

Headline	TRAIN: Changes in withholding tax rates and compliance		
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TRAIN: Changes in withholding tax rates and compliance

As we enter the second week of January, we are slowly beginning to see the changes in Philippine taxation due to the Tax Reform for Inclusion and Acceleration (TRAIN) Law. Two of the amendments to the Tax Code that are tax compliance-related are the changes in the top rate for expanded withholding tax (EWT) and the filing deadline for the final withholding tax (FWT) and EWT returns.

Ceiling of EWT rates

The TRAIN Law provides that starting Jan. 1, 2019, the EWT rates will range from one percent to 15 percent.

TOP OF MIND



LEANDRO BEN M. ROBEDISO

Prior to this, the top rate was at 32 percent. While the said change is not yet in effect, the Bureau of Internal Revenue (BIR), by virtue of Revenue Memorandum Circular (RMC) No. 01-2018 dated Jan. 4, has advised the reduction of the EWT rates for the following income payments to eight percent from 10 percent and/or 15 percent a.) Professional fees, talent fees, commissions, etc. for services rendered by individuals, b.) Income distribution to beneficiaries of estates and trusts, c.) Income payment to

certain brokers and agents, d.) Income payments to partners of general professional partnerships, e.) Professional fees paid to medical practitioners and f.) Commission of independent and/or exclusive sales representatives, and marketing agents of companies.

Note that the previous EWT rates for the said income payments have been set based on Revenue Regulations (RR) that were issued to implement them. Normally, an RR is amended by the issuance of another RR. To reiterate, the advice on the reduction of the above EWT rates are done through an RMC. Hence, some may raise the risk that reliance on the RMC may result in the assessment of deficiency EWT, surcharge, interest and penalties. Assuming the reduction of the EWT rate through an RMC is not proper, and a taxpayer would be subjected to a deficiency tax assessment, there appears to be basis to argue for the abatement or cancellation of penalties and/or interest on the deficiency tax assessment. This is because the taxpayer's mistake in payment of his tax is due to an erroneous written official advice of a revenue officer (Section 2.2 of RR No. 13-01, as amended), which in this case is RMC No. 01-2018.

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Filing deadline for FWT and EWT returns

The TRAIN Law has changed the filing frequency of FWT and EWT returns from monthly to quarterly basis. The deadline is now on the last day of the month following the close of the quarter during which the withholding was made. For example, for the first quarter (i.e. January to March), the filing deadline would fall on the 30th of April.

The above change appears to ease the compliance burden of taxpayers because it would reduce the number of FWT and EWT returns to be filed from 12 monthly returns to four quarterly returns. However, in the absence of the implementing RR (IRR) the following are some of the practical compliance issues taxpayers are faced with: a.) Whether or not the BIR will issue new quarterly FWT and EWT returns, b. Whether or not alphas of payees will still be required, c.) Whether or not the new FWT and EWT returns will be available on or before the filing deadline and d.) Whether or not taxpayers will be provided enough time to get familiar with the said returns.

Given the above, it is really important that the IRR is issued in time so that taxpayers are guided on how to go about with the changes. We understand that the BIR has already scheduled public consultations on Jan. 11 and 12 on the draft IRR. We all have a stake in this! Participate in the discussions, get heard and get on the TRAIN!

Leandro Ben M. Robediso is a partner from the Tax Group of KPMG R.G. Manabat & Co. (KPMG RGM&Co.), the Philippine member firm of KPMG International. KPMG RGM&Co. has been recognized as a Tier 1 tax practice, Tier 1 transfer pricing practice, Tier 1 leading tax transactional firm and the 2016 National Transfer Pricing Firm of the Year in the Philippines by the International Tax Review.

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