

Tax Bulletin

Special Issue on the SEC Update on
Beneficial Ownership Information

July 2019



Highlights

SEC Memorandum Circular (MC) No. 15, Series of 2019, requires SEC-registered stock and non-stock corporations to provide beneficial ownership information in the General Information Sheet (GIS) and, for this purpose, circularizes a modified GIS Form.

SEC Memorandum Circular No. 15-2019 dated 26 July 2019

I. Coverage

- ▶ The MC shall apply to all SEC-registered stock and non-stock domestic corporations required to submit the GIS under existing laws, rules and regulations.
- ▶ The modified GIS Form shall be used by corporations whose GIS are due for submission beginning 31 July 2019.

II. Requirements

▶ *Disclosure of beneficial ownership information*

1. All SEC registered corporations are required to take reasonable measures to obtain and hold up-to-date information on their beneficial owners and to disclose the same in a timely manner in the GIS.
2. "Beneficial Ownership" shall be identified as follows:
 - ▶ The identity of the natural person(s) who ultimately has controlling ownership interest in the corporation.
 - a. Any natural person, directly or indirectly, or through a chain of ownership, owning at least 25% of the voting shares or capital of the corporation, or 25% of the voting rights, as may be applicable, shall be considered as a beneficial owner.
 - b. If the entity owning at least 25% of the reporting corporation is an estate, trust, or partnership, the natural person owning or controlling the estate, trust, or partnership shall be disclosed as a beneficial owner.
 - ▶ The identity of the natural persons (if any) exercising control of the corporation through other means.
 - ▶ In exceptional circumstances, the identity of the natural persons comprising the Board of Directors/Trustees or any similar body and/or the senior managing official of the reporting corporation.
3. The following information on the beneficial owner shall be provided:
 - ▶ Complete name which shall include the surname, given name, middle name and name extension;
 - ▶ Specific residential address;
 - ▶ Date of Birth;
 - ▶ Nationality;

- ▶ TIN; and
 - ▶ Percentage of ownership, if applicable.
4. This information will not be uploaded to the SEC’s publicly accessible electronic database and will only be made accessible, in a timely manner, to competent authorities for law enforcement and other lawful purposes.
- ▶ **Updating of Beneficial Ownership Information**
1. When to file the updated GIS: Within 7 working days after a change in beneficial ownership information occurred or became effective.
 2. For corporations with multiple layers of corporate stockholders, which failed to submit within the 7-day period: Within 30 working days from the time such change occurred or became effective with an explanation for the failure to submit the same within the prescribed period.
- ▶ **Obligation of Directors/Trustees and Officers**
1. The Directors/Trustees and Officers of the reporting corporation shall exercise due diligence in ensuring compliance with the requirement to disclose the beneficial owners in the GIS.
 2. The due diligence requirement is deemed complied with if reasonable measures are undertaken to obtain and hold updated information on the beneficial owner(s) and to ensure that such information is timely disclosed in the GIS.
 3. Reasonable measures include: (1) adoption of written procedures for obtaining, updating, and recording beneficial ownership information and timely disclosing the same; and (2) Board and Senior Management oversight in ensuring the procedures are observed.

III. Penalties

- ▶ **For failure to disclose beneficial ownership information:**

	Stock corporations with retained earnings of less than P500,000.00	Non-stock corporations with fund balance of less than P500,000.00
First violation	P10,000	P5,000
Second violation	P20,000	P10,000
Third violation	P50,000	P20,000
Fourth and subsequent violation	P100,000	P50,000

For corporations with retained earnings / fund balance of at least P500,000.00:

1. P500,000 to less than P5 Million: 2 x the above amounts
2. P5 Million to less than P10 Million: 3 x the above amounts

3. At least P10 Million: 4 x the above amounts

Failure to submit the GIS with the required beneficial ownership shall be *prima facie* proof of violation.

- ▶ **For failure of directors/trustees and/or officers to exercise due diligence in ensuring compliance with the requirement to disclose:**

First violation	P5,000
Second violation	P10,000
Third violation	P20,000
Fourth and subsequent violation	P50,000

Prima facie proof of failure to exercise due diligence: The absence of written procedures and policies for obtaining, updating, and recording the information and for the timely disclosure thereof, or lack of Board and Senior Management oversight in ensuring the procedures are observed.

Prima facie violation of the duty to exercise due diligence: Every submission of GIS without the required beneficial ownership information or every instance of non-submission or late submission of such GIS.

- ▶ The submission of the GIS in electronic format pursuant to SEC MC No. 6-2006 is suspended until further notice.

IV. Effectivity

- ▶ The MC shall take effect immediately after its publication in two newspapers of general circulation and its posting on the Commission's website.

(Editor's Note: SEC MC No. 15 was published in the Manila Bulletin and the Manila Standard on 27 July 2019)

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