REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

RA No. 8792; Section 34(A)(1)(b) of the Tax Code, as amended; RR No. 09-09; RR No. 17-13;		OT-070-2023 JUN 06 2023

Person to Contact: Chief, Law Division
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Attention: **Roselle Y. Caraig**
Partner, Tax

Gentlemen:

This refers to your request on behalf of your client, **The Boston Consulting Group International, Inc. – Philippine Branch** ("BCG" or the "Company"), a ruling confirming your opinion that the Company may maintain only the soft copy of documents evidencing staff claims for reimbursements.

It is represented that BCG was registered with the Philippine Securities and Exchange Commission on March 27, 2017 to provide management consulting services.

Due to the nature of BCG's business, it is common that its staff will incur business expenditures when performing their duties. Under the Company's human resource policy, the staff are allowed to file claims for expenses incurred strictly for business purposes and they will be reimbursed once the said claims are approved. These claims include, but are not limited to traveling expenses, lodging, entertainment, meal expenses and telecommunication expenses.

The following standard procedures are set by the Company for the staff to submit their claims:

1. The staff will fill-in the details of the receipts/bills in the expense management system and upload the scanned copies of the receipts/bills (the electronic copies will be stored within the system for tracking purposes); and
2. Finance team will verify the details before approving the claims.

Currently, most of the Company's staff travel abroad and across the country to carry out the services to its clients. Because of the need to submit the receipts/invoices evidencing the claims, the staff are required to return to the office which has proven to be time consuming, inefficient and costly.

As the Company processes a huge volume of staff claims, and also, as part of the Company's move towards digitalization, the staff claims initially received by the Company electronically are systematically retained in the expenses management system in an organized and secured manner. This allows for easy extraction of information for auditors or relevant authorities when required, upon request. Additionally, this would lessen the Company's environmental impact as part of their go green initiative by reducing their reliance on hard copy documents as they shift towards digitalization.

In this regard, you now request confirmation of your opinion that the documents evidencing staff claims may be stored in electric format only and dispense its hard copies thereof.

In reply, ***Section 34 (A)(1)(b) of the National Internal Revenue Code of 1997 (Tax Code), as amended,*** provides for the substantiation requirement of ordinary or business expenses expenses, *viz:*

> *"SEC. 34. Deductions from Gross Income. – xxx*
>
> *(A) Expenses. –*
>
> *(1) Ordinary and Necessary Trade, Business or Professional Expenses.-*
>
> *xxx xxx xxx*
>
> *(b) Substantiation Requirements. - No deduction from gross income shall be allowed under Subsection (A) hereof unless the taxpayer shall* ***substantiate with sufficient evidence, such as official receipts or other adequate records****: (i) the amount of the expense being deducted, and (ii) the direct connection or relation of the expense being deducted to the development, management, operation and/or conduct of the trade, business or profession of the taxpayer." (Underscoring and emphasis ours)*

BIR Ruling No. 027-01 dated June 20, 2001, citing the cases of *Zamora vs. Collector (8 SCRA 163) and Visayan Cebu Terminal Co., Inc. vs. Collector (180 Phil. 320)*, expressly provides that for an expense to be deductible, it must be substantiated by official receipts or adequate records; that generally, the BIR only accepts the original copy of the receipt/s, which a taxpayer presents to substantiate deductible expense; nevertheless, the absence of original receipts or records does not prevent a taxpayer from proving by other evidence that the claimed deduction was really paid or incurred[1].

In connection therewith, the aforequoted provision must be read in conjunction with ***Revenue Regulations (RR) No. 17-2013[2], as amended by RR No. 05-2014[3]***, which requires that the original books of accounts and other accounting records must be preserved and maintained for a period of ten (10) years from the day following the deadline of filing a return

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[1] Jacinto Marketing and Trading Corp. v. Commissioner of Internal Revenue (C.T.A. Case No. 6616, February 14, 2008)

[2] Preservation of Books of Accounts and Other Accounting Records

[3] Amending Revenue Regulations No. 17-2013 Dealing with the "Preservation of Books of Accounts and Other Accounting Records"

or from the date of its filing, whichever comes later. However, if the taxpayer decides to maintain an electronic storage system of its books and accounting records, hardcopies of the said records must still be preserved and kept for the first five (5) years. Thereafter, the taxpayer may retain only an electronic copy of such accounting records in an electronic storage system for the remaining five (5) year period, provided that the taxpayer shall comply with Section 2-A of RR No. 17-2013, as amended.

Accordingly, scanned copies of the receipts/invoices evidencing the business expenses incurred by BCG's staff do not meet the substantiation requirement under Section 34 (A)(1)(b) of the Tax Code, as amended.

The Bureau is also aware that ***Section 8.1 of Revenue Regulations (RR) No. 9-2009***[4] allows taxpayers to convert hardcopy documents to microfilm, microfiche or other storage only imaging systems, and then may discard the original hard copy of said documents. However, such conversion of hardcopy documents must comply with the procedures and requirements set forth in Section 8.2 in the said RR, and prior permit from the BIR is required before use of microfilm, microfiche and other storage-only imaging systems. We note that the procedures laid out in the said RR were not shown to have been complied with by BCG.

Furthermore, the term "electronic records" in the above-mentioned revenue issuance must be read in conjunction with ***Republic Act (RA) No. 8792, otherwise known as the "Electronic Commerce Act of the Philippines (E-Commerce Act)"***. For an electronic document to be considered an original under the E-Commerce Act, the following requirements must be present:

> *"SECTION 10. Original Documents. –*
>
> *(1) Where the law requires information to be presented or retained in its original form, that requirement is met by an electronic data message or electronic document if:*
>
> ***(a) the integrity of the information from the time when it was first generated in its final form, as an electronic data message or electronic document is shown by evidence aliunde or otherwise;*** *and*
>
> *(b) where it is required that information be presented, that the information is capable of being displayed to the person to whom it is to be presented.*
>
> *(2)* ***Paragraph (1) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequence for the information not being presented or retained in its original form.***
>
> *(3) For the purpose of subparagraph (a) of paragraph (1):*
>
> *(a)* ***the criteria for assessing integrity shall be whether the information has remained complete and unaltered, apart from the***

[4] Maintenance, Retention and Submission of Electronic Records

> ***addition of any endorsement and any change which arises in the normal course of communication, storage and display;*** *and*
>
> *(b) the standard of reliability required shall be assessed in the light of the purpose for which the information was generated and in the light of all relevant circumstances."* (Emphasis and underscoring ours)

Based on the aforequoted provision, the criteria for assessing integrity cannot be satisfied by a scanned document if the original document from which the scanned document was based on does not exist anymore. The scanned document alone cannot prove the integrity of the document. Thus, it is not considered an electronic document and, therefore, not an original document.

In connection therewith, in ***MCC Industrial Sales Corporation vs. Ssangyong Corporation***[5] the Supreme Court explained the process of an ordinary facsimile (which is akin to a scanned document) in this manner:

> *"There is no question then that when Congress formulated the term "electronic data message," it intended the same meaning as the term "electronic record" in the Canada law.* ***This construction of the term "electronic data message," which excludes telexes or faxes, except computer-generated faxes, is in harmony with the Electronic Commerce Law's focus on "paperless" communications*** *and the "functional equivalent approach" that it espouses. In fact, the deliberations of the Legislature are replete with discussions on paperless and digital transactions.*
>
> *xxx xxx xxx*
>
> *Accordingly, in an* ***ordinary facsimile transmission, there exists an original paper-based information or data that is scanned,*** *sent through a phone line, and re-printed at the receiving end. Be it noted that in enacting the Electronic Commerce Act of 2000,* ***Congress intended virtual or paperless writings to be the functional equivalent and to have the same legal function as paper-based documents. Further, in a virtual or paperless environment, technically, there is no original copy to speak of, as all direct printouts of the virtual reality are the same, in all respects, and are considered as originals.*** *Ineluctably,* ***the law's definition of "electronic data message," which, as aforesaid, is interchangeable with "electronic document," could not have included facsimile transmissions, which have an original paper-based copy*** *as sent and a paper-based facsimile copy as received. These two copies are distinct from each other, and have different legal effects."* (Underscoring and emphasis ours)

Please note that the E-Commerce Act contemplates a paperless environment where there is no original hardcopy since all direct print-outs of the virtual reality are the same and are considered as originals. In other words, the originals are generated electronically without any actual hardcopies. In a scanned document, however, there is no paperless practice as the scanned copy came from an original printed copy. Therefore, the electronic records referred to

[5] G.R. No, 170633, October 17, 2007

in the above-mentioned revenue issuances entails documents generated electronically and without an existing print-out or hard copy.

In view of the foregoing, the scanned copies of the receipts/bills evidencing the business expenses incurred by BCG's staff are not sufficient for record keeping purposes under Sections 34 (A)(1)(b) and 237 of the Tax Code, as amended.

This ruling is issued on the basis of the facts as represented. However, if upon investigation it shall be disclosed that the actual facts are different, then this ruling shall be without force and effect insofar as the herein parties are concerned.

Very truly yours,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue
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