to withholding tax on compensation. This is however subject to the rule on the P90,000 amount for 13th month pay and other benefits.

#### Statutory contributions

Both the employer and employee are required to remit monthly contributions based on each employee's gross or basic monthly pay to the following government agencies:

1. Social Security System (SSS)
2. Philippine Health Insurance Corporation (PhilHealth)
3. Home Development Mutual Fund (HDMF)

## 4. Payroll requirements

### Timing of wage payment

Wages shall be paid at least once every 2 weeks or twice a month at intervals not exceeding 16 days. In case the wages cannot be paid due to circumstances beyond the employer's control, the employer shall pay the wages immediately after such circumstances have ceased. However, no employer shall make payment with frequency less than once a month. (Presidential Decree No. 442, s. 1974)

In case of payment of wages by results involving work, which cannot be finished in 2 weeks, payment shall be made at intervals not exceeding 16 days in proportion to the amount of work completed. Final settlement shall be made immediately upon completion of the work.

### Payslips

Every employer shall pay his employees by means of a payroll wherein the following information and data must be individually shown:

1. Length of time to be paid
2. The rate of pay per month, week, day or hours, piece, etc.
3. The amount due for regular work
4. The amount due for overtime work
5. Deductions made from the wages of the employees
6. Amount actually paid

Employers are encouraged to provide payslips to all employees one working day before the pay day. Payslips can be provided as either electronic form or hard copy.

## 5. Banking requirements related to payroll

### Payment of salaries and wages

Wages shall be paid in legal tender. The use of tokens, promissory notes, vouchers, coupons or any other form alleged to represent legal tender is absolutely prohibited even when expressly requested by the employee. Payment of wages by bank checks, postal checks or money orders is allowed where:

- Such manner of wage payment is customary
- It is stipulated in a collective agreement

OR

- Where all of the following conditions are met:
  - a. There is a bank or other facility for encashment within a radius of 1km from the workplace.
  - b. The employer or any of his agents or representatives does not receive any pecuniary benefit directly or indirectly from the arrangement.
  - c. the employees are given reasonable time during banking hours to withdraw their wages from the bank which time shall be considered as compensable hours worked if done during working hours.
  - d. The payment by check is with the written consent of the employees concerned if there is no collective agreement authorizing the payment of wages by bank checks.

Upon written petition of majority of the workers and employees, all private establishments, companies, business and other entities with at least 20 workers and located within 1km radius to a commercial, savings or rural bank, shall pay the wages and other benefits of their workers through any of said banks, within the period and in the manner and form prescribed under the Labor Code. In addition, upon request of concerned worker or union, the bank through which wages and other benefits are paid shall issue a certification of the record of payment of said wages and benefits of a particular worker or workers for a particular payroll period. (Presidential Decree No. 442, s. 1974)

