



## Amendments to withholding tax regulations pursuant to TRAIN Law

The BIR issued Revenue Regulations No. (RR) 11-2018 amending the provisions of RR 02-98 to implement further the provisions of Republic Act No. 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) Law.

Some of the salient features of RR 11-2018 are as follows:

### 1. Revised withholding tax rates

Type of Income Payment	Old CWT Rate	New CWT Rate
1. Professional fees, talent fees, etc. for services rendered	1. Individual – 8% (RMC 01-2018)	1. Individual - a. If the gross income for the current year does not exceed P3 million - 5%
2. Professional fees paid to medical practitioners (includes doctors of medicine, doctors of veterinary science and dentists) by hospitals and clinics or paid	2. Non-individual – 10%/15%	b. If the gross income for the current year is more than P3 million - 10%
		2. Non-individual –

directly by health maintenance organizations (HMOs) and/or similar establishments		a. If the gross income for the current year does not exceed P720,000 - 10%
3. Income payments to certain brokers and agents		b. If the gross income for the current year does exceed P720,000 - 15%
4. Commissions of independent and/or exclusive sales representatives and marketing agents of companies		
Income distribution to the beneficiaries	8% (RMC 01-2018)	15%
Income payments to partners of general professional partnerships	8% (RMC 01-2018)	a. If the gross income for the current year does not exceed P720,000 - 10%
		b. If the gross income for the current year does exceed P720,000 - 15%

2. Sworn declaration of individual payees with gross receipts/sales not exceeding P3 million

Individual payees whose gross receipts/sales in a taxable year do not exceed ₱3 million are required to submit a sworn declaration of their gross receipts/sales, together with a copy of Certificate of Registration (COR), to all the income payors/withholding agents not later than January 15 of each year, or at least prior to the initial payment of the professional fees/commissions/talent fees, etc., in order for them to be subject to 5% withholding tax.

The 10% withholding tax rate shall be applied in the following cases: (1) the payee failed to provide the income payor/withholding agent of such declaration; or (2) the income payment exceeds ₱3 million, despite receiving the sworn declaration from the income payee. In the case of individual payees with only one payor, the sworn declaration shall be accomplished and submitted, together with a copy of their COR, to the lone income payor.

3. Sworn declaration of non-individual payees with gross income not exceeding P720,000

If the company or corporation's estimated gross income does not exceed ₱720,000 during the taxable year, the authorized

officer is required to provide all its income payors/withholding agents with a notarized sworn statement to that effect, together with a copy of the COR, not later than January 15 of each year or prior to the initial income payment so that the income payor/withholding agent shall only withhold 10%.

The 15% withholding tax rate shall be applied in the following cases: (1) the payee failed to provide the income payor/withholding agent of such declaration; or (2) the income payment exceeds ₱720,000, despite receiving the sworn declaration from the income payee. The sworn declaration shall be executed by the president/managing partner of the corporation/company/general professional partnerships.

#### 4. Submission of sworn declaration of withholding agents

Income payors/withholding agents shall execute a sworn declaration stating the number of payees who have submitted the income payees' sworn declarations with the accompanying copies of their COR. Such declaration of the income payors/withholding agents shall be submitted, together with the list of payees, to the concerned BIR office where registered on or before January 31 of each year or 15 days following the month when a new income recipient has submitted the payee's sworn declaration.

#### 5. Exemption from withholding tax for individual payees whose total income is less than P250,000 from lone income payor

An individual seller-income earner/payee may not be subjected to withholding if the source of income comes from a lone income payor and the total income payment is less than ₱250,000 in a taxable year.

The concerned individual shall execute an Income Payee's Sworn Declaration of gross receipts/sales that shall be submitted to the lone payor. The payee's sworn declaration shall be submitted to the lone income payor of income before the initial payment of income or before January 15 of each year, whichever is applicable.

The income payor/withholding agent shall, in turn, execute its own Income Payor/Withholding Agent's Sworn Declaration stating the number of payees who shall not be subjected to withholding taxes and have duly submitted their income payees' sworn declarations and copies of COR.

Together with the income payor/withholding agent's sworn declaration is the list of payees who shall not be subjected to withholding tax, which shall be submitted by the income payor/withholding agent to the concerned BIR office on or before the last day of January of each year or on the 15th day of the following month when a new income recipient submitted the payee's sworn declaration to the lone income payor/withholding agent.

The income payor/withholding agent's sworn declaration shall be filed in two copies with the concerned LTS/RR/RDO office

where the income payor/withholding agent is registered and shall be distributed as follows:

- (1) Original copy for the BIR
- (2) Duplicate copy for lone payor/withholding agent

The duly received income payor/withholding agent's sworn declaration, including the required list, shall serve as proof that the income payments made are not subject to withholding tax.

In the event that the individual payee's cumulative gross receipts in a year exceed ₱250,000, the income payor/withholding agent shall withhold the prescribed withholding tax based on the amount in excess of ₱250,000, despite the prior submission of the individual income payee's sworn declaration. On the other hand, if the individual income payee fails to submit an income payee's sworn declaration to the lone income payor/withholding agent, the income payment shall be subject to the applicable withholding tax even though in a taxable year the income payment is ₱250,000 and below.

#### *Transitory rules*

Income recipient/payee subject to withholding tax availing to be exempt from the prescribed withholding tax rates shall submit on or before 6 April 2018 a duly accomplished "Income Payee's Sworn Declaration of Gross Receipts/Sales", together with a copy of the Certificate of Registration (COR) to his/her income payor/withholding agent.

The income payor/withholding agent that received the "Income Payee's Sworn Declaration of Gross Receipts/Sales" and the copy of the payee's COR shall submit on or before 20 April 2018, a duly accomplished "Income Payor/Withholding Agent's Sworn Declaration", together with the List of Payees who have submitted "Income Payee's Sworn Declaration of Gross Receipts/Sales" and copies of CORs.

Any income tax withheld by the income payor/withholding agent in excess of what is prescribed in these regulations shall be refunded to the payee by the said income payor/withholding agent. The income payor/withholding agent shall reflect the amount refunded as adjustment to the remittable withholding tax due for the first quarter withholding tax return.

The adjusted amount of tax withheld shall also be reflected in the Alphabetical List of Payees to be attached in the said first quarter return. The said list of payees who are subject to refund, either due to the change of rates of withholding or due to the qualification to avail of exemption from withholding tax (e.g., income recipient/payee submitted "Income Payee's Sworn Declaration of Gross Receipts/Sales" and copy of COR), shall likewise be attached in the said return, which shall be filed on or before 30 April 2018.

In case the Certificate of Tax Withheld at Source (BIR Form No. 2307) has already been given to the payee, the same shall be returned by the payee to the payor upon receipt of the amount refunded by the income payor/withholding agent, together with the corrected BIR Form No. 2307, if still applicable. Otherwise, the said certificate to be given to the payee on or before the 20th day after the close of the first quarter must reflect the corrected amount of tax withheld.

In no case shall income payee use BIR Form No. 2307 twice for the same amount of income payment from the same income payor/withholding agent and for the same period.

#### 6. Withholding tax obligations of Top Withholding Agents

The coverage of withholding tax agents who are required to withhold 1% or 2% from regular suppliers of goods and services, respectively, and casual purchases worth P10,000 or more was expanded to include Medium Taxpayers, and those under the Taxpayer Account Management Program (TAMP), which shall now be classified as Top Withholding Agents.

Under RR 11-2018, the Top Withholding Agents shall include taxpayers classified and duly notified by the Commissioner as either any of the following unless previously de-classified as such or had already ceased business operations: (a) a large taxpayer under RR 1-98, as amended; (b) Top 20,000 private corporations under RR 6-2009; or (c) Top 5,000 individuals under RR 6-2009. It shall also include taxpayers identified and included as Medium Taxpayers, and those under the Taxpayer Account Management Program (TAMP).

The top withholding agents by concerned large taxpayer service (LTS)/Revenue Regions (RRs)/Revenue District Offices (RDOs) shall be published in a newspaper of general circulation. It may also be posted in the BIR website. These shall serve as the notice to the top withholding agents. The obligation to withhold shall commence on the first day of the month following the month of publication.

The existing withholding agents classified as large taxpayers, top 20,000 private corporations, or top 5,000 individuals that have not been delisted prior to these regulations shall remain top withholding agents. The initial and succeeding publications shall include the additional top withholding agents and those that are delisted.

#### 7. Increase in the amount of tax-exempt de minimis benefits

New tax-exempt cap for the following de minimis benefits.

De minimis benefit	Tax-exempt Threshold	
	Old	New
Medical cash allowance to dependents of employees	P750 per employee per semester, or P125 per month	P1,500 per employee per semester, or P250 per month

Rice subsidy	P1,500 or one sack of 50 kg. rice per month amounting to not more than P1,500	P2,000 or one sack of 50 kg. rice per month amounting to not more than P2,000
Uniform and clothing allowance	P5,000 per annum	P6,000 per annum

#### 8. Income tax treatment of minimum wage earners (MWEs) on receipt of taxable income

Additional compensation such as commissions, honoraria, fringe benefits, benefits in excess of the allowable statutory amount of ₱90,000, taxable allowances, and other taxable income given to an MWE by the same employer other than those that are expressly exempt from income tax [i.e., statutory minimum wage (SMW), overtime pay, night shift differential, holiday pay, and hazard pay] shall be subject to withholding tax using the withholding tax table.

Likewise, MWEs receiving other income from other sources in addition to compensation income, such as income from other concurrent employers, from the conduct of trade, business, or practice of profession, except income subject to final tax, are subject to income tax only to the extent of income other than the SMW, holiday pay, overtime pay, night shift differential pay, and hazard pay earned during the taxable year.

[Note: Based on Illustration No. 4 of RR 11-2018, in case of receipt of taxable income such as commission, the MWE shall remain exempt on the amount received as SMW, overtime pay, night shift differential, holiday pay, and hazard pay and shall be taxable only on the commission received. This is in accordance with the Supreme Court decision in the case of Soriano et al. vs. Secretary of Finance and Commissioner of Internal Revenue, (G.R. No. 184450, 24 January 2017), which held that MWEs remain exempt but the taxable income they receive other than as MWEs are subject to taxes.]

#### 9. Computation of withholding tax on employees of Area or Regional Headquarters of Multinational Corporations, Regional Operating Headquarters (ROHQs), Offshore Banking Units (OBUs), and Petroleum Contractors and Subcontractors

They should be subject to withholding tax in the manner and at the regular rates of withholding tax on citizens and resident individuals.

#### 10. Substituted filing and submission of BIR Form 2316

Employees qualified for the substituted filing of Income Tax Return (ITR) shall immediately affix their signatures to the Certificate of Compensation Payment and Tax Withheld to signify their intention to avail of the substituted filing of ITR, and return to the employer the duly signed Certificates for the latter's signature.

The employer shall give back the original copy to the employee qualified for substituted filing of ITR, while the duplicate copy shall be submitted by the employer to the concerned BIR office not later than February 28 of the succeeding year, with accompanying Certified List of Employees Qualified for Substituted Filing of ITR reflecting the amount of income payment, the tax due, and tax withheld.

The list shall be stamped "Received" by the concerned BIR office, which shall be tantamount to the substituted filing of ITR by the qualified employees. In the event that the employee will need his/her Certificate (BIR Form No. 2316) stamped "Received", he/she shall request the concerned BIR office to have the Certificate stamped "Received" accompanied by the submission of the employer's certification that he/she was included in the list submitted by such employer to the BIR.

For employees not qualified for substituted filing of ITR, two (original and duplicate) copies of the subject certificate shall be given to the employee to serve as proof of compensation received and tax credit, and the other copy shall be retained by the employer. This shall form part of the employee's ITR to be filed on or before April 15 of the following year.

#### 11. Filing of withholding tax returns and alphabetical lists

##### *Filing of withholding tax returns*

The filing of the withholding tax returns (BIR Form No. 1601EQ for creditable withholding tax and Form Nos. 1602 for final tax on interest on bank deposits, 1603 for final tax withheld on fringe benefits, and 1601FO for all other final withholding taxes) and payment of the taxes withheld at source shall be made not later than the last day of the month following the close of the quarter during which the withholding was made. The quarter shall follow the calendar quarter, e.g., for taxes withheld during the quarter ending March 31, the same shall be remitted by the withholding agent on or before April 30.

##### *Submission of Alphalists*

The withholding tax returns filed by withholding agents shall be accompanied by the Quarterly Alphabetical List of Payees (QAP), reflecting the name of income payees, Taxpayer Identification Number (TIN), the amount of income paid segregated per month with total for the quarter (all income payments prescribed as subject to withholding tax under these regulations, whether actually subjected to withholding tax or not subjected due to exemption), and the total amount of taxes withheld, if any.

##### *Monthly remittance of taxes withheld*

Withholding agents shall file BIR Monthly Remittance Form (BIR Form No. 0619E and/or 0619F) every 10th day of the following month when the withholding is made, regardless of

the amount withheld. For withholding agents using eFiling and Payment System (eFPS) facility, the due date is on the 15th day of the following month. Withholding agents with zero remittance are still required to use and file the same form.

In the case of sale of shares of stocks not traded through a local stock exchange and sale of real property considered as capital asset, the filing and payment of the tax due thereon shall be made within 30 days after the sale or disposition using BIR Form No. 1707 and 1706, respectively. For sale of real property considered as ordinary asset, the remittance of tax withheld shall be made on or before the 10th day following the month of transaction using BIR Form No. 1606.

### *Annual Information Return and Annual Alphabetical List of Payees*

The withholding agent is required to file with the concerned office of the LTS/RR/RDO where the withholding agent is registered, the following:

1. Annual Information Return of Creditable Taxes Withheld (Expanded)/Income Payments Exempt from Withholding Tax (BIR Form No. 1604E) including the corresponding Annual Alphabetical List of Payees - on or before March 1 of the following year in which payments were made
2. Annual Information Return on Final Income Taxes Withheld (BIR Form 1604F) including the corresponding Annual Alphabetical List of Payees – On or before January 31 of the following year in which payments were made

Please click [here](#) to view Revenue Regulations No. 11-2018 for your reference and guidance.

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