



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE

JUN 29 2022

REVENUE REGULATIONS NO. 11-2022

**SUBJECT:** Prescribing the Guidelines and Procedures for the Spontaneous Exchange of Taxpayer Specific Rulings

**TO:** All Internal Revenue Officers and Others Concerned

**Section 1. Background**

Spontaneous exchange of relevant information on taxpayer-specific rulings (the "transparency framework") provides tax administrations with access to timely information on rulings that have been granted to a foreign related party or a permanent establishment (PE) of their resident taxpayer, which can be used in conducting risk assessments. The absence of such information exchange could give rise to base erosion and profit shifting ("BEPS") concerns.

The spontaneous exchange of rulings covers certain past rulings as well as future rulings, pursuant to pre-defined periods. The exchanges are made pursuant to international exchange of information agreements, such as Double Taxation Agreements (DTAs), Tax Information Exchange Agreements (TIEAs) or the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), which provide for the legal conditions under which the exchanges take place, including the need to ensure taxpayer confidentiality. The information must be exchanged with all potential exchange jurisdictions, including the country of residence of the immediate parent company and ultimate parent company.

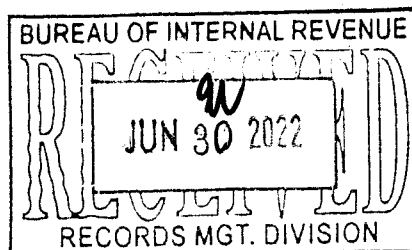
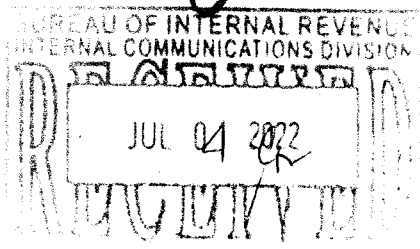
**Section 2. Domestic Legal Framework for Exchanging Information on Rulings**

In the Philippines, the legal basis for such exchange can be found in the EOI provision of its DTAs, which mandates the competent authorities of the contracting states to exchange such information as is necessary for carrying out the provisions thereof or of the domestic laws of the Contracting States concerning the taxes to which the DTA applies. The EOI provision includes all types of exchanges, be it upon request, automatic or spontaneous.

**Section 3. Spontaneous Exchange of Rulings to the Potential Exchange Jurisdictions**

**a. The Responsible Office**

The International Tax Affairs Division (ITAD) of the Bureau of Internal Revenue (BIR), through its EOI Section, shall be responsible for exchanging the taxpayer specific rulings to the foreign tax authority of the potential exchange jurisdictions on or before the prescribed deadline.



**b. Information Subject to the Exchange**

The rulings within the scope of the transparency framework include the following:

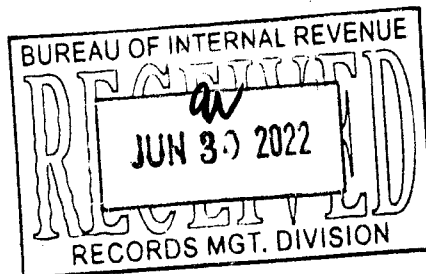
- i. rulings related to a preferential regime;
- ii. cross-border unilateral Advance Pricing Arrangements (APAs) and any other cross-border unilateral tax ruling (such as an Advance Tax Ruling) covering transfer pricing or the application of transfer pricing principles
- iii. cross-border rulings giving a unilateral downward adjustment to the taxpayer's taxable profits in the country giving the ruling
- iv. PE rulings; and
- v. related party conduit rulings.

**c. Template for Information Exchange**

The Philippines shall use the template designed by the Forum on Harmful Tax Practices (FHTP) and the Inclusive Framework on BEPS (**Annex A**). Revisions of the template shall always be adopted by the Philippines so long as it is practical and not burdensome on the part of the tax administration.

**d. Potential Exchange Jurisdictions**

Type of Ruling	Potential Exchange Jurisdictions
Rulings related to certain preferential regimes	<ul style="list-style-type: none"> <li>i. The countries of residence of all related parties (a 25% threshold would apply), with which the taxpayer enters into a transaction for which a preferential treatment is granted or which gives rise to income from related parties benefiting from a preferential treatment (this rule also applies in a PE context); and</li> <li>ii. The residence country of (a) the ultimate parent company and (b) the immediate parent company.</li> </ul>
Unilateral advance pricing arrangements (APAs) or other cross-border unilateral rulings in respect of transfer pricing	<ul style="list-style-type: none"> <li>i. The countries of residence of all related parties with whom the taxpayer enters into transactions that are covered by the APA or cross-border unilateral tax ruling; and</li> <li>ii. The residence country of (a) the ultimate parent company and (b) the immediate parent company.</li> </ul>
Rulings providing for a downward adjustment of taxable profits	<ul style="list-style-type: none"> <li>i. The countries of residence of all related parties with whom the taxpayer enters into transactions covered by the ruling.</li> <li>ii. The residence country of (a) the ultimate parent company and (b) the immediate parent company.</li> </ul>
PE rulings	<ul style="list-style-type: none"> <li>i. The residence country of the head office, or the country of the PE, as the case may be; and</li> <li>ii. The residence country of (a) the ultimate parent company and (b) the immediate parent company.</li> </ul>
Related party conduit rulings	<ul style="list-style-type: none"> <li>i. The country of residence of any related party making payments to the conduit (directly or indirectly);</li> <li>ii. The country of residence of the ultimate beneficial owner (which in most cases will be the ultimate parent company) of payments made to the conduit; and</li> </ul>



	iii. To the extent not already covered by ii), the residence country of (a) the ultimate parent company and (b) the immediate parent company.
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**e. Timeliness of Exchanges**

Upon the effectivity of this Regulations, the EOI Section of ITAD shall ensure that the information to be exchanged is transmitted to the relevant jurisdictions in accordance with the following timelines:

- i. for past rulings, as soon as possible after identifying the potential exchange jurisdictions; and
- ii. for future rulings, as soon as possible and no later than three months after the issuance thereof.

It shall likewise ensure that subsequent requests by another jurisdiction for a copy of the taxpayer specific ruling is responded to, or a status update is provided, within 90 days upon receipt of such request.

**f. Mode of Exchange**

Rulings may either be exchanged via the following modes of exchange:

- 1. registered mail; or
- 2. encrypted electronic mail (email).

The EOI Section shall always ensure that rulings and information provided via email are password-protected. Moreover, in choosing the mode of exchange, the EOI Section shall consider the policy of its treaty partners.

**Section 5. Information Gathering Process**

For the Philippines, past rulings that fall within the scope of the transparency framework pertain only to PE rulings or rulings concerning the existence or absence of a PE of a foreign enterprise in the Philippines that were issued either:

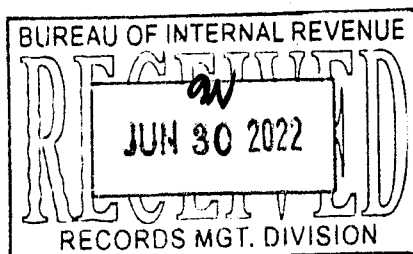
- i. on or after 1 January 2015 but before 1 September 2017; or
- ii. on or after 1 January 2012 but before 1 January 2015, provided they were still in effect as of 1 January 2015.

Future rulings refer to rulings issued after such periods.

**Past rulings**

If the past ruling does not contain sufficient information to enable identification of all the relevant countries with which the information needs to be exchanged, the Rulings and MAP Section must apply the "best efforts" approach to identify them. This includes the following:

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- i. checking of information included in the file supporting the tax treaty relief application (the "ruling file"), BIR Form No. 1709, any relevant transfer pricing documentation, if available;
- ii. obtaining information from the domestic withholding agent, foreign taxpayer or its representative in the Philippines, the Securities and Exchange Commission or other possible information holders; and
- iii. any other manner leading to the determination of the needed information.

All requests for information related to exchange of past rulings shall be signed by the Assistant Commissioner for Legal Service (ACIR-LS).

### ***Future rulings***

The offices responsible for the issuance of the taxpayer specific rulings mentioned in Section 5(b) shall take the necessary measures to ensure that all potential exchange jurisdictions are identified swiftly for all future rulings. This may require the amendment of the ruling process, if necessary, the amendment of the BIR Forms that must be submitted by the taxpayer when requesting for a confirmatory ruling, and the inclusion of transfer pricing documentation as part of the documentary requirements, among others.

Nothing shall prevent the Bureau, however, from requesting other relevant documents from the domestic and foreign taxpayers to obtain information on the potential exchange jurisdictions, in addition to the usual documents that must accompany every request for confirmatory ruling pursuant to existing revenue issuances. All requests for information related to exchange of future rulings shall be signed by the respective heads of offices.

#### **a. Rulings originating from the ITAD**

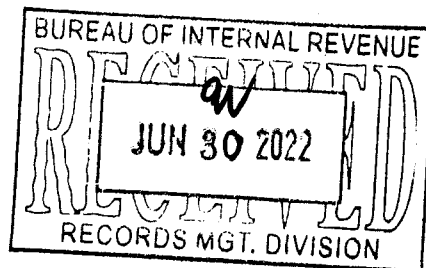
The classification of future rulings originating from the ITAD that are subject to the spontaneous exchange of rulings, and the identification of, and gathering of information on, the potential exchange jurisdictions shall be the responsibility of the Rulings and MAP Section of ITAD.

After classifying the rulings to be exchanged and identifying the potential exchange jurisdictions, the Rulings and MAP Section shall immediately transmit the ruling file to the EOI Section.

#### **b. Other Rulings**

The office that issued taxpayer specific rulings other than those originating from ITAD shall be responsible for ensuring that that all potential exchange jurisdictions are identified swiftly for all future rulings.

For the purpose of exchanging rulings, coordination between that office and ITAD shall always be made. The ruling file, with a summary of the potential exchange jurisdictions, shall be transmitted to the EOI Section of ITAD in a secure manner within thirty (30) days from its issuance.



**Section 6. Review and Supervision Mechanism**

The Chief of ITAD shall initially review and supervise the implementation framework to ensure that all relevant information on the identification of rulings and potential exchange jurisdictions is captured adequately.

The final review shall be done by the ACIR-LS who shall also sign all documents related to the spontaneous exchange of rulings to the relevant foreign tax authority.

**Section 7. Receipt of Spontaneous Exchange of Rulings from Foreign Tax Jurisdictions**

The EOI Section of ITAD shall be responsible for receiving rulings spontaneously exchanged by its treaty partners. If it is established, upon evaluation, that the ruling will aid the tax examiners in their tax investigation, a copy thereof shall be immediately forwarded to the Revenue District Office (RDO) having jurisdiction of the domestic taxpayer.

For monitoring purposes, the RDO shall always provide the EOI Section feedback on the usefulness of the information provided by the foreign tax jurisdiction within thirty (30) days from the termination of the tax investigation.

**Section 8. Confidentiality**

In the spontaneous exchange of tax rulings, the EOI Section shall be guided by the confidentiality rules contained in the EOI provision of the DTAs, Section 270 of the National Internal Revenue Code of 1997, as amended, Republic Act No. 10173, otherwise known as the Data Privacy Act of 2012, and of existing revenue issuances.

**Section 9. Repealing Clause**

All existing revenue issuances or portions thereof inconsistent herewith are hereby revoked and/or amended accordingly.

**Section 10. Effectivity**

This Regulations shall take effect after fifteen (15) days following its publication in a newspaper of general circulation.



*Carlos G. Dominguez*  
**CARLOS G. DOMINGUEZ**  
Secretary of Finance

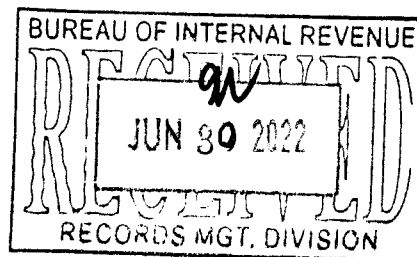
JUN 29 2022

Recommending Approval:

*Caesar R. Dulay*

**CAESAR R. DULAY**  
Commissioner of Internal Revenue

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**Template for Information Exchange**

*All fields are mandatory unless otherwise indicated.*

**1. Ruling reference number, if any.**

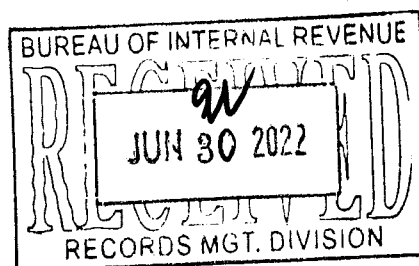
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**2. Identification of the taxpayer and where appropriate the group of companies to which it belongs.**

<b>Taxpayer identification number (TIN) or other tax reference number</b>		
<b>Legal name of the entity</b>		
<b>Address</b>	<b>Street</b>	
	<b>Building (optional)</b>	
	<b>Suite (optional)</b>	
	<b>Floor (optional)</b>	
	<b>District Name (optional)</b>	
	<b>Post Office Box (optional)</b>	
	<b>Post Code</b>	
	<b>City</b>	
	<b>Country</b>	
	<b>State/Province/Canton (optional)</b>	
<b>Taxpayer's main business activity</b>		
<b>Name of multinational enterprise (MNE) group, if different</b>		

**3. Date of issuance, start date and end date, where applicable.**

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4. Accounting periods/tax years covered by the ruling.

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5. Type of ruling issued. Please check the appropriate box.

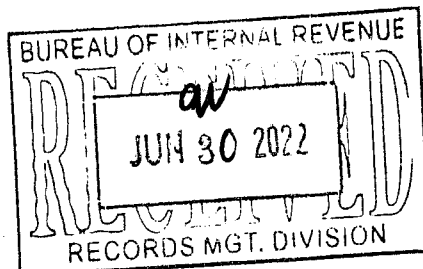
Relating to preferential regime	<input type="checkbox"/>
Unilateral advance pricing arrangement (APA) or other transfer pricing (TP) ruling	<input type="checkbox"/>
Downward adjustment ruling	<input type="checkbox"/>
Permanent establishment (PE) ruling	<input type="checkbox"/>
Conduit ruling	<input type="checkbox"/>

6. Additional information regarding the ruling and the taxpayer.

Transaction amount, if any	
Entity's annual turnover	
Profit of the entity	
Key information from the tax returns (taxable income, taxes due and effective tax rate) – optional	
Key information from financial statements (profit before taxes and tax provisions) - optional	

7. Short summary of the issue covered by the ruling ideally provided in one of the official languages of the Organisation for Economic Co-operation and Development (OECD) or other language bilaterally agreed. Where this is not possible this can be provided in the native language of the sending jurisdiction. This section must be completed following the guidance set out in Annex B.

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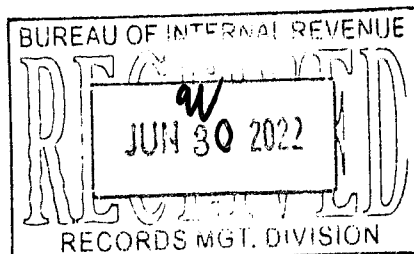
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**8. Reason for exchange with the recipient jurisdiction.**

Ultimate parent	<input type="checkbox"/>
Immediate parent	<input type="checkbox"/>
Related party with which the taxpayer enters into a transaction for which a preferential treatment is granted or which gives rise to income benefiting from a preferential treatment	<input type="checkbox"/>
Related party with whom the taxpayer enters into a transaction covered by the ruling	<input type="checkbox"/>
Related party making payments to a conduit (directly or indirectly)	<input type="checkbox"/>
Ultimate beneficial owner of income from a conduit arrangement	<input type="checkbox"/>
Head office of permanent establishment (PE) country	<input type="checkbox"/>

**9. Details of the entities in the recipient jurisdiction.**

	Name of entity	Address	TIN or other tax reference number, where available
1.			
2.			
3.			
...			

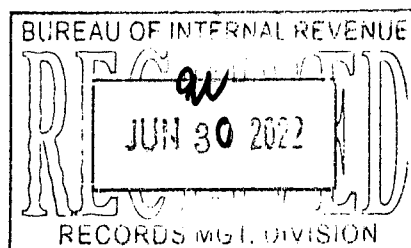




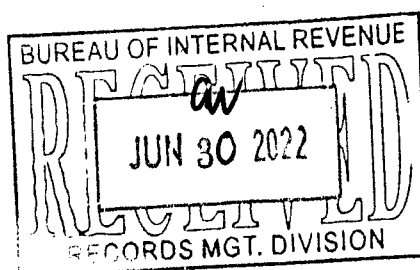
### Guide for completing the summary section

*This Annex contains guidance for completing the summary section of Annex A template*

Item number & Title	Description of Content	Application
<b>General background information</b>	<ul style="list-style-type: none"> <li>▪ Taxpayer requesting the ruling</li> <li>▪ MNE group and the industry to which the group belongs</li> <li>▪ Information about activities of the taxpayer</li> </ul>	All rulings
<b>Item 7.1: Ruling information</b>	<p><b>Summary of applicable regime</b></p> <ul style="list-style-type: none"> <li>▪ A reference to the particular regime</li> <li>▪ In certain circumstances, e.g. if the regime is not well known, this could be accompanied by a short summary of the applicable regime. This summary would generally not contain legislative references, unless these references further clarify or articulate the summary of the regime (1-2 sentences; optional)</li> </ul>	Preferential regime rulings only
	<p><b>Summary of the transaction or activity</b></p> <ul style="list-style-type: none"> <li>▪ A summary of the transaction or activity covered by the ruling (e.g. transfer of goods, services, intangibles, financial assets, restructuring, cost contribution agreements)</li> <li>▪ Information on relevant related party transactions and transaction amounts (if possible by country)</li> <li>▪ Relationship with the taxpayers impacted by the ruling</li> <li>▪ A description of the fiscal effects that occur in the country issuing the ruling</li> </ul>	All rulings
	<p><b>Specific information based on the type of ruling issued</b></p> <ul style="list-style-type: none"> <li>▪ <b>Preferential regime rulings:</b> general description of the regime; material activity carried out by the company requesting the ruling (information related to the intangibles benefitting from the regime and the services performed); conditions to be met to qualify for the preferential treatment; agreed preferential treatment (e.g. reduced tax rates, allowances, super-deductions, tax credits, etc.)</li> <li>▪ <b>Unilateral APA/TP rulings:</b> type of transaction or income covered; transfer pricing methodology agreed and used comparables; functional profile of the entities involved in the transaction (functions, assets and risks); profit level indicator (PLI) applicable rate if any; estimated arm's length price (or range) and any associated margins/mark-ups</li> </ul>	All rulings



	<ul style="list-style-type: none"> <li>▪ <b>Downward adjustment rulings:</b> description of the circumstances for the application of the downward adjustment; nature and the amount of the transaction/adjustment including the accounting value and taxable value of assets, liabilities, revenues or expenditures that were adjusted</li> <li>▪ <b>Permanent Establishment (PE) rulings:</b> reasons for the recognition of a PE; typology (e.g. personnel/material PE) and supporting elements (e.g. presence of real estate, personnel, commercial activity etc.)</li> </ul>	
<b>Item 7.3: Outcome and status of the ruling</b>	<ul style="list-style-type: none"> <li>▪ The key conclusions reached by the tax authority in issuing the ruling (This should generally not include legislative references unless they further clarify or articulate the summary.)</li> <li>▪ If the tax administration's view of the interpretation of the tax law (in relation to the particular arrangement) is different from the taxpayer's interpretation then this could be stated (optional i.e. where known)</li> <li>▪ Whether the ruling is issued before the transaction is entered into (i.e. pre-transaction) or subsequently (i.e. post-transaction) or both</li> <li>▪ Whether the transaction or arrangement covered by the ruling has been implemented (optional i.e. where known)</li> </ul>	All rulings, except APAs
<b>Item 7.4: Countries impacted</b>	<ul style="list-style-type: none"> <li>▪ Identification of the countries most likely to be impacted by (or interested in) the ruling from a tax risk assessment perspective (e.g. the ruling may be of interest because it triggers a BEPS concern for that country or, in an APA context, there is a large percentage of covered transactions with that country) (optional)</li> <li>▪ A statement outlining why those countries have been identified (and the tax administration's basis for selecting these countries e.g. on the basis of a representation made by the taxpayer etc.) (optional)</li> <li>▪ Identification of which of these countries will receive the ruling summary as per table 5.1 of the Action 5 report, and which countries may not (optional)</li> </ul>	All rulings
<b>Item 7.5: Transfer pricing</b>	<ul style="list-style-type: none"> <li>▪ A summary of the covered transactions</li> <li>▪ The resultant functional characterization should be stated (i.e. limited risk distributor) and a summary of the functional analysis</li> <li>▪ Identification of which transfer pricing methodology has been applied</li> <li>▪ A short summary (1-2 sentences) regarding the criteria used to determine the appropriate methodology in the particular case</li> </ul>	APAs and other TP rulings



	<ul style="list-style-type: none"> <li>The agreed arm's length rate / range (optional)</li> </ul>	
<b>Item 7.6: Advisors</b>	The name of the advisory firm / intermediary who designed or implemented the structure / arrangement (optional, where beneficial for tax risk assessment purposes)	All rulings
<b>Item 7.7: Other</b>	As applicable	All rulings

