



# Philippines Tax Profile

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# 1 Corporate Income Tax

## Corporate income tax

Corporate income tax

## Tax rate

The corporate income tax rate for both resident and non-resident companies is 30% (except for certain items of passive income which may be taxable at a different rate). However, beginning on the 4th taxable year immediately following the year in which such corporation commenced its business operations, the tax rate shall be the higher of the 30% which is based on net income (regular corporate income tax) or 2% based on gross income (minimum corporate income tax).

## Residence

An entity is regarded as a resident of the Philippines if it is carrying on business in the Philippines. This includes any entity that is incorporated in the Philippines or a foreign resident corporation that is licensed to do business in the Philippines. Generally, the tax authorities rely on the incorporation or registration as an indication of Philippine tax residence.

A domestic corporation is taxable on its worldwide income. However, a foreign corporation, whether engaged or not in trade or business in the Philippines, is taxable only on Philippine-sourced income. Income is considered to be sourced in the Philippines if the income is derived from property or activities within the Philippines.

## Compliance requirements

Payment of corporate income tax is made through a self-assessment system where the taxpayer files a tax return reflecting the revenues, deductions and the tax due.

The annual income tax return is due on the 15<sup>th</sup> day of the 4<sup>th</sup> month following the close of the calendar or fiscal year.



## International withholding tax rates

The following items can be subject to withholding tax at 30 percent:

- Interest
- Rent
- Royalties
- Salaries
- Dividends
- Premiums (except reinsurance premiums)
- Annuities
- Emoluments or other fixed or determinable annual, periodic or casual gains, profits and income, and capital gains, except capital gains on sale of shares stock

The exceptions to this are:

- interest on foreign loans, subject to withholding tax at 20 percent
- income of a non-resident cinematographic film owner, lessor or distributor which is subject to withholding tax at 25 percent
- income of a non-resident owner or lessor of vehicles which is subject to withholding tax at 4½ percent; and
- income of a non-resident owner or lessor of aircraft, machinery and other equipment which is subject to withholding tax at 7½ percent.

These rates may be reduced if a relevant tax treaty applies.

The withholding tax on dividends paid to a non-resident foreign corporation may be reduced to a lower rate if the country in which the corporation is domiciled allows a credit for taxes deemed paid in the Philippines (tax sparing).

## Holding rules

Dividends received by a domestic corporation or a resident foreign corporation from another domestic corporation are not taxable. Cash and/or property distributions paid by a domestic corporation to non-resident corporate shareholders are subject to 30 percent income tax, except where the recipient is a resident of a country that either has entered into a tax treaty with the Philippines or allows a credit for taxes paid in the Philippines.

Profits of a Philippine branch remitted to its parent company are subject to 15 percent branch profits remittance tax. A lower rate may be provided under the applicable tax treaty. Philippine branches whose activities are registered with the Philippine Economic Zone Authority (PEZA) are not subject to branch profit remittance tax.



Net capital gains realized during the taxable year from the sale, exchange or other disposition of shares of stock in any domestic corporation (not sold through the stock exchange) are taxed at the following rates:

- First PHP100,000, taxed at 5 percent
- In excess of PHP100,001, taxed at 10 percent

Losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges.

A final tax of 6 percent (on the higher of the gross selling price or fair market value) is imposed on the gain of a domestic corporation presumed to have been realized on its sale, exchange or disposition of land and/or buildings that are not actually used in business and are treated as capital assets.

Income from the sale of capital assets other than shares of stocks, land and buildings not used in the course of business are treated as an ordinary income and subject to the normal corporate income tax.

#### **Tax losses**

Operating losses incurred in a tax year may be carried over as a deduction from gross income for three consecutive years immediately following the year of such loss, provided that there is no substantial change in the ownership of the business or enterprise. Such loss incurred shall not be allowed as deduction in a year in which the taxpayer was exempt from income tax. For mines, other than oil and gas wells, the net operating loss without the benefit of incentives incurred in any of the first 10 years of operation may be carried over as a deduction from taxable income for the next five years immediately following the year of such loss, and any portion of such loss which exceeds the taxable income of such first year shall be deducted in like manner from the taxable income of the next remaining four years.

#### **Tax consolidation / group relief**

There are no group relief provisions for losses in the Philippines. Each company within a corporate group is taxed as a separate entity.

#### **Transfer of shares**

Transfer of shares shall be subject to capital gains tax at the rate of 5 percent for the first PHP100,000, and 10 percent in excess thereof.

Stamp duty will also apply to the transfer of shares at a rate of PHP0.75 on each PHP200, or fractional part thereof, of the par value of such stock.

#### **Transfer of assets**

Sale of real property is subject to capital gains tax at the rate of six percent (on the higher of the gross selling price or fair market value).

Stamp duty of PHP15 for every PHP1,000 will apply to the transfer of real property.

#### **CFC rules**

No CFC regime exists in the Philippines.



<b>Transfer pricing</b>	The tax authority has 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. The “arm’s length” test is used to evaluate transactions between related taxpayers and the guidelines follow OECD guidelines.
<b>Thin capitalisation</b>	The Philippines has no formal thin capitalization laws or regulations. However, the tax authority has issued guidelines which identify thin capitalization and earning stripping as among the tax avoidance schemes between related companies. The ‘tax arbitrage rule’ reduces the allowable deduction for interest expenses by 33 percent of the interest income subjected to final tax.
<b>General anti-avoidance</b>	The Philippines does not have a general anti-avoidance clause within its tax code. However, any person who wilfully attempts in any manner to evade or defeat any tax imposed under the Tax Code shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than PHP30,000 but not more than PHP100,000 and suffer imprisonment of not less than two years but not more than four years. (Sec. 254, Tax Code).
<b>Anti-treaty shopping</b>	None.
<b>Other specific anti-avoidance rules</b>	None, other than transfer pricing provisions.
<b>Rulings</b>	<p>Taxpayers may seek clarification with the tax authority by submitting a letter-request for ruling containing full disclosure of all material facts, including the documents needed for substantiation. Once issued, this ruling is applicable to all future transactions referred to in the ruling. Rulings may only be relied upon by the taxpayer to whom they are issued.</p> <p>Taxpayers may also approach the tax authority to clarify proper tax treatment, especially uncertain provisions of tax laws and regulations. This is done on an informal and “no-name” basis. This type of clarification is non-binding and is only based on facts and circumstances represented during the inquiry.</p>
<b>Intellectual property incentives</b>	None.

<b>R&amp;D incentives</b>	<p>A multinational company may establish a Regional Operating Headquarters (ROHQ) to render R&amp;D services and product development to affiliates, branches or subsidiaries. The ROHQ shall be subject to a 10 percent preferential tax rate on taxable income, and shall be exempted from all kinds of local taxes, fees and charges imposed by the local government. Gross income received by an alien individual employed by ROHQ established in the Philippines shall be subject to a tax of 15 percent of such gross income.</p> <p>R&amp;D expenses are deductible if they are paid or incurred during the taxable year as ordinary and necessary expenses of the business, and not charged to capital account. At the taxpayer's election, development R&amp;D expenses may be treated as a deferred expense, in lieu of a tax deduction, provided that it shall be amortized over a period not less than 60 months.</p>
<b>Other incentives</b>	<p>A number of other tax incentives are available in the Philippines for enterprises engaged in preferred areas of investment and registered with the Board of Investments (BOI) or the Philippine Economic Zone Authority (PEZA), including tax holidays/exemptions, tax credits, additional tax deductions and simplification of customs procedures.</p> <p>Further, tax incentives are available for regional headquarters, enterprises operating in developing regions and special economic zones.</p>
<b>Hybrid instruments</b>	None.
<b>Hybrid entities</b>	None.
<b>Special tax regimes for specific industries or sectors</b>	<p>BOI/PEZA-registered activities with pioneer status – 6 years income tax holiday (ITH)</p> <p>BOI/PEZA-registered activities with non-pioneer status – 4 years ITH</p> <p>PEZA-registered activities after the lapse of income tax holiday – 5 percent gross income tax regime</p> <p>Regional Operating Headquarters – 10 percent preferential rate on taxable income</p>
<b>Related business factors</b>	<p>A domestic corporation or subsidiary is typically used for conducting business in the Philippines. A foreign corporation may also establish a branch in the Philippines.</p> <p>There is a capital requirement of USD200,000 for a subsidiary if the foreign equity in the subsidiary is more than 40 percent. Similarly, a Branch Office of a foreign company will need to have capital of USD200,000.</p> <p>Foreign ownership restrictions are applicable for nationalized activities.</p> <p>There are no foreign exchange control rules.</p>

## **Accounting and reporting**

Accounting standards in place in the Philippines are the Philippine Financial Reporting Standards and the Philippine Accounting Standards. These two are generally based on the International Financial Reporting Standards and are adopted and approved by the Philippine Financial Reporting Standards Council and Securities and Exchange Commission, respectively.

The Philippine Tax Code mandates taxpayers to keep a journal and a ledger or their equivalents. Also, corporations, companies, partnerships or persons whose gross quarterly sales, earnings, receipts or output exceed PHP150,000 are required to have their books of accounts audited and examined yearly by an independent Certified Public Accountant and their income tax returns must be accompanied by audited financial statements.



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## 2 Income Tax Treaties for the Avoidance of Double Taxation

<b>In Force</b>	Australia	France	Netherlands	Sweden
	Austria	Germany	New Zealand	Switzerland
	Bahrain	Hungary	Nigeria	Thailand
	Bangladesh	India	Norway	Turkey
	Belgium	Indonesia	Pakistan	United Arab Emirates
	Brazil	Israel	Poland	United Kingdom
	Canada	Italy	Qatar	United States
	China	Japan	Romania	Vietnam
	Czech Republic	Korea (Republic of)	Russia	
	Denmark	Kuwait	Singapore	
	Finland	Malaysia	Spain	

*Source: BIR – International Tax Affairs Division*

**Negotiated, not yet in force at time of publication**

New treaties and protocols have been negotiated with Finland, Italy, Sri Lanka, Taiwan and Thailand at the time of writing are not yet in force.

*Source: IBFD*

# 3 Indirect Tax (e.g. VAT/GST)

## Indirect tax

Value Added Tax (VAT)

## Standard rate

The standard rate of VAT is 12 percent which is imposed on the sale, in the course of trade/business, of goods, services and property in the Philippines as well as the importation of goods to the Philippines.

Certain sales or services are subject to 0 percent VAT.

## Further information

For more detailed indirect tax information, refer to:

[2016 Asia Pacific Indirect Tax Guide](#)



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# 4 Personal Taxation

<b>Income tax</b>	Individual income tax		
<b>Top rate</b>	Individuals, depending on the tax status, are subject to progressive tax rates. The maximum rate is 32 percent. Individuals classified as non-resident alien not engaged in trade or business in the Philippines are subject to 25% flat income tax rate on compensation/earnings/salary earned from Philippine sources.		
<b>Social security</b>	<p>Every employer is required to deduct an amount from the salary of each employee premium contributions remitable to a social security fund and medicare system to finance the retirement, sickness, disability, health and other social security benefits of the employee.</p> <p>The employer is also required to remit a counterpart contribution for the employee. The amount of premium contributions by the employer and employee depends on the salary bracket of each employee, based on a pre-calculated table of contributions.</p>		
<b>International social security agreements</b>	Austria	Greece & Israel (under negotiation)	Quebec
	Belgium	Korea	Spain
	Canada	Netherlands	Switzerland
	France	Portugal (for ratification)	United Kingdom & Northern Ireland
<b>Further information</b>	For more detailed personal taxation information, refer to: <a href="#">KPMG's Thinking Beyond Borders</a>		

# 5 Other Taxes

## Customs duty

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 which is a member of the General Agreement of Tariffs and Trade (GATT) or 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.

## Excise duty

Excise tax is levied on certain goods locally manufactured or produced in the Philippines for domestic sale or consumption or for any other disposition, and on certain goods imported to the Philippines (in addition to VAT and customs duties).

Generally, the excise tax is payable before products are removed from the place of production. For imported items, the tax is payable before the release of articles from customs warehouse.

Items subject to excise tax include (amongst others); alcohol, tobacco products, petroleum, mineral products and miscellaneous articles such as fireworks, certain cinematographic films, certain non-essential goods and motor vehicles.

## Stamp duty

The 'documentary stamp duty' 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.

Documentary stamp duty 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.

## Property taxes

Property taxes imposed by the local government units include:

- Transfer tax on real property ownership; and
- Real property taxes are levied on the assessed value of the property and improvements. Each local unit may provide for the rate of tax to be imposed, but shall not exceed two percent of the assessed value of the property if located in a city or municipality within Metro Manila, or one percent if located in a province or municipality outside of Metro Manila. In addition to the basic tax, a levy of one percent based on the assessed value of the property is also imposed to accrue to the Special Education Fund.

**Inheritance tax**

Estate tax is imposed upon the transfer of the net estate of every decedent. The tax is computed on the graduated rates from 5 percent to 20 percent. The first PHP200,000 of the net estate is exempt from tax and the maximum rate is applicable to the net estate in excess of PHP10 million.

**Gift tax**

Gift tax is levied on the transfer by any person (resident or non-resident) of property by donation and is imposed even if the transfer is in trust or otherwise (direct or indirect), and the property is real or personal, tangible or intangible.

The rates of tax are progressive from 2 percent to 15 percent based on the net gifts. The first PHP100,000 of the net gifts is exempt from tax and the maximum rate is applicable on the net gifts in excess of PHP10 million. When the donee is a stranger, the tax payable by the donor is 30 percent of the net gifts. The 30 percent gift duty rate also applies to corporations.

Certain gifts are exempt from tax.

**Percentage tax**

Percentage tax is a business tax that is based on gross sales or receipts of the taxpayer. The tax rate depends on the type of establishment or business. A person who is exempt from VAT and is not a VAT-registered person or entity is subject to percentage tax of 3 percent. However, the person may apply for optional registration as a VAT- registered person and shall be liable to the VAT. This includes persons whose annual sales or receipts do not exceed PHP1,919,500 and have not elected to register for VAT.

**Stock transaction tax**

A stock transaction tax of 0.5 percent on gross selling price is imposed on the sale, barter, exchange or other disposition of shares through the stock exchange. A tax is also imposed on the sale, barter, exchange, or other disposition of shares of stock in closely held corporations through IPO.

**Other taxes**

Home Development Mutual Fund; National Health Insurance; Local taxes.

# 6 Free Trade Agreements

<b>In force</b>	ASEAN Free Trade Agreement ASEAN-China Free Trade Area ASEAN-India Free Trade Agreement Japan-Philippines Economic Partnership Agreement ASEAN-Korea Free Trade Agreement ASEAN-Australia/New Zealand Free Trade Agreement
<b>Concluded / signed</b> <b>(pending domestic ratification)</b>	None
<b>In negotiation</b>	ASEAN-European Union Free Trade Agreement

# 7 Tax Authority

## Tax authority

Bureau of Internal Revenue (BIR)

[Link to the Bureau of Internal Revenue](#)

## Tax audit activity

Under the law, the tax authority has three years from the last day prescribed by law for the filing of a return, or the date the return is filed, whichever is later, to examine a company's books and issue deficiency tax assessment. No proceeding in court without assessment for the collection of such taxes shall begin after the expiration of the three-year period.

In the case of a false or fraudulent return with intent to evade payment of tax or of failure to file a return, the tax may be assessed, or proceeding in court for the collection of such tax may be filed without assessment at any time within ten years from the discovery of the falsity, fraud, or omission.

The tax bureau has implemented a benchmarking system whereby taxpayers are classified based on tax returns filed. Those classified as high or medium risk taxpayers shall be prioritized in audit. The tax authority uses information generated by the Reconciliation of Listings for Enforcement (RELIEF) as well as third party information in order to enhance the targeting and focus of their tax audit activity.

The tax audit starts with the service of a Letter of Authority duly signed by the Commissioner or his duly authorized representative to the taxpayer. The approach to tax audits is largely a manual approach including detailed consideration of invoices and key documents.

While the BIR's audit activity can generally be seen to target all areas of taxation in the Philippines, we have seen in recent years an increasing focus by the BIR on:

- Tax evasion by individuals engaged in the practice of their professions
- Cross-border transactions
- Tax reporting and compliance
- The Withholding tax system

## Appeals

If a Final Assessment Notice is not acceptable to a taxpayer, a protest must be filed within 30 days from the date of receipt of the assessment notice, otherwise the assessment becomes final, executory and demandable.

Within 60 days from filing of the protest, all relevant supporting documents should be submitted; otherwise, the assessment shall become final.

If the protest to the FAN is denied in whole or in part, the taxpayer must then appeal to the Court of Tax Appeals within 30 days from receipt of the said decision, otherwise the decision becomes final, executory and demandable.

## Tax governance

KPMG advocates strict compliance with tax laws and regulations. Proper documentation is likewise necessary for the purposes of substantiation of any tax position filed.

The BIR does not currently offer any specific incentives or schemes to encourage good tax governance by taxpayers. However all businesses are advised to establish policies and controls in relation to their various tax compliance obligations, as appropriate to their business size and complexity.

**Contact us:**

**Herminigildo G. Murakami**

**Principal**

**KPMG in the Philippines**

**T** +6328354623

**E** [hmurakami@kpmg.com](mailto:hmurakami@kpmg.com)

**Mary Karen E. Quizon**

**Director**

**KPMG in the Philippines**

**T** +6328857000 ext. 351

**E** [mquizon@kpmg.com](mailto:mquizon@kpmg.com)

**Christy Irene D. Enrile**

**Manager**

**KPMG in the Philippines**

**T** +6328857000 ext. 456

**E** [cenrile@kpmg.com](mailto:cenrile@kpmg.com)

[www.kpmg.com/tax](http://www.kpmg.com/tax)

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