REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

18 DEC 2020

REVENUE REGULATIONS NO. 34-2020

SUBJECT: **Prescribing the Guidelines and Procedures for the Submission of BIR Form No. 1709, Transfer Pricing Documentation (TPD) and other Supporting Documents, Amending for this Purpose the Pertinent Provisions of Revenue Regulations (RR) Nos. 19-2020 and 21-2002, as amended by RR No. 15-2010**

TO: All Internal Revenue Officers and Others Concerned

Section 1. Objective

The purpose of requiring taxpayers to submit Bureau of Internal Revenue (BIR) Form No. 1709 (RPT Form) is to allow the BIR to verify that taxpayers are reporting their related party transactions at arm's length prices. It is also intended to improve and strengthen the Bureau's transfer pricing risk assessment and audit functions. Most importantly, the information that will be gathered from the RPT Form and its attachments will be used by the BIR during the transfer pricing risk assessment to determine whether or not to conduct a thorough review/audit of a particular entity or transaction.

Hence, to accomplish the foregoing while taking into account the mandate of the *Ease of Doing Business and Efficient Government Service Delivery Act of 2018* especially during the COVID-19 pandemic, there is a need to streamline the guidelines and procedures for the submission of BIR Form No. 1709, Transfer Pricing Documentation (TPD) and other supporting documents by providing safe harbors and materiality thresholds.

Section 2. Filing of BIR Form No. 1709 (RPT Form)

The following are required to file and submit the RPT Form, together with the Annual Income Tax Return (AITR):

a) Large Taxpayers;
b) 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;
c) Taxpayers reporting net operating losses for the current taxable year and the immediately preceding two (2) consecutive taxable years; and
d) A related party, as defined under Section 3 of Revenue Regulations (RR) No. 19-2020, which has transactions with (a), (b) or (c). For this purpose, key management personnel (KMP), as defined under Section 3(7) of RR No. 19-2020, 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.

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When short period AITRs are required by law or existing issuances to be filed the RPT Form shall still be accomplished regardless of the reason for filing the said short period return. However, compliance herewith shall only be mandatory for short period returns filed in 2021 and subsequent years.

Section 3. Submission of TPDs and Other Supporting Documents

The preparation and submission of TPDs under RR No. 02-2013, otherwise known as "Transfer Pricing Guidelines" and all other relevant issuances, shall be mandatory for taxpayers enumerated in Section 2 who meet the following materiality thresholds:

a. Annual gross sales/revenue for the subject taxable period exceeding One Hundred Fifty Million Pesos (₱150,000,000) and the total amount of related party transactions with foreign and domestic related parties exceeds Ninety Million Pesos (₱90,000,000).

   In computing the above threshold, the following items shall be included:

   i. Amounts received and/or receivable from related parties or paid and/or payable to related parties during the taxable year but excluding compensation paid to key management personnel, dividends and branch profit remittances; and

   ii. Outstanding balances of loans and non-trade amounts due from/to all related parties.

   Related party transactions covered by an Advance Pricing Agreement (APA) need not be disclosed in the RPT Form but shall nonetheless be included in the computation of the amount of related party transactions following the prescribed formula; or

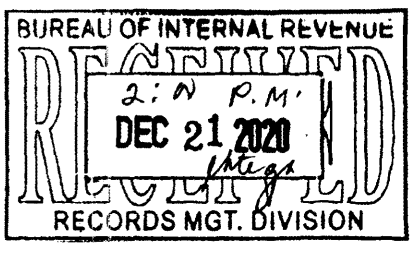
b. Related party transactions meeting the following materiality threshold:

   i. If involving sale of tangible goods in the aggregate amount exceeding Sixty Million Pesos (₱60,000,000) within the taxable year;

   ii. If involving service transaction, payment of interest, utilization of intangible goods or other related party transaction in the aggregate amount exceeding Fifteen Million Pesos (₱15,000,000.00) within the taxable year; or

c. If TPD was required to be prepared during the immediately preceding taxable period for exceeding either (a) or (b) above.

The TPDs and other supporting documents as set out in Section 6 of RR No. 19-2020 shall no longer be attached to the RPT Form but shall be submitted within thirty (30) calendar days upon receipt of request by the Commissioner or his/her duly authorized representatives, pursuant to a duly issued Letter of Authority covering All Internal Revenue Taxes (AITR), subject to non-extendible period of 30 calendar days based on meritorious grounds.



Section 4. Additional Disclosure Requirements for Taxpayers with Related Party Transactions

In addition to the requirements provided under RR No. 21-2002, as amended by RR No. 15-2010, taxpayers who are not covered under Sections 2 hereof are required to disclose in the Notes to the Financial Statements that they are not covered by the requirements and procedures for related party transactions provided under this RR.

Section 5. New RPT Form

The simplified version of the RPT Form (BIR Form 1709) shall henceforth be used in lieu of the old form.

Section 6. Penalties

Any violation of the provisions of this issuance shall be subject to penalties provided in Sections 250, 266, and other relevant provisions of the NIRC, as amended.

Section 7. Amendatory/Repealing Clause

The pertinent provisions of RR No. 19-2020, its clarifying Revenue Memorandum Circular No. 76-2020 and other relevant issuances that are inconsistent herewith are hereby repealed, amended or modified accordingly.

Section 7. Effectivity

This Regulations shall take effect immediately following its publication in a newspaper of general circulation.

CARLOS G. DOMINGUEZ
Secretary of Finance

DEC 18 2020

Recommending approval:

CAESAR R. DULAY
Commissioner of Internal Revenue

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