



GMS Flash Alert

Immigration Edition

2020-361 | August 20, 2020



Philippines - COVID-19: Travel Restrictions and Cross-Border Tax Guidelines

In the context of ongoing quarantine measures in the Philippines, the Bureau of Immigration released a public advisory on travel restrictions and requirements for inbound and outbound travelers as of 9 August.¹ The Bureau of Internal Revenue (BIR) on 17 August issued Revenue Memorandum Circular No. 83-2020 on the tax residence and permanent establishment implications of individuals working in the Philippines due to the COVID-19 travel restrictions.²

WHY THIS MATTERS

The changes to the travel restrictions and requirements are important for employers in responding to business requirements in the Philippines, such as those sending employees with immigrant visas to the Philippines to manage projects that have been pending or delayed.

Moreover, the latest tax guidelines will help in cross-border planning and assessment of potential corporate tax risks arising from the extended stay of employees in the Philippines.

Travel Restrictions and Requirements

Inbound Travel to the Philippines

Certain individuals can enter the Philippines subject to visa requirements and compliance with Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF) requirements.

	Required to secure an entry visa	Required to comply with the IATF requirements
Filipinos	No	No
Foreign spouse and minor children of Filipinos Foreign parent of minor Filipinos and Filipino children with special needs (regardless of age) Children with special needs (regardless of age) of Filipinos	Yes	Yes
Accredited foreign government and international organization officials and their dependents	No	Yes
Foreign airline crew members	No	No
Foreign seafarers with 9(c) visas	No	Yes
Foreign nationals with immigrant visas under Sec. 13 of Commonwealth Act No. 613, Republic Act No 7919 and Executive Order No. 324, native-born visa, Temporary Resident Visa (TRV) in relation to Sec.13(a), CA 613, TRV for Indian nationals married to Filipinos and Permanent Resident Visa (PRV) for Chinese nationals married to Filipinos	No	Yes

The visa requirement is also imposed on foreigners who previously enjoyed visa-free privileges. In addition to the visa requirement, the IATF also requires that the individuals:

- 1 Have a pre-booked accredited quarantine facility;
- 2 Have a pre-booked COVID-19 testing provider; and
- 3 Be within the maximum capacity of inbound passengers at the port and date of entry.

Outbound Travel from the Philippines

Foreign nationals can leave the Philippines at any time during the quarantine period. However, only the following Filipino citizens are allowed to leave the Philippines for essential travel:

- 1 Filipinos who are overseas workers.
- 2 Students enrolled abroad and participants accepted in exchange visitor programs;
- 3 Filipinos who have permanent resident status in their country of destination; and
- 4 Filipinos who are going abroad for business and work, medical, emergency and humanitarian reasons subject to the following conditions:³
 - Execution of a declaration acknowledging the risks involved in travelling including risk of delay in their return trip to be provided at the check-in counters by the airlines; and
 - Upon return, compliance with the Guidelines for Returning Overseas Filipinos issued by the National Task Force (NTF)

Tax Guidelines on Cross-Border Matters

Revenue Memorandum Circular No. 83-2020 relaxes application of tax treaty provisions to mitigate potential tax burdens related to tax reporting and filing obligations.

The circular states that if an individual is prevented from leaving the Philippines due to COVID-19, the individual will not be regarded as being present in the Philippines for tax residence purposes for the period after the scheduled day of departure provided that there is sufficient documentation such as the following:

- 1 Authenticated sworn certification stating the relevant facts and circumstances of the bona fide presence of the employee in the Philippines;
- 2 Duly executed contract/s (must be “consularized” or apostilled if executed/signed in a foreign country);
- 3 Certified true copy of the confirmed booking or flight itinerary for the original flight;
- 4 Certified true copy of the confirmed booking or flight itinerary for the re-booked flight;
- 5 Certified true copy of the travel advisory on the cancellation of flight issued by the airline company;
- 6 Certified true copy of boarding pass;
- 7 Certified true copy of the employee’s passport, including blank pages thereof; and
- 8 Other documents that the Bureau shall deem necessary depending on the circumstances.

The tax authorities also clarified the following points on creating a permanent establishment (PE) during the period of the pandemic:

- 1 A home office would not create a PE for the foreign enterprise because the conduct of business activities lacks a certain degree of permanency and the home office is not at the disposal of the foreign enterprise.
- 2 Temporary interruptions of construction activities due to COVID-19 should be included in computing the duration of a site and in determining whether such construction site constitutes a PE.
- 3 In the case of a dependent agent, the effects of COVID-19 will not result in the creation of a PE if the following requirements are met:
 - the non-resident foreign company did not have a permanent establishment in the Philippines before the effects of COVID-19;
 - there are no other changes in the company’s circumstances save for the extended stay of its employee, partner or agent in the Philippines because of travel restrictions; and
 - the employee, partner or agent should leave the country as soon as the circumstances would permit.

FOOTNOTES:

- 1 See [BI Public Advisory](#) posted in the official Facebook page on 08 August 2020.
- 2 [Revenue Memorandum Circular No. 83-2020](#).
- 3 [Inter-Agency Task Force Resolution No. 57](#) (21 July 2020).

Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in the Philippines:



Karen Jane S. Vergara-Manese
Partner
+ 63 (2) 8885 7000 ext. 8349
kvergara@kpmg.com



Jozette Issel G. Dizon
Director
+ 63 (2) 8885 7000 ext. 8581
igdizon@kpmg.com

** Please note that KPMG LLP (U.S.) does not offer immigration services or labour law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

The information contained in this newsletter was submitted by the KPMG International member firm in the Philippines.

© 2020 R.G. Manabat & Co., a Philippine partnership and a member firm of the KPMG network of independent firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

www.kpmg.com

kpmg.com/socialmedia



© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

The KPMG logo and name are trademarks of KPMG International. KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever. The information contained in herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.