KPMG

Film Financing and Television Programming

A Taxation Guide

For more than a decade, the KPMG Film Financing and Television Programming Taxation Guide has been recognized as a valued reference tool for industry professionals, filled with information drawn from the knowledge of the KPMG International global network of member firm media and entertainment Tax professionals. The 2022 edition is a fundamental resource for film and television producers, studio and streaming production executives, tax executives, finance executives, and attorneys involved with the commercial side of production.

Doing business across borders can pose major challenges and may lead to potentially significant tax implications, and a detailed understanding of the full range of potential tax implications can be as essential as the actual financing of a project. The Guide helps industry executives assess the many issues surrounding cross-border business conditions, financing structures, and issues associated with them, including development costs and rules around foreign investment. Recognizing the role that tax credits, subsidies, and other government incentives play in production financing, the Guide includes a robust discussion of relevant tax incentive programs in each country.

Each chapter focuses on a single country and provides a description of commonly used financing structures, as well as their potential commercial and tax implications for the parties involved. Key sections in each chapter include:

Introduction
A thumbnail description of the country's industry contacts, regulatory bodies, and financing developments and trends.

Key Tax Facts
At-a-glance tables of corporate, personal, and value-added (VAT) tax rates; normal nontreaty withholding tax rates; and tax year-end information for companies and individuals.

Financing Structures
Descriptions of commonly used financing structures in production and distribution, and the potential commercial tax implications for the parties involved. This section of each chapter covers rules surrounding co-productions, partnerships, equity tracking shares, sales and leaseback, subsidiaries, and other tax-efficient structures.

Tax and Financial Incentives
Details regarding the tax and financial incentives available from central and local governments as they apply to investors, producers, distributors, and actors, as well as other types of incentives offered.

Corporate Tax
Explanations of the corporate tax in the country, including definitions, rates, and how they are applied.

Personal Tax
Personal tax rules from the perspective of investors, producers, distributors, artists, and employees.

Streaming Tax Considerations
Provides a look at the unique tax issues that need to be addressed in this evolving segment of the industry. With considerations such as identifying tax collection and reporting obligations in a variety of jurisdictions, understanding international tax implications is essential for streaming providers.

KPMG and Member Firm Contacts
References to KPMG and other KPMG International member firms' contacts at the end of each chapter are provided as a resource for additional detailed information.

Please note: While every effort has been made to provide up-to-date information, tax laws around the world are constantly changing. Accordingly, the material contained in this publication should be viewed as a general guide only and should not be relied upon without consulting your KPMG or KPMG International member firm Tax advisor.

Production opportunities are not limited to the countries contained in this Guide. KPMG and the other KPMG International member firms are in the business of identifying early-stage emerging trends to assist clients in navigating new business opportunities. We encourage you to consult a KPMG or KPMG International member firm Tax professional to continue the conversation about potential approaches to critical tax and business issues facing the media and entertainment industry.

We look forward to helping you with your film and television production ambitions.

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Philippines

Introduction

Recognizing the need to promote and support the development and growth of the local film industry, the Philippine Congress enacted into law Republic Act No. 9167, “An Act Creating the Film Development Council of the Philippines,” to formulate and implement policies and programs to upgrade the art and craft of filmmaking and encourage the production of films for commercial purposes. The Film Development Council of the Philippines (FDCP or the Council) is a government agency under the Office of the President of the Philippines, replacing the Film Development Foundation of the Philippines, Inc. and the Film Rating Board.

The key goals of the Council are to establish and implement a Cinema Evaluation System; to develop and implement an incentive and reward system for the producers based on merit; to encourage the production of quality films; to establish, organize, operate, and maintain local and international film festivals, exhibitions, and similar activities; to encourage and undertake activities that will promote the growth and development of the local film industry and promote its participation in both domestic and foreign markets; and to develop and promote programs to enhance the skills and expertise of Filipino talents necessary for quality film production.

In order to encourage (i) foreign movie and television makers to produce their films in the country and (ii) the use of the Philippines as a location site for international movie and television making, the Philippine President, in Executive Order No. 674, ordered the creation of the Philippine Film Export Services Office, which operates under the administrative and technical supervision of the FDCP.

The Philippine Film Export Services Office is a “one stop shop” for foreign film/television production. Its goals are to facilitate the use of the Philippines as the preferred location for the production of international films and television programs; to formulate incentive packages for foreign film/television companies interested in shooting films/television programs in the country; to assist foreign film companies in processing pertinent documents and various requirements relative to the production of international films/television programs in the country; and to coordinate with various government agencies in assisting the entry and exit of foreign film/television producers, artists, and production crew.

Key Tax Facts

Regular corporate income tax rates: Domestic corporations	25%/20%*
Resident foreign corporations	25%
Minimum corporate income tax rate	1% from 01 July 2020 until 30 June 2023 2% beginning July 1, 2023
Highest personal income tax rate	35%
Value-added tax rate	12%
Normal nontreaty withholding tax rates: Dividends	25%
Interest	25%

Royalties	25%
Tax year end: Companies	Corporate taxpayers may specify between fiscal/calendar year.
Tax year-end: Individuals	December 31

* 20% applies for corporations with net taxable income of not exceeding PhP5 Million and total assets not exceeding PhP100 Million, excluding the land on which the particular business entity's office, plant, and equipment are situated.

Film Financing

Financing Structures

Co-Production

For the purposes of Philippine taxation, a co-production venture is akin to a taxable joint venture and it is consequently taxed as a corporation. A joint venture is generally referred to as an association of persons with the intent (by way of a contract), express or implied, to engage in a single or joint business venture to which purpose the parties combine their efforts, properties, money, skills, and knowledge, without creating a partnership or a corporation, pursuant to an agreement that there shall be a community of interest among themselves as to the purpose of the undertaking and that each joint venture party shall stand in relation of principal, as well as agent, as to each of the other joint venture parties, with an equal right of control of the means employed to carry out the common enterprise.

Philippine tax authorities have ruled that a group of individuals who pool their resources to form a joint venture with a film production company for the purpose of undertaking the production of a movie come within the purview of a corporation subject to corporate income tax. Each of the parties to the joint venture is liable for the payment of individual income tax and corporate income tax on the profits distributed to them by the joint venture.

Partnership

Under Philippine law, a partnership is defined as a contract whereby two or more persons bind themselves to contribute money, property, or industry to a common fund with the intention of dividing the profits among themselves. For the purposes of limiting the liabilities of partners, a partnership may either be a general partnership or a limited partnership. In a general partnership, all of the partners are liable up to the extent of their personal property, while in a limited partnership, limited partners are liable only up to the extent of their personal contribution. However, there must be at least one general partner in a limited partnership.

Under the Philippine Tax Code, partnerships, no matter how they are created or organized, fall under the definition of a corporation subject to corporate income tax (except for general professional partnerships).

A 10% final tax is imposed on the share of a citizen or a resident alien individual's distributable net income after tax of a partnership (except a general professional partnership) of which s/he is a partner, whether actually or constructively received.

On the other hand, a 20% final tax is imposed on a nonresident alien engaged in a trade or business' share in the distributable net income after tax of a partnership (except general professional partnership) of which he or she is a partner, or share in the net income after tax of an association, a joint account, or a joint venture of which he or she is a member ora co-venturer.

Equity Tracking Shares

The equivalent term of "equity tracking shares" in the Philippines is "preferred shares." Preferred shares entitle the shareholder to certain preferences over holders of common shares. Preferred shares of stock are usually given preference in the distribution of the assets of the corporation in the case of liquidation and in the distribution of dividends.

Dividends paid out of preferred shares are taxed in the same manner as those ofcommon shares.

Cash or dividends in the form of property received by citizens and resident alien individuals from a domestic corporation are subject to a final tax of 10 %, while those received by nonresident aliens engaged in trade or business or nonresident aliens not engaged in trade or business are subject to a final tax of 20% and 25%, respectively. The applicable rate is lower if they are residents of a treaty country, subject to confirmation from the Philippine tax authority through securing a confirmatory ruling.

Dividends received by a domestic corporation from another domestic or a resident foreign corporation are not subject to tax. The final withholding tax on payment of dividends from a domestic corporation to a nonresident foreign corporation is 25%. However, the withholding tax is reduced to 15% if the country in which the nonresident foreign corporation is domiciled shall allow a credit against the tax due from the non-resident foreign corporation deemed to have been pain in the Philippines equivalent to 10%. The withholding tax on dividends may be further reduced to as low as 10 % under existing double tax agreements (DTAs), subject to confirmation from the Philippine tax authority through securing a confirmatory ruling.

Yield-adjusted Debt

The use of revenue-linked debt securities is not commonly practiced in the Philippines. However, for Philippine taxation purposes, the interest paid on the debt securities shall form part of the taxable income of the Philippine taxpayer.

Debt securities issued by nonresident foreign corporations will be classified as foreign loans, and interest paid thereon is subject to a 25% final withholding tax. The rate of withholding may be further reduced to a range of 10% to 15% under existing DTAs, subject to confirmation from the Philippine tax authority through securing a confirmatory ruling.

Investment Structures

Philippine Subsidiary

One of the most common ways of establishing a business presence in the Philippines is through the incorporation of a Philippine subsidiary. The principal advantage of a subsidiary over a branch office is that a subsidiary has a separate and distinct juridical personality from its parent corporation, so that the liability of the parent corporation to creditors of the subsidiary is limited to its shareholdings in the domestic subsidiary. The parent foreign corporation is thus fully protected from the liabilities of the subsidiary in excess of its shareholdings in such subsidiary.

The Foreign Investment Negative List (FINL) may limit the form of business in which foreign investors may engage. For example, the current FINL does not allow for foreign equity in mass media, except recording, in accordance with Sec. 11 Art. XVI of the 1987 Philippine Constitution.

For tax purposes, a Philippine subsidiary is treated as a domestic corporation and is therefore taxed on income derived from all sources.

Philippine Branch

A Philippine branch office of a foreign corporation carries out the business activities of the head office and derives income from the host country. For legal purposes, a branch has no independent existence but is considered a mere extension of its head office. A branch office is generally required to put up a minimum paid-up contribution of US$200,000, which can be reduced to US$100,000 if it either engages in an activity that involves advanced technology or employs at least 50 direct employees.

A foreign corporation may set up a branch in the Philippines by obtaining a license to transact business with the Securities and Exchange Commission (SEC). It may engage in exactly the same activities as its parent company. Further, the parent corporation may be held responsible for any liability of the branch in excess of its investment.

For tax purposes, a branch office is taxed only on income sourced from within the Philippines. If the head office of the branch is a resident of a tax treaty country, it may reduce Philippine withholding tax and still be allowed to deduct interest and royalty expenses at the same time, which may otherwise not be permitted under Philippine tax laws, by applying the relevant tax treaty provisions.

Profits of a Philippine branch remitted to its parent company are subject to 15% branch profits remittance tax. A lower rate may be provided under the applicable DTA, subject to confirmation from the Philippine tax authority through securing a confirmatory ruling.

Philippine Representative Office

A representative office is a foreign corporation organized and existing under foreign laws. It is fully subsidized by its head office and thus does not derive income from the host country. It is created to undertake activities such as information dissemination, acting as a communication center and promoting company products, as well as quality control of products for export for the parent company. An initial minimum inward remittance of US$30,000 is required to cover its operating expenses.

Government Funding Schemes

FDCP Film Grants

The Film Development Council of the Philippines provides grants to filmmakers invited to international film festivals. The grant includes subsidies for items such as subtitling, cost of print, airfare, and per diem. The purpose of the grants is to provide filmmakers exposure to the global market and to encourage joint ventures and co-productions.

Other Financing Considerations

Tax Costs of Share or Bond Issues

No tax or capital duty is imposed on any issue of common or preferred shares of stock or bonds.

Stamp Duties

The documentary stamp tax (DST) is an excise tax and is imposed on documents, instruments, loan agreements and acceptances, assignments, sales or transfers of obligations, rights or property, and other business instruments. The rate of tax depends on the nature of the document and transaction.

DST applies to transactions effected and consummated outside the Philippines and documents signed abroad where the obligation or right arises from Philippine sources or the property is located within the Philippines.

DST of PhP2 for every PhP200 is imposed on the original issuance of shares of stock and PhP1.50 for every PhP200 on any agreement to transfer shares of stock. On every original issue of a debt instrument, including bonds, DST of PhP1.50 for every PhP200 is imposed, provided that for debt instruments with a term of less than one year, the DST imposed shall be in proportion to the ratio of its term (in number of days to 365 days).

Exchange Controls and Regulatory Rules

The Philippines has liberalized foreign exchange controls. Generally, foreign exchange receipts, acquisitions, or earnings may be sold to or outside of the banking system or may be brought in or out of the country.

In the case of foreign loans or foreign investments, for foreign exchange purposes and in order for the repatriation of profits and capital to be serviced through the Philippine banking system, it is required that prior approval is obtained for the loan, and the foreign investments registered with Bangko Sentral ng Pilipinas (BSP), the Philippines, equivalent of the government central bank.

Domestic contracts entered into by Filipino citizens can be settled in any currency. This is in line with the government's program to liberalize economic policies, attract foreign investments, and liberalize foreign exchange control.

Authorized Agent Banks (all categories of banks except OBUs authorized to trade foreign exchange) may sell foreign exchange to residents to cover payments to nonresident beneficiaries for nontrade current account purposes (e.g., educational expenses, medical expenses, travel expenses, and salaries of foreign expatriates) without a need to obtain prior BSP approval, subject to the submission or presentation of the following to the foreign exchange selling institution:

1. Duly accomplished application to purchase foreign exchange using the prescribed format for sale not exceeding US$500,000 for individuals and US$1,000,000 for corporates or other entities or its equivalent in other foreign currency per client per day;
2. Duly accomplished application to purchase foreign exchange using the prescribed format, supported by prescribed documents, for sale exceeding US$500,000 for individuals and US$1,000,000 for corporates or other entities or its equivalent in other foreign currency per client per day; and
3. Duly accomplished application to purchase foreign exchange using the prescribed format, supported by prescribed documents, for sale (regardless of amount) to settle transactions involving e-commerce market participants and/or netting arrangements which may cover trade in goods and services but not those involving foreign currency loans/borrowings and investments; and involve related or unrelated parties.

Depository AABs may sell foreign exchange of up to an amount equivalent to the balance of the peso deposit accounts of nonresidents without need for prior BSP approval, subject to the submission of a duly accomplished application to purchase foreign exchange using the prescribed format.

Corporate Taxation

Recognition of Income

Film Production Company – Production Fee Income

Philippine Resident Company

Domestic corporations (i.e., corporations created and organized under Philippine laws) are taxed on income derived from all sources, while resident foreign corporations (i.e., foreign corporations engaged in trade or business in the Philippines) are subject to tax only on income from Philippine sources.

The regular corporate income tax (RCIT) rate for domestic corporations with net taxable income of not exceeding PhP5,000,000 and total assets not exceeding PhP100,000,000 (excluding the land on which the particular business entity's office, plant, and equipment are situated) is 20% of taxable income (i.e., gross income less allowable deductions) effective July 1, 2020. Otherwise, RCIT is imposed at a rate of 25%. On the other hand, the RCIT rate for resident foreign corporations is 25% of taxable income.

On the fourth year of operations of the company, a Minimum Corporate Income Tax (MCIT) is imposed where a domestic or resident foreign company's RCIT liability is less than its MCIT. MCIT is imposed at a rate of 1% of gross income effective July 1, 2021 through June 30, 2023 and 2% beginning July 1, 2023. Where MCIT is paid, the excess MCIT over the normal tax that would otherwise have been paid shall be carried forward and offset against the normal tax liability for the three succeeding taxable years.

Non-Philippine Resident Company

Beginning January 1, 2021, nonresident foreign corporations (i.e., foreign corporations not engaged in trade or business in the Philippines) are subject to 25% withholding tax on gross income sourced within the Philippines, except for certain passive income that is subject to a lower withholding tax rate.

Film Distribution Company

Royalties and other fees received by a Philippine resident film distribution company, whose primary purpose is licensing and sublicensing entertainment content such as motion pictures and television programs, are subject to applicable RCIT rate of either 25 or 20 % as they are received in the nature of ordinary business income derived or generated from activities that are in accordance with its primary purpose. Otherwise, royalties and other fees received by domestic and resident foreign corporations are subject to the 20 % royalty tax on certain passive income.

Income payments to resident individuals and corporate cinematographic film owners, lessors, or distributors are subject to a creditable withholding tax at 5% of gross payments.

Nonresident cinematographic film owners, lessors, or distributors are subject to a 25% final withholding tax on their gross income from Philippine sources. However, if the nonresident foreign corporation is a resident of a country with an existing DTA with the Philippines, the royalties paid to the nonresident foreign corporation by virtue of a distribution agreement may be reduced further to the preferential treaty rates of 15 % to 25 % as applicable, subject to confirmation from the Philippine tax authority through securing a confirmatory ruling.

For example, royalties paid by a Philippine corporation to a resident of the United States of America is taxed at the lowest rate of the Philippine tax that may be imposed on royalties of the same kind paid under similar circumstances to a resident of a third state. Article 12 of the RP-Denmark Tax Treaty provides that royalties paid by a Philippine resident to a resident of Denmark for the use of or the right to use cinematographic films and films and tapes for television locally are subject to the rate of 15 % of the gross amount of royalties, the lowest of the same kind paid under similar circumstances among Philippine tax treaties.

Transfer of Film Rights Between Related Parties

Section 50 of the Philippine Tax Code gives the Commissioner of Internal Revenue the power to allocate income and expenses, between or among related parties in order to prevent the evasion of taxes or to clearly reflect the income among related parties. Thus, where a worldwide group of companies holds rights to films and videos and grants sublicenses for the exploitation of those rights to a Philippine-resident company, the terms of the transaction must be at “arm’s length.”

Under Section 50, in respect of the “allocation of income and deductions in the case of two or more organizations, trades, or businesses (whether or not incorporated and whether or not organized in the Philippines) owned or controlled directly or indirectly by the same interests, the Commissioner is authorized to distribute, apportion, or allocate gross income or deductions between or among such organization, trade, or business, if he determines that such distribution, apportionment, or allocation is necessary to prevent evasion of taxes or clearly to reflect the income of any such organization, trade, or business.”

In 2013, the Philippine tax authority issued RR No. 2-2013, or the Transfer Pricing Guidelines, to provide guidelines in applying the arm’s length principle for cross-border and domestic transactions between associated enterprises. These guidelines are largely based on the arm's length methodologies as set out under the Organisation for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines.

The Transfer Pricing Guidelines further provide that taxpayers must demonstrate that their transfer prices are consistent with the arm's length principle. The main purpose of keeping adequate documentation is for taxpayers to be able to (i) defend their transfer pricing analysis, (ii) prevent transfer pricing adjustments arising from tax examinations, and (iii) support their applications for Mutual Agreement Procedure (MAP). It should be noted that no MAP is being implemented yet at this time.

The Philippine tax authority does not require transfer pricing documents to be submitted when the tax returns are filed. However, such documents should be submitted when required or requested to do so. The transfer pricing documents must be contemporaneous. It is contemporaneous when it exists or is brought into existence at the time the associated enterprises develop or implement any arrangement that might raise transfer pricing issues or review these arrangements when preparing tax returns. The details of transfer pricing documents include, but are not limited to, the following:

1. Organizational structure;
2. Nature of the business/industry and market conditions;
3. Controlled transactions;
4. Assumptions, strategies, and policies;
5. Cost contribution arrangements;
6. Comparability, functional, and risk analysis;
7. Selection of the transfer pricing method;
8. Application of the transfer pricing method;
9. Background documents; and
10. Index to documents.

The Philippine Tax Authority also requires (for certain taxpayers) the submission of a related-party transactions form as an annex to the annual income tax return 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.

The following are the only taxpayers who are required to file and submit the RPT Form, together with the annual income tax return (AITR):

1. Large taxpayers;
2. Taxpayers enjoying tax incentives (i.e., Board of Investments (BOI)-registered and economic zone enterprises, those enjoying Income Tax Holiday (ITH) or subject to preferential income tax rate);
3. Taxpayers reporting net operating losses for the current taxable year and the immediately preceding 2 consecutive taxable years; and
4. A related party, as defined under Section 3 of RR No. 19-2020, which has transactions with (1), (2), or (3). Key management personnel (KMP) shall no longer be required to file and submit the RPT Form, nor shall there be any requirement to report any transaction between KMP and the reporting entity/parent company of the latter in the RPT Form.

The RPT Form and AITR should be submitted accompanied by a transfer pricing document for those who meet the following materiality thresholds:

1. Annual gross sales/revenue for the subject taxable period equal to PhP150,000,000 and the total amount of related-party transactions with foreign and domestic related parties exceeds

PhP90,000,000;

2. Related-party transactions meeting the following materiality threshold:
   a. If involving sale of tangible goods in the aggregate amount exceeding PhP60,000,000 within the taxable year;
   b. If involving service transaction, payment of interest, utilization of intangible goods or other related party transaction in the aggregate amount exceeding PhP15,000,000 within the taxable year; or
3. If TPD was required to be prepared during the immediately preceding taxable period for exceeding either (1) or (2) above.

Those who are not covered by the above provisions are required to disclose in the Notes to the Financial Statements that they are not covered by the requirements and procedures for RPT provided under RR No. 34-2020.

Amortization of Expenditure

Production Expenditure

Ordinary and necessary expenses paid or incurred during the taxable year in carrying on or which are directly attributable to the development, management, operation, and/or conduct of the trade or business are generally deductible from gross income. However, no deduction from gross income shall be allowed unless the expense is substantiated with sufficient evidence, such as official receipts or other adequate records, to establish the amount of the expense and the direct connection or relation of the expense being deducted to the development, management, operation, and/or conduct of the trade or business.

In lieu of the itemized deductions provided under the Tax Code, corporate taxpayers classified as domestic corporations and resident foreign corporations, and even a general professional partnership or its partners may claim up to 40 % of its gross income as an Optional Standard Deduction (OSD). Gross income is calculated as gross sales less sales returns, discounts and allowances, and cost of goods sold or cost of services. Individuals classified as resident citizens, nonresident citizens, resident aliens, and taxable estates and trusts may claim up to 40 % of their gross sales or receipts as an OSD.

Other Expenditure

Interest

Subject to certain limitations, interest is deductible if it is paid or incurred on indebtedness in connection with the taxpayer's trade or business.

Taxes

All taxes related to the business of the corporation and paid or incurred within the taxable year are deductible, except income tax, foreign income tax, transfer taxes, and other special assessments. Subject to certain conditions and limitations, foreign income tax paid by a domestic corporation may be allowed as a deduction from the gross income of a corporation, in lieu of credit against income tax due.

Losses

Losses sustained during the taxable year and not compensated for by insurance or other forms of indemnity are allowed as deductions if incurred in trade or business if the property is connected with the trade or business and if the loss arises from fires, storms, shipwreck, or other casualties, or from robbery, theft, or embezzlement.

In the case of a nonresident alien individual or foreign corporation, the losses deductible shall be those actually sustained during the year incurred in business or trade conducted within the Philippines, when such losses are not compensated for by insurance or other forms of indemnity.

Operating losses incurred in a tax year may be carried forward and offset against gross income for the proceeding three consecutive taxable years provided that there is no substantial change in the ownership of the business or enterprise. Substantial change is defined to be a change of ownership of more than 25% of the nominal value of outstanding shares or of the paid-up capital of the company.

Losses cannot be carried back to previous taxable years.

Tax Depreciation/Capital Allowances

In general, a corporation may adopt any reasonable method of depreciation. The acceptable methods of depreciation include, but are not limited to, the straight-line method, declining-balance method, the sum-of-the-years digits method, and any other method that may be prescribed by the Secretary of Finance upon the recommendation of the CIR.

Foreign corporations are allowed deductions for depreciation only on the properties located in the Philippines.

Except for the general guidelines in claiming depreciation allowance, the BIR has yet to issue a schedule of depreciable useful lives or depreciation rates, which taxpayers may use to arrive at reasonable depreciation allowances for different assets.

A corporation is allowed to change the method of computing depreciation allowance upon prior approval from the CIR.

Indirect Taxation

Value-Added Tax (VAT)

VAT of 12% is imposed in the course of trade or business on the sale of goods, properties, and services in the Philippines and the importation of goods to the Philippines, regardless of whether it is for business use. The term “goods or properties” shall mean all tangible and intangible objects that are capable of pecuniary estimation and includes, among others, the right or privilege to use motion picture films, films, tapes, and discs. The term “sale or exchange of services” means the performance of all kinds of services in the Philippines for a fee, remuneration, or consideration, including those performed or rendered by lessors of property such as lessors or distributors of cinematographic films, and shall also include, among others, the leasing of motion picture films, films, tapes, and discs.

VAT is levied on the gross selling price or the gross value in money of the goods sold or exchanged, including charges for packaging and excise taxes if the goods are subject to such taxes. In the case of services, the tax base is gross receipts, which include not only cash but also constructive receipt of payments. The total value used in determining tariff and customs duties, excise taxes (if any), and any other charges are the bases for the 12 % VAT on importation.

Companies, enterprises, or individuals with annual gross sales or receipts not exceeding PhP3,000,000 are not subject to VAT but are subject to a tax equivalent to 3 % on gross quarterly sales or receipts. However, they may elect to be covered by VAT by voluntarily registering as VAT taxpayers. Note that effective July 1, 2020 until June 30, 2023, the percentage tax rate shall be 1%.

There are certain sales or services rendered by VAT-registered persons or entities that are subject to 0 % VAT, such as export sales.

A VAT-registered person or entity is entitled to credits for input taxes previously paid on the purchase of goods or services used in their trade or business. Anyone whose sales or services are exempted from VAT is not entitled to credit for input taxes on purchases of goods/services used in the production of such goods or services exempted from VAT. A VAT-registered taxpayer with zero-rated sales of goods or services may choose to apply for a tax credit certificate or for the refund of the unused input tax paid corresponding to the zero-rated sales within two years after the close of the taxable quarter where the zero-rated sales were made. Note, however, that VAT refunds are subject to mandatory audit by the Philippine tax authority.

Customs Duties

Generally, customs duties are levied on all articles imported into the Philippines. The rates vary depending on the classification and country of origin of the imported goods. If it originates from a country that is a member of the General Agreement on Tariffs and Trade (GATT) or the Association of South-East Asian Nations (ASEAN), the goods may be subject to preferential tariff treatment under the Generalized System of Preference or the ASEAN Common Effective Preferential Tariff.

Customs duties are payable at the time of release or withdrawal of the goods from the customs house or bonded warehouse.

Under the Customs Modernization and Tariff Act, there are conditionally free importations of certain articles that shall be exempt from the payment of import duties upon compliance with the formalities prescribed by existing regulations. Among the articles exempted are:

- Those brought by foreign film producers directly and exclusively used for making or recording motion picture films on location in the Philippines, upon their identification, examination, and appraisal and the giving of a bond in an amount equal to 100 % the ascertained duties, taxes, and other charges thereon, conditioned for exportation thereof or payment of the corresponding duties, taxes, and other charges within three months from the date of acceptance of the import entry, unless extended by the Collector of Customs for another three months
- Photographic and cinematographic films, undeveloped, exposed outside the Philippines by resident Filipino citizens or by producing companies of Philippine registry where the principal actors and artists employed for the production are Filipinos, upon affidavit by the importer and identification that such exposed films are the same films previously exported from the Philippines. The terms “actors” and “artists” include persons operating the photographic cameras or other photographic and sound recording apparatus by which the film is made.

Personal Taxation

Nonresident Artists (self-employed)

Income Tax Implications

A nonresident alien individual engaged in trade or business in the Philippines shall be subject to income tax in the same manner as a Philippine citizen and a resident alien on taxable income received from all sources within the Philippines. A nonresident alien doing business in the Philippines is one who stays in the Philippines for an aggregate period of more than 180 days during any calendar year.

A nonresident alien individual not engaged in trade or business in the Philippines is subject to a final withholding tax at 25 % of gross income received from all sources within the Philippines such as interest, cash and/or property dividends, rents, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual or periodic or casual gains, profits and income, and capital gains.

Resident Artists (self-employed)

Progressive tax rates ranging from 0 % to 35 %, depending on the income bracket, are imposed on Philippine citizens and resident aliens.

For professional fees and talent fees for services rendered by individuals, there is a creditable withholding tax imposed at the rate of 5 %, if the gross income for the current year does not exceed PhP3,000,000, imposed on the gross professional, promotional, and talent fees or any other form of remuneration for the services of professional entertainers, such as, but not limited to, actors and actresses; singers, lyricists, composers, and emcees; all directors and producers involved in movies, stage, radio, television, and musical productions; and other recipients of talent fees. Otherwise, if the gross income is more than the threshold amount, the creditable withholding tax shall be imposed at a rate of 10 %.

The amounts subject to withholding tax shall include not only fees but also per diem fees, allowances, and other form of income payments not subject to withholding tax on compensation. In the case of professional entertainers, professional athletes, directors involved in movies, stage, radio, television, and musical productions and other recipients of talent fees, the amounts subject to withholding tax shall also include amounts paid to them in consideration for the use of their names or pictures in print, broadcast, or other media or for public appearances, for the purposes of advertisements or sales promotion.

Employees

Income Tax Implications

For employee services, taxable income includes compensation for services in any form, including, but not limited to, fees, salaries, wages, commissions, and similar items. In general, the term "compensation" means all remuneration for services performed by an employee for his employer under an employer-employee relationship.

The withholding of tax on compensation income is a method of collecting the income tax at source upon receipt of the income. It applies to all employed individuals (whether citizens or aliens) deriving income for services rendered in the Philippines. The employer is constituted as the withholding agent (i.e., every employer must withhold from compensations paid an amount computed in accordance with existing regulations).

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