



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

JUL 08 2020

REVENUE REGULATIONS NO. 19- 2020

SUBJECT: New BIR Form No. 1709, Replacing Form No. 1702H, Series of 1992

TO: All Internal Revenue Officers and Others Concerned

Section 1. Objective

Pursuant to Sections 244 and 6(H) of the National Internal Revenue Code of 1997 ("NIRC"), as amended, in relation to Section 50 thereof which was implemented by Revenue Regulations (RR) No. 2-2013,¹ this Revenue Regulations is issued to prescribe the use of the new BIR Form No. 1709 or Information Return on Related Party Transactions (Domestic and/or Foreign) (**Annex "A"**), replacing for this purpose BIR Form 1702H - Information Return on Transactions with Related Foreign Persons, series of 1992.

Section 2. Background

Through the years, transactions around the world have become more complex and have been subject to abuse by taxpayers with intent to evade taxes by concluding transactions between them at unreasonable prices, thus eroding the tax base. Undeniably, this usually happens between related parties. While majority of related party transactions (RPTs) are not detrimental, there is a pressing worldwide concern that they can be easily abused in the absence of a relevant framework and effective enforcement. Significant risks arise when RPTs are not conducted at arm's length and are used as a conduit to channel funds out of the company into another related party, such as the risk of material misstatement in the financial statements as a result of inappropriate accounting, and non-identification or non-disclosure.

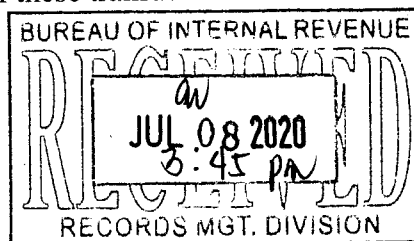
Therefore, in order to ensure that proper disclosures of related party transactions are made and that these transactions have been conducted at arm's length so as to protect the tax base, there should be an effective implementation of Philippine Accounting Standards (PAS) 24, *Related Party Disclosures*, for tax purposes. Under this PAS, an entity's financial statements shall contain the disclosures necessary to draw attention to the possibility that its financial position and profit or loss may have been affected by the existence of related parties and by transactions and outstanding balances, including commitments, with such parties.

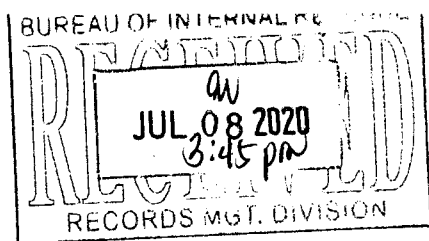
This Revenue Regulations requires, therefore, the submission of BIR Form No. 1709 and its supporting documents following the guidelines prescribed by the related revenue issuances for the submission of the required attachments to the Annual Income Tax Returns.

Tax examiners are hereby enjoined to conduct a thorough examination of the related party transactions and see to it that revenues are not understated and expenses are not overstated in the financial statements as a result of these transactions.

¹ Transfer Pricing Guidelines

CF





Section 3. Definition of Terms

The following definition of terms as used in this Regulations were adopted from the relevant PAS:

- 1) “**Associate**” is an entity over which the investor has significant influence.
- 2) “**Close members of the family of a person**” are those family members who may be expected to influence, or be influenced by, that person in their dealings with the entity and include:
 - (i) that person’s children and spouse or domestic partner;
 - (ii) children of that person’s spouse or domestic partner; and
 - (iii) dependents of that person or that person’s spouse or domestic partner.
- 3) “**Compensation**” includes all employee benefits, i.e., all forms of consideration paid, payable or provided by the entity, or on behalf of the entity, in exchange for services rendered to the entity. It also includes such consideration paid on behalf of a parent of the entity in respect of the entity. Compensation includes:
 - (a) short-term employee benefits, such as wages, salaries and social security contributions, paid annual leave and paid sick leave, profit-sharing and bonuses (if payable within twelve months of the end of the period) and non-monetary benefits (such as medical care, housing, cars and free or subsidized goods or services) for current employees;
 - (b) post-employment benefits such as pensions, other retirement benefits, post-employment life insurance and post-employment medical care;
 - (c) other long-term employee benefits, including long-service leave or sabbatical leave, jubilee or other long-service benefits, long-term disability benefits and, if they are not payable wholly within twelve months after the end of the period, profit-sharing, bonuses and deferred compensation;
 - (d) termination benefits; and
 - (e) share-based payment.
- 4) “**Control**” refers to the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities.
- 5) “**Joint Control**” is the contractually agreed sharing of control of an arrangement, which exists only when decisions about the relevant activities require the unanimous consent of the parties sharing control.
- 6) “**Joint Venture**” is a joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement.
- 7) “**Key management personnel**” are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity.
- 8) “**Post-employment Benefit Plans**” are formal or informal arrangements under which an entity provides post-employment benefits for one or more employees, such as the following:

- (a) retirement benefits (e.g. pensions and lump sum payments on retirement); and
 - (b) other post-employment benefits, such as post-employment life insurance and post-employment medical care.
- 9) **“Related Party”** is a person or entity that is related to the reporting entity, i.e., the entity that is preparing its financial statements.
- 10) **“Related Party Transaction”** refers to the transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged.
- 11) **“Significant influence”** is the power to participate in the financial and operating policy decisions of an entity, but is not control over those policies. It may be gained by share ownership, statute or agreement.
- 12) **“Subsidiary”** is an entity that is controlled by another entity.
- 13) **“Venturer”** is a party to a joint venture and has joint control over that joint venture.

Section 4. Related Parties and Related Party Transactions

In determining whether a person or entity is a related party, the following rules shall be considered:

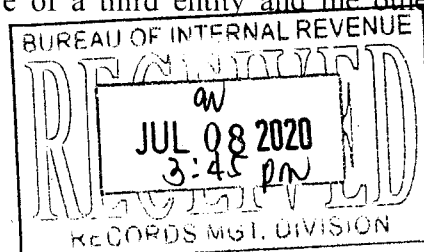
- (a) A person or a close member of that person’s family is related to a reporting entity if that person:
- (i) has control or joint control of the reporting entity;
 - (ii) has significant influence over the reporting entity; or
 - (iii) is a member of the key management personnel of the reporting entity or of a parent of the reporting entity.

The list of family members in Section 3(2) hereof is not exhaustive and does not preclude other family members from being considered as close members of the family of a person.

Consequently, other family members, including parents or grandparents, could qualify as close members of the family depending on the assessment of specific facts and circumstances.

- (b) An entity is related to a reporting entity if any of the following conditions applies:
- (i) The entity and the reporting entity are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others).
 - (ii) One entity is an associate or joint venture of the other entity (or an associate or joint venture of a member of a group of which the other entity is a member).
 - (iii) Both entities are joint ventures of the same third party.
 - (iv) One entity is a joint venture of a third entity and the other entity is an associate of the third entity.

CA



- (v) 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. If the reporting entity is itself such a plan, the sponsoring employers are also related to the reporting entity.
- (vi) The entity is controlled or jointly controlled by a person identified in (a).
- (vii) A person identified in (a)(i) has significant influence over the entity or is a member of the key management personnel of the entity (or of a parent of the entity).
- (viii) The entity, or any member of a group of which it is a part, provides key management personnel services to the reporting entity or to the parent of the reporting entity.

In all cases, the substance of relationships between entities shall be taken into account and not merely the legal form.

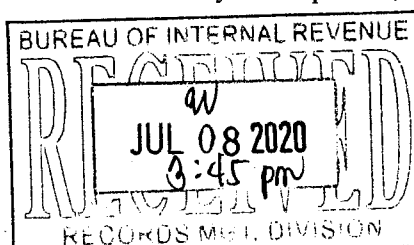
On the other hand, related party transactions shall include, but not limited to, the following:

- (a) purchases or sales of goods (finished or unfinished);
- (b) purchases or sales of property and other assets;
- (c) rendering or receiving of services;
- (d) leases;
- (e) transfers of research and development;
- (f) transfers under license agreements;
- (g) transfers under finance arrangements (including loans and equity contributions in cash or in kind);
- (h) provision of guarantees or collateral;
- (i) commitments to do something if a particular event occurs or does not occur in the future, including executory contracts, i.e., contracts under which neither party has performed any of its obligations or both parties have partially performed their obligations to an equal extent (recognized and unrecognized); and
- (j) settlement of liabilities on behalf of the entity or by the entity on behalf of that related party.

Section 5. Related Party Disclosures

To attain the objective of the PAS to provide an understanding of the potential effect of the relationship on the financial statements, the following requirements shall be observed by the taxpayer, who may either be a reporting entity or a related party:

- (a) The required disclosures on transactions and outstanding balances shall be made separately for each of the following categories:
 - (i) the parent;
 - (ii) entities with joint control or significant influence over the entity;
 - (iii) subsidiaries;
 - (iv) associates;
 - (v) joint ventures in which the entity is a joint venturer;
 - (vi) key management personnel of the entity or its parent; and
 - (vii) other related parties.



- (b) For each of said category, the following information shall be provided:
- (i) the amount of the transactions;
 - (ii) the 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;
 - (iii) provisions for doubtful debts related to the amount of outstanding balances;
 - (iv) the expense recognized during the period in respect of bad or doubtful debts due from related parties.

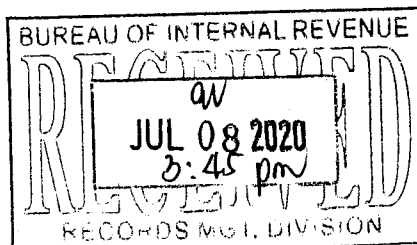
Section 6. Procedures and Guidelines

In filling out BIR Form No. 1709, the taxpayer is hereby directed to observe the following:

- 1) BIR Form No. 1709 shall be completely and truthfully accomplished by the taxpayer or its authorized representative/s, and shall be attached to the ITRs for the current taxable year and subsequent years, making it an integral part of the latter.
- 2) The nature of transaction and the accounts affected shall be described in detail.
- 3) The "business overview of the ultimate parent company" referred to in Part IV(A) of BIR Form No. 1709 shall 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 whom intra-group transactions have been entered into by the taxpayer, and ownership linkages among them.
- 4) On the other hand, the "functional profile" referred to in Part IV(B) of BIR Form No. 1709 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;
- 5) The following are required to be attached to BIR Form No. 1709:
 - a) certified true copy of the relevant contracts or proof of transaction;
 - b) withholding tax returns and the corresponding proof of payment of taxes withheld and remitted to the BIR;
 - c) proof of payment of foreign taxes or ruling duly issued by the foreign tax authority where the other party is a resident; and
 - d) certified true copy of Advance Pricing Agreement, if any; and
 - e) any transfer pricing documentation.
- 6) No spaces shall be left unanswered. If one or some portions are not applicable, such fact shall be so stated.

Section 7. Penalties

Any violation of the provisions of this issuance shall be subject to penalties provided in Section 250 and other pertinent provisions of the NIRC, as amended.



Section 8. Repealing Clause

All existing revenue issuances or portions thereof inconsistent herewith are hereby revoked and/or amended accordingly.

Section 9. Effectivity

This Regulations shall take effect after fifteen (15) days following its publication in a newspaper of general circulation.



CARLOS G. DOMINGÚEZ
Secretary of Finance

JUN 30 2020

Recommending approval:

mesarkuay

CAESAR R. DULAY
Commissioner of Internal Revenue

0 3 5 5 2 1

