

MCC TAX AND OTHER RELEVANT UPDATES

Period Covered: March 1-31, 2023



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IMPORTANT UPDATES:

A. REVENUE MEMORANDUM CIRCULAR		
ISSUANCE	DATE ISSUED	SUBJECT
RMC No. 29-2023	March 15, 2023	Clarifies the effect of publication of the list of taxpayers determined as Cannot Be Located (CBL) pursuant to existing guidelines
RMC No. 30-2023	March 15, 2023	Reiterates the basis of the Total Landed Value of imported automobiles as defined under RR No. 25-2003 in the processing of applications for Electronic Authority to Release Imported Goods (eATRIG) by importers of automobiles
RMC No. 31-2023	March 16, 2023	Further clarifies imported goods that will no longer require the issuance of "Authority to Release Imported Goods" by the Bureau of Internal Revenue prior to release by the Bureau of Customs
RMC No. 32-2023	March 16, 2023	Prescribes the guidelines in the filing of Annual Income Tax Returns for Calendar Year 2022 as well as payment of taxes due thereon until April 17, 2023
RMC No. 33-2023	March 17, 2023	Clarifies the issuance and enforcement of Subpoena Duces Tecum
RMC No. 36-2023	March 20, 2023	Announces the availability of other registration-related online transactions, functions and features in the BIR Online Registration and Update System (ORUS)
RMC No. 40-2023	March 21, 2023	Announces the availability of the Offline electronic Bureau of Internal Revenue Forms (eBIRForms) Package Version 7.9.4
B. SECURITIES AND EXCHANGE COMMISSION		
SEC Memorandum Circular 2 series of 2023	March 16, 2023	Grant of Amnesty For Non Filing and Late Filing of the General Information Sheet (GIS) and Annual Financial Statement (AFS), and Non Compliance with Memorandum Circular No. 28 s. 2020
SEC Memorandum Circular 1 series of 2023	March 1, 2023	Extension of Deadline for the 2023 Filing of Annual Financial Statements

DISCUSSION OF UPDATES

A. REVENUE MEMORANDUM CIRCULAR

REVENUE MEMORANDUM CIRCULAR NO. 29-2023

REVENUE MEMORANDUM CIRCULAR NO. 29-2023 issued on March 10, 2023 clarifies the effect of publication of the list of taxpayers determined as Cannot Be Located (CBL) pursuant to existing guidelines and procedures under Revenue Memorandum Circular No. 98-2010.

The Circular reiterates that the purpose of the publication of CBL taxpayers is to give due notice to the concerned taxpayers and to the public as well, who may, in one way or another, have knowledge on the whereabouts of the published names of taxpayers or have transactions with them. Those with information on the CBL taxpayers' whereabouts can report to the BIR while those with business transactions with them shall be given precaution in their future transactions as there are tax consequences provided in the said Circular which is for their disadvantage. These include non-deductibility of purchases made with the CBL taxpayers, whether the purchase is related to cost of sales or operating expenses, for purposes of Income Tax computation and if the transaction is with Value-Added Tax component, the same cannot be claimed as input tax, unless the buyer can prove the existence of the supplier tagged as CBL by the BIR and the authenticity of purchases made. These tax consequences, however, shall apply on transactions made after the publication of the name of the CBL taxpayer.

In addition, the publication of the names of CBL taxpayers is not a pre-requisite to suspend the running of the prescriptive period to assess under Section 203 of the Tax Code, as amended. Once the handling Revenue Officer has submitted a report that the taxpayer is a CBL and such report is supported by the required documents under existing policies, the suspension of the said prescriptive period already sets in and is tagged in the system as suspended.

REVENUE MEMORANDUM CIRCULAR 30-2023

Revenue Memorandum Circular 30-2023 was issued by the Bureau of Internal Revenue to reiterate the basis of the Total Landed Value of Imported Automobiles as defined in Revenue Regulations 25-2003 in the processing of Applications for Electronic Authority to Release Imported Goods (eATRIG) by importers of automobiles.

Section 2(h) of Revenue Regulations 25-2003 defines "Total Landed Value" as follows:

Total Landed Value – shall refer to the total of the (i) market value of the motor vehicles imported as indicated in the motor vehicle reference books, such as the Japanese and U.S. Red Book, Karo and World Car book on automobile utility vehicles and other motor vehicles, or the dutiable value as defined in Sec. 201 of the Tariff and Customs Code of the Philippines as amended whichever is higher; (ii) customs duties paid on

the imported goods; and (iii) all other charges arising from, or incident to, the importation.

As stated in the above provision, there are three ways that could be used by the BIR to determine the total landed value. But the BIR uses the U.S. Auto Red Book Online Price Digest as its reference for determining the proper market valuation of imported automobiles.

The following is the ad valorem tax due on imported automobiles based on U.S. Auto Red Book Online Price Digest:

<i>Description</i>	<i>Basis of Valuation (per Auto Red Book Online Price Digests)</i>
1. Importer and at the same time engaged in business as Dealer of Automobiles	Wholesale Price
2. Importer of Automobiles for personal or company use or not engaged in business as Dealer of Automobile	Retail Price

For No. 1, an importer who at the same time engaged in business as dealer of automobiles for the purpose of imposing the ad valorem tax based on wholesale price shall be determined by applying the following requirements:

- a. He/She must be a holder of Permit to Operate (PTO) as importer and dealer of automobiles for excise tax purposes;
- b. Has dealership agreement/ contract with foreign suppliers/ manufacturers;
- c. Maintains a showroom or registered storage/ warehouse facility;
- d. Imports by bulk or a minimum of twelve (12) units in a twelve-month period; and,
- e. The imported automobiles are for sale to customers.

If the importer does not satisfy above requirements, the basis of ad valorem tax shall be on retail price.

REVENUE MEMORANDUM CIRCULAR 32-2023

The Bureau of Internal Revenue has recently issued on March 16, 2023, **Revenue Memorandum 32-2023** to provide guidelines in the filing of Annual Income Tax Returns for Calendar Year 2022 as well as payment of corresponding taxes due thereon, until April 17, 2023.

1. Taxpayers may file their AITR and pay tax due thereon to any Authorized Agent Banks (AAB) or Revenue Collection Officers (RCOs), notwithstanding the jurisdiction of Revenue District Office, without imposition of penalty for wrong venue of filing;
 - a. Payment up to Php20,000.00 can be accepted in cash or if it exceeds said amount, through check payable to "Bureau of Internal Revenue"
2. Taxpayers **mandated** to use the Electronic Filing and Payment System (eFPS) shall **file their AITR** electronically and **pay the taxes due through the eFPS-**

AAB where they are enrolled. eBIRForms shall be allowed should the filing through eFPS cannot be made through it due to following reasons without need to file via eFPS:

- a. **Enrollment** to eFPS and eFPS-AAB **still on process**;
- b. The enhanced forms are **not yet available in eFPS**
- c. **Unavailability** of eFPS covered by **duly released advisory**
- d. **Unavailability** of eFPS-AAB system **as informed by the AAB**

Payment of taxes due on returns filed through eBIRForms can be settled in **any AABs or to any RCOs of the RDO** or through the following Electronic Payment (ePayment) gateways:

- a. Development Bank of the Philippines' (DBP) Pay Tax Online (for holders of Visa/Mastercard Credit Card and/or BancNet ATM Debit Card)
- b. Landbank of the Philippines (LBP) Link.Biz Portal (for taxpayers who have ATM account with LBP and/or holders of BancNet ATM/Debit/prepaid Card and taxpayers utilizing PCHC PayGat or PESONet facility for depositors of RCBC, Robinsons Bank, Union Bank, BPI, PSBank and Asia United Bank)
- c. Union Bank's Online/ The Portal Payment Facility (for taxpayers who have an account with Union Bank of the Philippines) and InstaPay via UPAY (for individual non-Union Bank account holders)
- d. Tax Software Provider/ Taxpayer Agent – **Gcash/Maya/MyEG**

No Payment AITRs

No payment AITRs shall be filed through eBIRForms. But the following may manually file their No Payment AITRs with RDOs in three (3) copies using the electronic or computer-generated returns or photocopied returns in its original format in **legal or folio size bond paper**:

- a. Senior Citizen or Persons with Disabilities filing their own return;
- b. Employees not covered by substituted filing;
- c. Employees qualified for substituted filing but opted to file ITR for purposes of promotion, loan, scholarships, foreign travel requirements, etc.

Submission of AITRs

- a. **Electronically Filed ITRs without attachment required.**

For Electronically Filed ITRs without attachment required, printed copy of the e-filed tax returns need not be submitted to the office under the Large Taxpayers Service (LTS) or RDO. TRRC for eBIRForms or FRN for Efps will serve as proof that the return is filed.

- b. **Electronically Filed ITRs with attachment required.**

Electronically filed AITR, the required attachments of which must be submitted **within 15 days from the date of tax filing deadline** through either:

- a. Electronic Audited Financial System (eAFS), or
- b. LTS/RDO where the taxpayer is registered. Attachments will only be stamped received not the AITR.

For fuller details, kindly refer to this link: [RMC No. 32-2023.pdf \(bir.gov.ph\)](#)

REVENUE MEMORANDUM CIRCULAR NO. 33-2023

REVENUE MEMORANDUM CIRCULAR NO. 33-2023 issued on March 17, 2023 clarifies that the issuance and enforcement of Subpoena Duces Tecum (SDT) shall also apply in the monitoring and verification of taxpayers' compliance with relevant tax laws, as authorized under Section 5 of the Tax Code.

The guidelines and procedures set forth in Revenue Memorandum Order (RMO) No. 10-2013, as amended, shall also apply in the examination of any book, paper, record, or other data which may be relevant or material in evaluating tax compliance of taxpayers who is liable for tax or required to file a tax return.

The following guidelines may be utilized by the Head of the Revenue District Office/Large Taxpayers Audit Division/Large Taxpayers District Office/ National Investigation Division/Regional Investigation Division concerned or any other officer duly delegated by the Commissioner to aid in the monitoring and verifying the tax compliance of taxpayers:

A. For registered taxpayers, their tax compliance may be evaluated through the examination of the following documents, to wit:

- Payment of Annual Registration Fee (ARF)
- Issuance of sales invoices or official receipts
- Keeping of books of accounts
- Timely filing of requisite tax returns and payment of taxes due thereon
- Withholding of tax on income payments subject to withholding and the timely remittance of tax withheld
- Filing of required information returns, such as the summary list of sales/purchases (SLSP), annual alpha list of payees, etc. on or before the due dates prescribed by law or existing revenue issuances, whenever applicable
- Other data which may be relevant or material in making such inquiry

B. For unregistered taxpayers, the concerned office shall notify them to register and pay voluntarily any unpaid taxes due on past transactions. In case of failure to register and/or pay the tax obligations, the concerned office shall endorse the case to the Regional Investigation Division or National Investigation Division for the conduct of preliminary investigation in preparation for the filing of a Run After Tax Evaders case and/or for other tax enforcement actions, as may be warranted.

The procedures for the issuance and enforcement of SDTs, as prescribed under RMO No. 10-2013, as amended, must still be strictly observed by all concerned in compelling taxpayers to submit or otherwise present the required books, records and documents.

REVENUE MEMORANDUM CIRCULAR NO. 36-2023

REVENUE MEMORANDUM CIRCULAR NO. 36-2023 issued on March 20, 2023 announces the availability and implementation of the following registration-related online transactions,

functions and features in the BIR Online Registration and Update System (ORUS) starting March 17, 2023:

- Online Payment (e-Payment) of Annual Registration Fee (RF) for New Business Registrants
- Online Inquiry of RF Payment for BIR Internal Users
- Application for Cancellation of Permit to Use (PTU) Loose-leaf and Acknowledgement Certificate (AC) of Computerized Accounting System (CAS)
- Online Verification of Taxpayer Identification Number (TIN)
- BIR Registered Business Search Facility

Taxpayers who already have an existing ORUS account may avail the additional online transactions, functions and features by logging-in to the system by accessing it through the BIR website (www.bir.gov.ph) under the eServices icon or thru URL <https://orus.bir.gov.ph>. Taxpayers who do not have an ORUS account and opted to use the said online registration facility of the BIR are required to enroll or create an account in ORUS following the guidelines prescribed under Revenue Memorandum Circular No. 122-2022.

REVENUE MEMORANDUM CIRCULAR 40-2023

REVENUE MEMORANDUM CIRCULAR 40-2023 was issued by the Bureau of Internal Revenue to announce the the availability of the Offline electronic Bureau of Internal Revenue Forms (eBIRForms) Package Version 7.9.4. This new package is available for download through the following websites:

- www.bir.gov.ph
- www.knowyourtaxes.com/ebirforms

B. SECURITIES AND EXCHANGE COMMISSION

SEC MEMORANDUM CIRCULAR 2 SERIES OF 2023

The Securities and Exchange Commission has recently released **SEC Memorandum Circular 2 series of 2023** granting amnesty for Non-Filing and Late Filing of General Information Sheet (GIS) and Annual Financial Statement (AFS) and Non-Compliance with MC No. 28, s. 2020. Said amnesty shall cover the following violations:

- a. Non-Filing of GIS for the latest and prior years;
- b. Late Filing of GIS for the latest and prior years;
- c. Non-Filing of AFS including fines for its attachments (i.e. Certificate of Existence of Program/ Activity, Non-Stock Non-Profit Organization Forms) for the latest and prior years;
- d. Late filing of AFS including fines for its attachments (i.e. Certificate of Existence of Program/ Activity, Non-Stock Non-Profit Organization Forms) for the latest and prior years

In addition to corporations, this shall also cover associations, partnerships and persons under the jurisdiction of the SEC that failed to comply with MC No. 28.

Rates of Amnesty

A. Non-Filing and Late Filing of GIS and/or AFS, and MC No. 28 violation:

Violation	Fine
Non-Filing of GIS	Php 5,000 (encompassing all violations on non-filing and late filing of GIS, and AFS and its attachments)
Late Filing of GIS	
Non-Filing of AFS	
Late Filing of AFS	
MC No. 28, s. 2020	Waived (Php 10,000)

The foregoing rate will apply, **provided** that, the applicant corporation or entity will (i) submit the latest reportorial requirement due at the time of application; AND (ii) comply with MC No. 28, s. 2020 through the [MC28 Submission Portal](#).

B. Suspended and Revoked Corporations:

The amnesty rate for Suspended and Revoked Corporations, including those which have filed for the lifting of suspension/revocation, are as follows:

Violation	Fines
Non-Filing of GIS	50% of the assessed fines (encompassing all violations on non-filing and late filing of GIS, and AFS and its attachments)
Late of GIS	
Non-Filing of AFS	
Late Filing of AFS	
MC No. 28, s. 2020	Waived (Php 10,000)

The said Memorandum also provides the process that needs to be followed to apply for the amnesty including the documentary requirements.

For fuller details, you can access the copy of Memorandum Circular 2 s 2023 via this link: [SEC MC No. 02, series of 2023 Grant of Amnesty for Non-Filing and Late Filing of General Information Sheet \(GIS\) and Annual Financial Statement \(AFS\) and Non-Compliance with MC No. 28, s. 2020 - Securities and Exchange Commission](#)

SEC MEMORANDUM CIRCULAR 1 SERIES OF 2023

The Securities and Exchange Commission has extended the deadlines for filing of Audited Financial Statements (AFS).

In general the filing shall be within one hundred twenty (120) days from the close of the accounting period. For companies following the calendar year ending December 31, the following shall be the extended deadlines:

Revised Filing Schedules	Last Digits of SEC Registration/License Number
May 29, 30, 31, June 1, 2	1 and 2
June 5, 6, 7, 8, 9	3 and 4
June 13, 14, 15, 16	5 and 6
June 19, 20, 21, 22, 23	7 and 8
June 26, 27, 29, 30	9 and 0

All reports shall be submitted via Electronic Filing and Submission Tool. Late submission based on the schedule presented above shall be accepted by the SEC beginning July 3, 2023.

For entities following accounting year other than December 31, the filing shall be within one hundred twenty (120) days from the close of the accounting period.

*****Nothing Follows*****