



Thinking beyond borders: Management of extended business travelers - Philippines



February2024

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01

Key message

Resident citizens are taxed on their income from all sources. A person who is not a citizen of the Philippines (that is, someone who is defined as an alien), regardless of whether the person is a resident or a non-resident, is taxed only on the individual's income from Philippines sources.

Likewise, non-resident citizens are taxed only on their income from Philippines sources.

1 Key message

Extended business travelers are likely to be taxed on employment income relating to their Philippines workdays. Income tax returns are due by 15 April in the year following the tax year ending 31 December. Employers are required to withhold tax from the employee's compensation.

02

Income tax

2 Income Tax

2.1 Liability for income tax

The liability of aliens for Philippine's tax is determined by their residence status. Generally, an alien who is present in the Philippines for at least 2 years is a resident alien. An alien who stays in the Philippines for less than 2 years is considered a non-resident alien. There are two classifications of a non-resident alien:

- engaged in trade or business in the Philippines.
- not engaged in trade or business in the Philippines.

A non-resident alien engaged in trade or business (NRAETB) is one who stays in the Philippines for an aggregate period of more than 180 days during any calendar year. If the individual stays in the Philippines for an aggregate period of 180 days or less, the individual is considered a non-resident alien not engaged in trade or business (NRANETB). The taxable income of citizens, resident aliens and NRAETB is defined as gross compensation and net business income less personal allowances and non-taxable salaries and wages. The taxable income of NRANETBs is their gross income.

Non-resident citizens and aliens are subject to income tax on Philippines-sourced income only.

Resident citizens are subject to Philippine income tax on worldwide-sourced income. Non-resident citizens and aliens are subject to Philippine income tax on their Philippine-sourced income only, such as employment income and passive income.

2.2 Definitions of source

Employment income is generally treated as Philippines-sourced compensation if the individual performs the services while physically located in the Philippines, regardless of place, or manner of payment.

2.3 Tax trigger points for employment income

Extended business travelers will be taxable in the Philippines on income derived from services rendered in the Philippines. It is important to ascertain whether they will be taxed as NRAETBs or NRANETBs, that is, whether they were in the Philippines for an aggregate period of more or less than 180 days, as this will determine the applicable tax rate.

2.4 Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and other Philippines-sourced income.

2.5 Tax rates

Net taxable income of citizens, resident aliens, and NRAETBs are taxed at graduated rates ranging from 0 percent to 35 percent effective 1 January 2018. The maximum rate is currently 35 percent on income earned over 8,000,000 Philippine pesos (PHP). NRANETBs are taxed at a flat rate of 25 percent of gross income unless a lower rate is applicable under a double tax treaty or special law.

03

Social Security

3 Social Security

3.1 Liability for social security

Each employer is required to deduct an amount from the salary of each employee for premium contributions remittable to a social security fund, home development mutual fund and the PhilHealth coverage to finance the retirement, sickness, disability, health, and other social security benefits of the employee. 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.

04

Compliance obligations

4 Compliance obligations

4.1 Employee compliance obligations

An individual taxpayer is taxable on a calendar year basis. In general, every citizen, resident alien, and NRAETB in the Philippines is required to file an income tax return and an annual information return. The said returns should be filed and the net tax on the income tax return should be paid on or before 15 April following the close of the year covered by the return.

4.2 Employer compliance obligations

The employer is required to withhold the tax due from the employee's compensation income and remit the same to the tax authorities. If the correct amount of tax due has been properly withheld during the calendar year, the employee may qualify for substituted filing, in which case there is no need for the employee to file an annual income tax return.

A NRAETB, however, does not qualify for substituted filing.

The employer reports the tax withheld using BIR Form 1601-C (Monthly Remittance Return of Income Taxes Withheld on Compensation) and Annual Information Returns of Income Taxes Withheld on Compensation (BIR Form No. 1604-C).

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Immigration

5 Immigration

5.1 Work permit/visa requirements

Business travelers who are classified as non-restricted foreign nationals generally have a 30-day visa free entry privilege to the Philippines and can be granted an additional 29-day initial extension through the application of a visa waiver. These individuals are allowed to attend business meetings and seminars, make site visits to client facilities or explore business opportunities in the Philippines. On the other hand, business travelers who are classified as restricted foreign nationals are required to secure their 9(a) temporary visitor's visas in the Philippine consulate/embassy office in their country of origin.

Business travellers with activities not falling under those allowed of a tourist/business visitor will require a work visa and/or a work permit which must be sponsored by a Philippines entity. The type of work visa required will depend on the type of business registration of the Philippine entity.

06

Other issues

6 Other issues

6.1 Double taxation treaties

In addition to the Philippines' domestic arrangements that provide relief from international double taxation, the Philippines has entered into double taxation treaties with 43 countries/territories to prevent double taxation and allow cooperation between the Philippines and overseas tax authorities in enforcing their respective tax laws. Tax treaty relief, however, is not automatic. A tax treaty relief application process should be complied with.

6.2 Permanent establishment implications

Under the double taxation treaties of the Philippines with other countries/territories, there is a potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

6.3 Indirect taxes

Value-added tax (VAT) of 12 percent is imposed on sales made in the course of trade or business on goods, properties, and services in the Philippines and on the importation of goods to the Philippines (regardless of whether the importation is for business use).

6.4 Transfer pricing

The Transfer Pricing Regulations are largely based on the Organization for Economic Co-operation and Development (OECD) transfer pricing guidelines. Its objective is to implement the authority of the Commissioner of Internal Revenue to review related-party transactions and to allocate or distribute income and deductions in order to determine the appropriate revenues and taxable income of the related parties. The regulations primarily apply to cross-border transactions of associated enterprises. It likewise applies to domestic transactions between associated enterprises that are subject to special tax privileges provided by the Board of Investments and the Philippine Economic Zone Authority.

6.5 Local data privacy requirements

The Philippines enacted Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012", which aims to protect the fundamental human right of privacy, of communication while ensuring free flow of information to promote innovation and growth.

6.6 Exchange control

The Philippines has liberalized foreign exchange rules and regulations. Generally, foreign exchange receipts, acquisition, or earnings may be sold to or outside the banking system or may be brought in or out of the country. Domestic contracts entered into by Filipino citizens can be settled in any currency.

6.7 Non - deductible costs for assignees

An employee can claim a maximum exclusion of PHP90,000.00 on their 13th month pay and other benefits.

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