Deloitte.

International Tax
Philippines Highlights 2017

Investment basics:

Currency – Philippine Peso (PHP)

Foreign exchange control – Foreign currency may be bought and sold freely by residents (including foreign corporations operating in the Philippines) and may be brought into or sent out of the country with minimal restrictions. Nonresidents also may hold foreign currency.

Accounting principles/financial statements – IAS/IFRS. Financial statements must be prepared annually and must be audited by an independent CPA.

Principal business entities – These are corporation (stock/nonstock), partnership, sole proprietorship, regional headquarters (RHQ), regional operating headquarters (ROHQ), representative office and branch of a foreign company.

Corporate taxation:

Residence – A corporation is resident if it is incorporated in the Philippines or, if incorporated outside the Philippines, it has a branch in the Philippines.

Basis – Philippine corporations are taxed on worldwide income; nonresident companies are taxed only on Philippine-source income. A foreign corporation with a branch in the Philippines is taxed on Philippine-source income.

Taxable income – Corporate tax is imposed on a company's profits, which generally consist of business/trading income. Normal business expenses may be deducted in computing taxable income.

In lieu of itemized deductions, a domestic and resident corporation may elect to use the optional standard deduction (OSD), which may not exceed 40% of total gross income, in computing taxable income for the taxable quarter/year. Once a decision is made to use the OSD, it is irrevocable for the taxable year for which the return is filed.

Taxation of dividends – Dividends received by Philippine and resident foreign companies from a domestic corporation are not subject to tax.

Capital gains – Capital gains generally are taxed as income. However, gains on the sale of shares not traded on the stock exchange are subject to 5% withholding tax on the first PHP 100,000, and 10% thereafter. Gains on the sale of shares listed and traded on the stock exchange are taxed at 0.5% of the gross selling price. Gains derived from the sale of real property not used in a business are subject to 6% final withholding tax based on the sale price or fair market value, whichever is higher.

Losses – Losses may be carried forward for three years unless the taxpayer benefits from a tax incentive or an exemption. Losses may not be carried forward where the business undergoes a substantial change in ownership. The carryback of losses is not permitted.

Rate – Philippine corporations are taxed at a rate of 30%. The rate for regional operating headquarters is 10%.

Surtax – A 10% surtax is imposed on improperly accumulated earnings.

Alternative minimum tax – A minimum corporate income tax (MCIT) equal to 2% of gross income is imposed on both domestic and resident foreign corporations beginning in the fourth taxable year of operations. The MCIT is imposed in each quarter of the taxable year when a company has no or negative taxable income, or when the amount of the MCIT is greater than the corporation's normal income tax liability. Any MCIT that exceeds the normal income tax may be carried forward and credited against the normal income tax for the following three taxable years.

Foreign tax credit – Foreign tax paid by a domestic corporation may be credited proportionately against Philippine tax on the same profits, but the credit is limited to the amount of Philippine tax payable on the foreign income.

Participation exemption – No

Holding company regime – No

Incentives – Incentives are provided under the Omnibus Investment Code of 1987 (administered by the Board of Investment) and the Special Economic Zone Act of 1995. Benefits usually include tax (e.g. income tax holidays) and nontax incentives (e.g. simplification of customs procedures for imports and exports). Enterprises engaged in specified business activities may be entitled to other incentives.

Withholding tax:

Dividends – Dividends distributed by a Philippine company to a nonresident are taxed at a rate of 15%, provided the country of the foreign corporate recipient allows a tax credit of 15%; otherwise, the dividends are taxed at a rate of 30%. The withholding tax may be reduced under an applicable tax treaty.

Interest – Interest paid to a nonresident is subject to a 20% withholding tax, unless the rate is reduced under a tax treaty, subject to a confirmation ruling from the Bureau of Internal Revenue (BIR).

Royalties – Royalty payments made to a nonresident are subject to a 30% withholding tax, unless the rate is reduced under a tax treaty. A 20% final withholding tax is levied on royalty payments made to a domestic or resident foreign corporation.

Technical service fees – Technical service fees, which may be treated as royalties in some cases, are subject to a 30% withholding tax, unless the rate is reduced under a tax treaty. Fees treated as royalties also are subject to withholding VAT of 12%, unless specifically exempt under the law.

Branch remittance tax – A 15% branch profits tax is levied on the after-tax profits remitted by a branch to its head office.

Other – Other payments to nonresidents may be subject to final tax (e.g. management fees at 30%; certain payments related to vessels at 4.5%; and aircraft, machinery and other equipment at 7.5%). Rates may be reduced under a tax treaty, subject to a confirmation ruling from the BIR.

Other taxes on corporations:

Capital duty – No

Payroll tax – A corporate employer is required to withhold tax on the remuneration paid to its employees.

Real property tax – A property tax is imposed on real property at a rate that depends on the location of the property. The tax should not exceed 3% of the assessed value per the tax declaration.

Social security – The employer must make a monthly contribution to the social security system corresponding to the salary of covered employees. The maximum monthly employer contribution for an employee in the highest salary bracket is PHP 1,208.70.

Stamp duty – Various rates of duty apply, depending on the type of transaction/document.

Transfer tax – Gratuitous transfers of property are subject to a donor's tax at graduated rates ranging from 2% to 15% or 30% of the fair market value of the property at the time of the donation.

A local transfer tax on real property is levied at a rate of 0.5% of the gross sales price or fair market value of the property, whichever is higher, on the transfer or sale of real property.

Other – A percentage tax of 3% to 7% is imposed on certain types of businesses, such as banks, finance companies, insurance companies and common carriers, except domestic carriers that transport passengers by air, which are subject to VAT.

Anti-avoidance rules:

Transfer pricing – The transfer pricing rules, which are based on the OECD guidelines, apply to both domestic and cross-border related party transactions. The following transfer pricing methods are permitted: comparable uncontrolled price method, resale price method, cost-plus method, profit split method, residual profit split approach and transactional net margin method.

Thin capitalization – No

Controlled foreign companies – No

Disclosure requirements – No

Compliance for corporations:

Tax year – A calendar year or fiscal year (an accounting period of 12 months ending on the last day of any month other than December) may be used.

Consolidated returns – Consolidated returns are not permitted; each company must file a separate return.

Filing requirements – The tax return must be filed, with or without payment, on or before the 15th day of the fourth month following the close of the taxpayer's taxable year.

Penalties – Late payments are subject to a penalty equal to 25% of the amount due. Annual interest of 20% is assessed on the unpaid amount from the due date until fully paid. A compromise penalty will be based on the tax due, exclusive of the 25% surcharge and 20% interest.

Rulings – The tax authorities will issue a ruling on the tax consequences of a transaction at the request of a taxpayer.

Personal taxation:

Basis – Resident citizens are taxed on worldwide income; resident aliens and nonresidents pay tax only on Philippine-source income. Foreign individuals may benefit from preferential tax treatment or may be exempt from income tax under an applicable tax treaty, subject to a confirmation ruling from the BIR.

Residence – A citizen normally is considered a resident unless he/she meets the requirements to be deemed a nonresident. The residence status of a foreign employee generally is established when the aggregate length of stay in any calendar year exceeds 180 days.

Filing status – Married couples in the Philippines who do not derive income only from compensation must file a joint income tax return.

Taxable income – Taxable personal income is all income, less allowable deductions and personal exemptions. It includes compensation, business income, capital gains (arising from the sale of real property and share transactions), dividends, interest, rents, royalties, annuities, pensions and a partner's distributive share of the net income of general professional partnerships.

Minimum wage earners (MWEs) are exempt from the payment of income tax on their compensation income. Holiday pay, overtime pay, night shift differential pay and hazard pay received by MWEs also are exempt. However, an employee who receives/earns additional compensation, such as commissions, honoraria, fringe benefits, benefits in excess of the nontaxable ceiling of PHP 82,000, taxable allowances and taxable income other than the exempt remuneration mentioned above, does not qualify as an MWE and, therefore, the individual's earnings are not exempt from income tax.

In lieu of itemized deductions, an individual engaged in business or the practice of a profession may elect to use the OSD, which may not exceed 40% of total gross income (before deducting the cost of services/the cost of goods sold), in computing taxable income for the taxable quarter/year. Once an election is made to use the OSD, it is irrevocable for the taxable year for which the return is made.

Capital gains – Capital gains generally are subject to the ordinary income tax rates, although gains from the sale of certain shares and real property are subject to specific rates.

Deductions and allowances – Subject to certain restrictions, deductions are granted for premium payments on health and/or hospitalization insurance. Personal allowances are available to the taxpayer and his/her spouse, and for qualified dependent children.

Rates – Individual income tax is charged at progressive rates ranging from 5% to 32%. Individuals occupying managerial and highly technical positions employed by RHQs, ROHQs, multinational companies, offshore business units and petroleum service contractors/subcontractors are taxed at a rate of 15% on their gross income.

An individual is subject to capital gains tax on the sale of real property at a rate of 6% of the gross sales price or current fair market value, whichever is higher. An individual also is subject to capital gains tax on the sale of shares not traded on the stock exchange at a rate of 5% of the net gain not exceeding PHP 100,000, and 10% on the excess. Gains derived from the sale of shares listed and traded on the stock exchange are taxed at 0.5% of the gross sales price.

Other taxes on individuals:

Capital duty – No

Stamp duty – Various rates of duty apply, depending on the type of transaction/document.

Capital acquisitions tax – No

Real property tax – A property tax is imposed on real property at a rate that depends on the property's location. The tax should not exceed 3% of the assessed value per the tax declaration.

Inheritance/estate tax – Tax is imposed on the net estate of both residents and nonresidents, at rates ranging from 5% to 20%.

Net wealth/net worth tax – No

Social security – An employee is required to make monthly contributions (ranging from PHP 36.30 to PHP 581.30) to the social security system based on his/her salary bracket. The employer also makes a contribution.

Compliance for individuals:

Tax year – Calendar year

Filing and payment – Tax returns are due on or before 15 April after the close of the tax year. Tax on compensation income is withheld monthly by the employer.

Individuals receiving compensation income from only one employer during the taxable year may qualify for substituted filing provided the amount of tax due equals the amount of tax withheld by the employer at the end of the taxable calendar year. The same requirements must be met for married individuals to qualify for "substituted" filing.

Penalties – Late payments are subject to a penalty equal to 25% of the amount due. Annual interest of 20% is assessed on the unpaid amount from the due date until fully paid. A compromise penalty will be based on the tax due exclusive of the 25% surcharge and 20% interest.

Value added tax:

Taxable transactions – VAT is imposed on most sales of goods and services.

Rates – The sale and importation of certain goods and services are subject to a 12% VAT. Certain sales are zero-rated.

Registration – The registration threshold for VAT purposes is PHP 1,919,500.

Filing and payment – The return/declaration may be filed either manually or through EFPS, no later than the 20th day following the close of the month (for monthly returns) and no later than the 25th day following the close of each taxable quarter (for quarterly returns).

Source of tax law: National Internal Revenue Code of 1997, as amended, and other regulations; Local Government Code of 1991; Tariff and Customs Code; and Supreme Court decisions

Tax treaties: The Philippines has concluded approximately 41 tax treaties.

Tax authorities: Bureau of Internal Revenue (national taxes); City/Municipal Treasurer's Office (local taxes); Bureau of Customs

Contact:

Walter Abela Jr. (wabela@deloitte.com)

Senen Quizon (smquizon@deloitte.com)