

Philippines requires transfer pricing information return

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Executive summary

The Philippine Bureau of Internal Revenue (BIR) issued Revenue Regulations No. 19-2020¹ requiring taxpayers to file an *Information Return on Related Party Transactions (International and/or Domestic)* (BIR Form No. 1709) and relevant supporting documents, together with their Annual Income Tax Returns (AITR). The regulation aims to implement the disclosure of related party transactions (RPTs) under International Accounting Standard No. 24 and the application of the arm's-length principle.

The regulation will be effective on 25 July 2020 and will apply to the current and subsequent taxable years.

This Tax Alert summarizes the key requirements of BIR Form No. 1709.

Detailed discussion

This reporting requirement applies to both domestic and foreign transactions, and to both a reporting entity and a related party.²

The following procedures and guidelines apply to BIR Form No. 1709:

- ▶ The nature of the transaction and the accounts affected must be described in detail, including name of related party, address, taxpayer identification number, application of tax treaty benefits and applicable treaty rate, amount of income/expense, and amount of taxes withheld.
- ▶ RPTs are separately categorized into transactions with the parent, entities with joint control or significant influence over the entity, subsidiaries, associates, joint ventures in which the entity is a partner, key management personnel of the entity or its parent, and other related parties.
- ▶ For each of RPT category, the following information must be provided:
 - Amount of the transaction
 - Amount of outstanding balances, including commitments, and their terms and conditions, including whether they are secured, and the nature of the consideration to be provided in settlement, and details of any guarantees given or received
 - Provisions for doubtful debts related to the amount of outstanding balances
 - Expense recognized during the period in respect of bad or doubtful debts due from related parties
- ▶ Other details to be provided include:
 - Business overview of the ultimate parent company, which will include the profile of the multinational group of which the taxpayer belongs, along with the name, address, legal status and country of tax residence of each of the related parties with which intra-group transactions have been entered into by the taxpayer, and ownership relationships between them.
 - Functional profile, which will include a broad description of: (i) the business of the taxpayer and the industry in which it operates; and (ii) the business of the related parties with which the taxpayer has transacted.

- ▶ The required attachments to BIR Form No. 1709 include:
 - Certified true copies of the relevant contracts or proof of transaction
 - Withholding tax returns and the corresponding proof of payment of taxes withheld and remitted to the BIR
 - Proof of payment of foreign taxes or ruling duly issued by the foreign tax authority where the other party is a resident
 - Certified true copy of Advance Pricing Agreement, if any
 - Any transfer pricing documentation
- ▶ The failure to comply with the requirements of the regulation may result in penalties (which include fines and/or imprisonment).³

Implications

As the information contained in BIR Form No. 1709 may be used to identify companies for transfer pricing tax audits,⁴ Philippine companies with RPTs should review their transfer pricing positions and documentation to ensure that the arm's-length principle is supported.

Endnotes

1. Full text of Revenue Regulations No. 19-2020 and its Annex (BIR Form No. 1709) are available on the [BIR website](#).
2. A “Related Party” is a person or entity that is related to the reporting entity i.e., the entity that is preparing its financial statements.
3. Penalties are prescribed under the Philippine Tax Code.
4. See EY Global Tax Alert, [Philippines issues guidelines for transfer pricing audits](#), 17 September 2019.

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