

# Tax Bulletin

Special Issue on the New BIR  
Requirement for the Submission of  
an Information Return on Related  
Party Transactions

July 2020

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# Highlights

## **Revenue Regulation (RR) No. 19-2020 issued on July 8, 2020 requires the submission of a 3-page Information Return on Related Party Transactions (BIR Form No. 1709) as an attachment to the Annual Income Tax Return**

### I. Objective and Background

- ▶ RR 19-2020 prescribes the use and submission of the new BIR Form No. 1709 or the Information Return on Related Party Transactions (RPTs), replacing BIR Form 1702H or the Information Return on Transactions with Related Foreign Persons, series of 1992.
- ▶ The new reportorial requirement is intended to effectively implement Philippine Accounting Standards (PAS) 24, Related Party Disclosures, to ensure that related party transactions are properly disclosed and conducted at arm's length.

### II. Coverage

- ▶ Taxpayers, with RPTs, whether international or domestic, and who may either be a reporting entity or a related party, are required to accomplish and submit BIR Form No. 1709, together with supporting documents, as attachments to the Income Tax Returns (ITRs) for the current taxable year and subsequent years.
- ▶ An entity is related to a reporting entity under any of the following conditions:
  1. The entity and the reporting entity are members of the same group (i.e. each parent, subsidiary and fellow subsidiary are related to the others);
  2. One entity is an associate (associate is an entity over which the investor has significant influence) or joint venture (joint venture is an arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement) of the other entity, or an associate or joint venture of a member of a group of which the other entity is a member;
    - ▶ Significant influence is the power to participate in the financial and operating policy decisions of any entity, but is not control over those policies. It may be gained by share ownership, statute or agreement.
    - ▶ Control refers to the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities.
  3. Both entities are joint ventures of the same third party;
  4. One entity is a joint venture of a third party and the other entity is an associate of a third party;
  5. The entity is a post-employment benefit plan for the benefit of employees of either the reporting entity or an entity related to the reporting entity;

6. The entity is controlled or jointly controlled by a person identified as a person or a close member of that person's family related to a reporting entity;
  7. A person or a close member of that person's family that has significant influence over the entity or is a member of the key management personnel of the entity (of or a parent of the entity); and
  8. The entity, or any a member of a group of which it is a part of, provides key management personnel services to the reporting entity or to the parent of the reporting entity.
- ▶ RPTs shall include, but shall not be limited to, the following:
1. Purchase or sale of finished or unfinished goods;
  2. Purchase or sale of property and other assets
  3. Rendering or receiving of services;
  4. Leases;
  5. Transfers of research and development;
  6. Transfers of license agreements
  7. Transfers under finance arrangements (including loans and equity contributions, whether in cash or in kind);
  8. Provision of guarantees or collateral;
  9. Commitments to do something depending on the occurrence or non-occurrence in the future of a particular event; and
  10. Settlement of liabilities on behalf of the entity or by the entity on behalf of that related party.

### III. Procedures and Guidelines

In filling out and submitting BIR Form No. 1709, the following guidelines shall be observed:

- ▶ Separate disclosures on the transactions with the following and their outstanding balances shall be made for each of the following categories:
1. The parent;
  2. Entities with joint control or significant influence over the entity;
  3. Subsidiaries, referring to entities that are controlled by another entity;
  4. Associates;
  5. Joint ventures in which the entity is a joint venture;
  6. Key management personnel of the entity or its parent; and
  7. Other related parties.
- ▶ The nature of transaction and the accounts affected shall be described in detail.
- ▶ The following shall also be disclosed:
1. "Business overview of the ultimate parent company", which shall include the profile of the multinational group of the taxpayer, the name, address, legal status and country of tax residence of each of the related parties with whom intra-group transactions have been entered into by the taxpayer, and ownership linkages among them;

2. "Functional profile", which shall include a broad description of the business of the taxpayer and the industry in which it operates, and of the business of the related parties with whom the taxpayer has transacted.
- ▶ The following are required attachments to BIR Form No. 1709:
1. Certified true copy of the relevant contracts or proof of transaction;
  2. Withholding tax returns and the corresponding proof of payment of taxes withheld and remitted to the BIR;
  3. Proof of payment of foreign taxes or ruling duly issued by the foreign tax authority where the other party is a resident; and
  4. Certified true copy of Advance Pricing Agreement, if any; and
  5. Any transfer pricing documentation.

#### IV. Penalties

Any violation of the provision of the regulation shall be subject to penalties provided in Section 250 and other pertinent provisions of the Tax Code, as amended.

#### V. Effectivity

This regulation shall take effect after 15 days following its publication in a newspaper of general circulation.

*(Editor's Note: RR 19-2020 was published on 10 July 2020 in Malaya Business Insight)*

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The deadlines and timelines mentioned in this Tax Bulletin are pursuant to our understanding of the existing administrative issuances of the BIR as of the date of writing. These may be subject to change in light of the recently passed RA No. 11469 or the "Bayanihan to Heal as One Act," which authorizes the President to move statutory deadlines and timelines for the submission of documents and payment of taxes, fees, and other charges required by law, among others.