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## **Shonkhor Unelgee Audit LLC Joins Russell Bedford in Mongolia**

We are pleased to announce the appointment of **Shonkhor Unelgee Audit LLC** as our first member firm in Mongolia.

**Shonkhor Unelgee Audit LLC** was established in 2014 and is headquartered in Mongolia's capital, Ulaanbaatar, in the city centre Sūkhbaatar District. It is ranked nationally as a top 20 audit practice and holds memberships with the Mongolian Institute of Certified Public Accountants and the Mongolian Institute of Certified Appraisers.

Registered by the Financial Regulatory Commission of Mongolia, Shonkhor Unelgee Audit LLC specialises in providing audit services to the securities and insurance sectors, along with conducting audits for virtual asset service providers. The firm has a portfolio of approximately 60 clients, including publicly listed companies and public interest entities.

Commenting on the appointment, Russell Bedford CEO, **Stephen Hamlet**, expressed delight, stating that "we are very pleased to welcome Shonkhor Unelgee Audit LLC to the network as our first member firm in Mongolia. World Bank figures are projecting economic growth of more than 6% in Mongolia in 2024. The addition of the new firm positions us well to benefit from this economic growth and opens avenues for expanded services to international clients."

**Shirev Davaajav**, Executive Director at Shonkhor Unelgee Audit LLC, shared his enthusiasm, saying, "Joining Russell Bedford International as the network's first member in Mongolia is a momentous occasion for us. Aligning with a global network of professionals who share our values and aspirations presents an exciting opportunity that we eagerly embrace."



*“ Although there is no national advance tax ruling system in place, local tax authorities have in recent years sought to provide advance rulings as a customised service for large enterprises.”*

### In brief

On 29 December 2023, Shanghai Municipal Tax Service of the State Taxation Administration issued the Administrative Measures for Advance Tax Rulings by the Shanghai Municipal Tax Service (Trial)<sup>1</sup> (HuShuiBanFa [2023] No. 33, hereinafter referred to as the “Measures”). As the first set of formal advance ruling procedures released by a provincial or equivalent tax authority in China, it is a landmark in tax administration services. Starting now, enterprise taxpayers in Shanghai can request for advance rulings regarding the application of tax laws and regulations to proposed complex tax matters. The advance tax ruling regime will provide taxpayers, particularly enterprises involved in mergers and acquisitions (M&A), and those expanding into emerging markets, with greater tax certainty. Advance tax rulings will assist these enterprises in better evaluating tax costs and making informed business decisions.

### In detail

An advance tax ruling seeks to promote tax certainty and reduce tax disputes. Although there is no national advance tax ruling system in place, local tax authorities have in recent years sought to provide advance rulings as a customised service for large enterprises. In 2021, the State Council issued the Opinions on Further Deepening the Reform of Tax Collection and Administration, which urges efforts to “explore the implementation of advance tax rulings for large enterprises and establish a comprehensive system.” At the local government level, in 2020, the Nansha District of Guangzhou released the Interim Measures for Advance Tax Rulings on Complex Tax Matters (Trial). In 2021, Guangzhou and Shenzhen issued the Interim Measures for Joint Advance Rulings on International Tax Matters (Trial). In 2022, Zhuhai, Zhongshan and Hengqin jointly released the Memorandum of Cross-Regional Coordination in International Tax Services, and in the Yangtze River Delta region, the coordination of advance tax rulings for large enterprises has been piloted. The release of the Measures by the Shanghai Municipal Tax Service marks the first extensive implementation of advance rulings by a tax authority at provincial and municipal levels in China. This move is expected to help foster a friendly tax and business environment and set a benchmark for high-standard tax services.

### Enforcement and follow-up administration

The Measures does not mention whether the advance rulings are legally binding on the tax authorities and taxpayers. Under the current tax system, advance rulings are “customised tax service initiatives” for enterprises, not “administrative actions” that materially affect the rights and obligations of enterprises, and are therefore not subject to reconsideration or litigation. However, the Measures stipulates that advance rulings can be applied if the application materials are legitimate, authentic, accurate and complete and the matter ruled on is consistent with the actual tax matters of the applicant, provided that the basis for the ruling has not changed. This means that the advance rulings decision can be relied on and allows enterprises an option to apply them when appropriate.

### The takeaway

The Measures has a broad application scope, a clear timetable and well-defined scope of responsibilities. It will greatly enhance tax certainty and reduce tax risks for enterprises. This is particularly helpful for enterprises with frequent M&A transactions, seeking IPOs or planning to venture into new markets.

The advance tax ruling regime is new to the market and is still in a trial phase. Moreover, matters to be ruled are generally complicated, for example, involving restructurings, overseas indirect equity transfers, significant assets loss deductions, equity incentives, the partnership tax system, and special business models, which requires tax authorities to devote considerable resources for assessment. Therefore, it is important for enterprises to conduct a pre-application in-depth analysis and communication with the tax authorities at the initial phase.

## PILLAR TWO RULES & GLOBAL MINIMUM TAX

### Background

In 2021, the OECD announced the international tax reform framework to propose a two-pillar solution (**the Pillar Two Rules**) to tackle potential loss of tax revenue due to base erosion and profit shifting (**BEPS**) and digitalization of economy. The proposed reform has undergone extensive consultation and by October 2021 over 130 jurisdictions have reached agreement on the two-pillar solution.

In Asia Pacific, the following jurisdictions are in different stages of local consultation / legislation to implement the Pillar Two Rules commencing from 2024 or 2025: Australia, Hong Kong, Indonesia, Japan, Malaysia, New Zealand, Singapore, South Korea, Thailand and Vietnam. However, a few jurisdictions such as China, India, Philippines and Taiwan, have yet to announce their legislative intent or timetable.

In Hong Kong, the Government published a consultation paper in December 2023 to explain the Pillar Two Rules and invite views relating to Hong Kong as an implementation jurisdiction. The consultation closed on 20 March 2024, and legislation shall proceed over the next few months with target implementation on 1 January 2025.

### Overall principle and legislative approach

According to the consultation paper, the HK rules will closely follow the global anti-base erosion (**GloBE**) Rules, and shall consist of the interlocking rules of:

- Income Inclusion Rule (**IIR**); and
- Undertaxed Profit Rule (**UTPR**).

Hong Kong will adopt a hybrid approach by directly incorporating the GloBE rules into the Inland Revenue Ordinance. As such, the enacted HK rules will be read and applied in the way that is best consistent with the GloBE commentaries and administrative guidance prevailing at the time of the HK rules enactment.

We shall discuss below some key features of the GloBE rules (coupled with, where relevant, *the intended HK rules*) to give readers, be they in Hong Kong or overseas, a general view of what are in the pipeline.

### Scope of GloBE rules and tax consequences

The GloBE rules shall apply to MNE groups with annual consolidated revenue of EUR 750 million or above in at least 2 of the previous 4 fiscal years.

(Continued)

A MNE group is one where it has one or more entities or permanent establishment (PE) located in a jurisdiction other than the ultimate parent entity (UPE) jurisdiction.

Each entity / PE that is a member of a group is treated as a constitute entity of the group. Group entities are subject to IIR and UTPR if they are treated as low-taxed constitutes, i.e. with effective tax rate (ETR) below 15%.

Under IIR, a top-up tax shall apply on undertaxed profits, in situation that the ETR of the group's operations in a jurisdiction is below 15%.

The UPE or intermediate parent entity shall be charged the top-up tax. However, to preserve the taxing right of the jurisdiction where the low-taxed constitute operates, that jurisdiction may consider imposing a qualified domestic minimum top-up tax (QDMTT). This seeks to put a floor on competition over corporate income tax among jurisdictions.

Hong Kong *intends to implement IIR, UTPR and QDMTT*. The HK rules shall adapt EUR 750 million as the in-scope threshold so that the rules are entirely in sync with the GloBE rules.

### Charging mechanism and tax allocation

The IIR is the primary rule and is applied on a top-down approach. It starts at the level of the UPE and works its way down the ownership chain. The UPE jurisdiction will usually have the first priority to collect the top-up tax, in proportion to its ownership interests in the low-taxed constitution entities.

If the UPE is located in a jurisdiction where it is not required to apply a qualified IIR, then the next intermediate parent entity down the ownership chain is required to apply the IIR.

The UTPR is a second charging mechanism and works as a backstop to ensure any residual amount of top-up tax that remains after applying the IIR shall be allocated and collected.

UTPR will not apply when the UPE is subject to a qualified IIR or when all the interests in the low-taxed constitute entities are held by parent entities subject to qualified IIR. When residual arises, the UTPR top-up tax amount is allocated among jurisdictions implementing a qualified UTPR (**the UTPR jurisdictions**) based on quantitative factors aggregated at jurisdiction level.

The allocation is based on the proportion of the value of tangible assets and the number of employees in each UTPR jurisdiction as they are considered to be the most appropriate factors for reflecting a consistent measure of substance in jurisdictions. The thinking behind is that the jurisdictions where the MNE group has more substance will have more tax capacity to absorb adjustments under the UTPR.

### Options for bringing UTPR top-up tax into charge

The GloBE rules provides that the UTPR may take the form of:

- (i) a denial of expense deduction in an amount to result in the constitute entities in the UTPR jurisdiction having an additional cash tax expense equal to the UTPR top-up tax amount allocated to that jurisdiction; or
- (ii) an adjustment that is equivalent to a denial of a deduction.

*"Hong Kong intends to implement IIR, UTPR and QDMTT."*

(Continued)

The GloBE rules do not prescribe the charging method. However, method (ii) will not result in additional cash tax expense if the constitute entity is in a loss position or does not have sufficient deduction in that year for denial. This will leave the uncollected portion of the top-up tax to be carried forward.

Hong Kong *intends to adapt method (i)*.

Hong Kong also *intends to allow a MNE group to designate one or more group entities in Hong Kong to pay the top-up tax*, in lieu of allocation using the quantitative factors of value of tangible assets and number of employees.

### Substance-based income exclusion (SBIE)

SBIE is a formula based carve-out to exclude a fixed return for substantive activities in a jurisdiction from the GloBE rules. The SBIE is deducted from the net GloBE income in that jurisdiction to arrive at the amount of excessive profit.

The carve-out for a constitute is:

- 5% of the payroll cost of its eligible employees performing activities for the MNE group in that jurisdiction; and
- 5% of the carrying value of eligible tangible assets in that jurisdiction.

Hong Kong *shall adapt SBIE* to maintain consistency with the GloBE rules and reduce the tax burden of in-scope MNE groups.

### De minimis exclusion (DME)

A jurisdiction qualifies for DME if:

- The average GloBE revenue of the MNE group in that jurisdiction for the current and 2 previous fiscal years is less than EUR 10 million; and
- The average GloBE income or loss of the MNE group in that jurisdiction for the same period is a loss or is less than EUR 1 million.

If the group qualifies for DME, the top-up tax for constituent entities in that jurisdiction will be deemed to be zero.

Hong Kong *shall adapt DME rules*.

### Other measures / features

In addition, the Pillar Two rules contain various other measures and features, e.g., determination of ETR, temporary relief in initial phase of international activity, transition rules, adoption of local financial accounting standard, adjustments of differences between accounting and tax measures of profits, carry-forward of local tax losses etc. When introducing the local rules, Hong Kong, and no doubt other jurisdictions, will include suitable measures and tailor them in order to address, on one hand the need to counter-act BEPS and on the other hand the protection of their respective tax revenue, whilst ensuring MNE groups will continue to invest and operate in their respective jurisdictions.

*“Hong Kong also intends to allow a MNE group to designate one or more group entities in Hong Kong to pay the top-up tax, in lieu of allocating using the quantitative factors of value of tangible assets and number of employees.”*

Sharp & Tannan

Chartered Accountants

## 1. Highlights of the Finance Bill, 2024

### 1.1 Introduction

Given the upcoming general elections in India, the Government presented its interim budget for the year 2024-25 on 1 February 2024. The full budget will be presented around July 2024, after the new government assumes office.

The budget proposes an increase in the capital expenditure by 11.1%, constituting 3.4% of Gross Domestic Product ('GDP'). This surge is anticipated to generate a substantial multiplier effect on both economic growth and employment opportunities.

India's anticipated growth rate of 6.5% in 2025 is poised to significantly outperform the global average projected growth rate of 3.2%. – *International Monetary Fund, World Economic Outlook projections (January 2024)*.

### 1.2 Policy initiatives

The Budget focusses on 5 major areas (through planned investments and expenditure outlay in various government programmes) to make India a developed nation by 2047. Key initiatives are enumerated below.

- **Sustainable development**
  - Viability gap funding for wind energy
  - Setting up of coal gasification and liquefaction capacity
  - Phased mandatory blending of CNG, PNG and compressed biogas
  - Financial assistance for procurement of biomass aggregation machinery
  - Adoption of e-buses for public transport network
  - Strengthening the e-vehicle ecosystem by supporting manufacturing and charging
- **Research and innovation**
  - A corpus of INR 1,00,000 crores\* (approx. US\$12.50 billion) will be created with interest-free/low interest loans to encourage private sector to scaleup research and innovation in sunrise industries.
  - \* 1 crore = INR 10,000,000
- **Infrastructure and investment**
  - Major investment in railways and airports
  - Promotion of foreign investment via bilateral investment treaties
- **Inclusive development**
  - Aspirational District Programme to assist States in faster development, including employment generation
  -
- **Agriculture and food processing**
  - Promotion of public-private-partnerships in post-harvest activities
  - Agricultural research on fertilisers, seeds, and widespread adoption of modern farming techniques for high yields.
  - Development of integrated aquaparks and fisheries to boost exports and generate employment.

"India's anticipated growth rate of 6.5% in 2025 is poised to significantly outperform the global average projected growth rate of 3.2%."

### 1.3 Direct tax proposals

**INDIA**

#### 1.3.1 Tax rates

The income-tax rates for the financial year 2024-25 remain the same. The summary of tax rates for various assesses is given below.

(Continued)

I. Tax rates for resident individuals for the assessment year ('AY') 2024-25 (all age groups) - default tax regime

Taxable income slab	Tax rates
Up to INR 3 lakhs	Nil
INR 3 lakh - INR 6 lakh	5%
INR 6 lakh - INR 9 lakh	10%
INR 9 lakh - INR 12 lakh	15%
INR 12 lakh - INR 15 lakh	20%
Above INR 15 lakh	30%

Rebate under section 87A from the tax liability is up to INR 25,000 subject to the taxable income ceiling of INR 7,00,000.

"Rebate under section 87A from the tax liability is up to INR 25,000 subject to the taxable income ceiling of INR 7,00,000."

II. Optional Old Regime: Tax rates for resident individuals and HUFs for AY 2024-25

Income slab	Tax rates* under the old tax regime		
	Resident Individual with age < 60 yrs.	Resident Individual with age > 60 but < 80 yrs.	Resident Individual with age > 80 yrs.
Upto INR 2.5 lakh	NIL	Upto INR 3 lakh: NIL	Upto INR 5 lakh: NIL
INR 2.5 lakh - INR 5 lakh	5%	INR 3 lakh to 5 lakh: 5%	
INR 5 lakh to INR 7.5 lakh	20%	20%	20%
INR 7.5 lakh to INR 10 lakh			
INR 10 lakh to INR 12.5 lakh	30%	30%	30%
INR 12.5 lakh to INR 15 lakh			
INR 15 lakh & above			

\* Under optional regime, resident individual has to specifically apply for the same and will be eligible for certain exemptions (like standard deduction, deductions under section 80C-Eligible Investments, 80D – Insurance Premium, 80 CCD – National Pension Scheme, 80 G-Donations etc.) and rebate under section 87A of INR 12,500 up to taxable income ceiling of INR 500,000.

#### Surcharge and Education Cess:

Tax will include Surcharge (as under) and 'Health & Education Cess' @ 4% on Total Tax (i.e. IT + Surcharge).

## INDIA

(Continued)

- Surcharge is applicable at the rate of 10% where total income exceeds INR 50 lakh but does not exceed INR 1 crore;
- Surcharge @ 15% is applicable where total income exceeds INR 1 crore but does not exceed INR 2 crore;
- Surcharge @ 25% is applicable where the total income exceeds INR 2 crore but does not exceed INR 5 crore
- Surcharge @ 37% is applicable where the total income exceeds INR 5 crore.

Note: The enhanced surcharge of 25% and 37% is not levied on income by way of dividend or from income chargeable to tax under sections 111A, 112, 112A and 115AD(1)(b). Hence, the maximum rate of surcharge on tax payable on such incomes shall be 15%.

### III. Tax rates for partnership firms and limited liability partnerships for AY 2024-25 and AY 2025-26

Total income	Tax rate
<u>Up to 100 lakh</u>	30% + 4% health and education cess
<u>Above 100 lakh</u>	30% + 12% surcharge and 4% health and education cess

### IV. Tax rates for corporates for AY 2024-25 and AY 2025-26

Particulars	Tax rates	MAT rates
Domestic companies opting for concessional corporate tax regime under section 115BAA	25.1680% (i.e. IT 22% + SC 10% + EC 4%)	NIL
New domestic companies (start-ups) with manufacturing activity, opting for concessional corporate tax regime (should comply with other terms and conditions)	17.16 % (i.e. IT 15% + SC 10% + EC 4%)	NIL
Domestic companies NOT opting for concessional tax regime, having total turnover/gross receipts up to INR 400 crore on Total Taxable Income	25% (Note)	15% (Note)
Domestic companies NOT opting for concessional tax regime, having total turnover/gross receipts exceeding INR 400 crore on Total Taxable Income	30% (Note)	15% (Note)

*“The enhanced surcharge of 25% and 37% is not levied on income by way of dividend or from income chargeable to tax under sections 111A, 112, 112A and 115AD(1)(b).”*

#### Note:

7% Surcharge on tax, if taxable income is above INR 100 lakh till INR 1,000 lakh and 12% surcharge on tax when taxable income exceeds INR 1,000 lakh. 4% health and education cess applies to all tax payments.

Companies opting for lower tax rate are not eligible to claim tax exemptions like accelerated additional depreciation, deduction u/s 80 (like donations, R&D expenses etc.)

### 1.3.2 Extension of the sunset clause to eligible businesses extended by 1 more year

The Government of India provides certain exemptions by way of tax holidays to eligible businesses like start-ups, certain manufacturing companies, units in a



(Continued)

special economic zone and so on considering their crucial role in the growth of the economy. However, now these dates are extended by one more year, i.e. up to 31 March 2025 to allow them more time to meet the criteria mentioned under the respective sections as below:

- 80-IAC: Tax holidays for start-ups incorporated between 1 April 2016 and 31 March 2025
- 80LA: Exemption of capital gains tax on the transfer of an aircraft/ship by a unit operating in the International Financial Services Centre ('IFSC') which has commenced operation on or before 31 March 2025
- 10(4D): Exemption on capital gains tax on the transfer of specified securities by an investment division of a banking unit of a non-resident located in an IFSC which has commenced its operations on or before 31 March 2025
- 10(4F): Exemption of the income of a non-resident as a royalty or interest, on account of lease of an aircraft / ship paid to it by a unit of an IFSC if such unit has commenced its operations on or before 31 March 2025.

**1.3.3 Extension of timelines in respect of the faceless schemes by the central government:**

Time limit for drafting schemes for faceless transfer pricing proceedings, faceless Dispute Resolution Panel ('DRP') proceedings and faceless ITAT appeals are extended from 31 March 2024 to 31 March 2025.

*"Banks are required to make disclosure on remuneration paid to the directors on an annual basis at a minimum, in their Annual Financial Statements."*

*1.4 Indirect tax proposals*

**Mandatory registration as an Input Service Distributor ('ISD')**

The Finance Bill seeks to amend the definition of an ISD, thereby prospectively mandating the distribution of credit as an ISD, prospectively. Accordingly, services under the reverse charge mechanism ('RCM'), in relation to:

- notified goods and services
  - notified registered persons on specified purchases from unregistered suppliers under the ISD mechanism
- will be included in the definition.

Thus, it will necessitate the taxpayers to obtain an additional registration as 'ISD' for meeting the compliances.

*1.5 Securities and Exchange Board of India ('SEBI') Updates*

**Extension of timeline for verification of market rumours by listed entities**

SEBI had made it mandatory for listed entities to mandatorily verify and confirm, deny or clarify market rumours as per the stipulated timelines. The timelines are now extended as under:

Listed entities	Original timeline	Extended timeline
Top 100 listed entities by market capitalisation	1 February 2024	1 August 2024
Top 250 listed entities by market capitalisation	1 June 2024	1 December 2024

**(Continued)****2. Reserve Bank of India ('RBI') updates***Review of fixed remuneration granted to non-executive directors (NEDs)*

With effect from 9 February 2024, RBI has issued instructions to all private sector banks, including small finance banks ('SFC's), payment banks and wholly owned subsidiaries of foreign banks to adhere to the revised directives for paying the fixed remuneration to their non-executive directors ('NED's).

Considering the crucial role of NEDs in bank boards and its various committees, the ceiling of fixed remuneration paid to them (hitherto INR 20 lakhs per annum) is revised upwards to INR 30 lakhs per annum.

The banks are required to have suitable criteria for granting fixed remuneration to its NEDs, with the approval of its Board before any review of the extant remuneration.

Banks are required to make disclosure on remuneration paid to the directors on an annual basis at a minimum, in their Annual Financial Statements.

**3. Ministry of Corporate Affairs ('MCA')***Issue and listing of shares in India's IFSC (International Financial Services Centre)*

India's IFSC today is a government-approved centre reinforcing India's strategic position as a global hub for financial services. It provides opportunities to global investors to set-up businesses in the areas of :

- Banking
- Investments
- Insurance and reinsurance
- Capital markets
- Asset management

IFSC is a special economic zone, that provides an internationally comparable regulatory framework for and access to the Indian economy directly through businesses registered and operating in the IFSC (located in GIFT City, State of Gujarat).

Recently, on 24 January 2024, the Ministry of Corporate Affairs ('MCA') notified the Companies (Listing of equity shares in permissible jurisdictions) Rules, 2024. These Rules allow the unlisted companies and the existing listed companies to issue equity shares in the IFSC and list such shares on the permissible stock exchange within the IFSC, i.e. the India International Exchange and NSE International Exchange.

The unlisted public companies need to file prospectus through e-form LEAP-1 as notified under the Rules. Post listing, the company shall comply with the Indian Accounting Standards as specified in the Annexure to the Companies (Indian Accounting Standards) Rules, 2015 in preparation of their financial statements.

### 1. Change in service tax rate

Effective 1 March 2024, the service tax rate was revised upwards from 6% to 8%. This change was announced during the tabling of the Budget 2024 and will apply to all prescribed taxable services, subject to the following specified **exceptions**:

- (i) Food and beverage services;
- (ii) Telecommunications services; and
- (iii) Parking space services.

To ensure a smooth transition for businesses, the Royal Malaysian Customs Department has provided specific rules for taxable services provided before and after 1 March 2024.

Timing of services	Service tax rate
Taxable services provided / Imported taxable services acquired before 1 March 2024	Subject to 6% service tax regardless of timing of payment or issuance of invoice.
Taxable services provided / Imported taxable services acquired on or after 1 March 2024	Subject to 8% service tax. However, if payment is received or payment made (for imported taxable services) before 1 March 2024, the service tax rate remains at 6%.
Taxable services / Imported taxable services spanning 1 March 2024	<p><b><u>Taxable services</u></b></p> <ul style="list-style-type: none"> <li>• The portion of services provided on or after 1 March 2024 will be subject to 8% service tax.</li> <li>• If payment is received in advance before 1 March 2024, the service tax rate will remain at 6%.</li> </ul> <p><b><u>Imported taxable services</u></b></p> <ul style="list-style-type: none"> <li>• The portion of services provided on or after 1 March 2024 will be subject to 8% service tax.</li> <li>• If an invoice is received from a foreign service provider or payment is made before 1 March 2024, the service tax rate will also remain at 6%.</li> </ul>

*“Effective 1 March 2024, the service tax rate was revised upwards from 6% to 8%.”*

### 2. Expansion of scope of taxable services

The new prescribed taxable services that come into effect on the same date are as follows:

Prescribed taxable services	Service Tax rate
Karaoke centre services	8%
Brokerage and underwriting services for non-financial services	
Maintenance and repair services	
Logistics services *	6%

**MALAYSIA**

(Continued)

\* Based on the media release issued by the Ministry of Finance, exemptions are available for business-to-business (B2B) transactions where a logistics service provider who is registered for service tax can be exempted from paying service tax on the same logistics service component acquired from another registered person. The scope of this exemption includes services such as freight, warehousing, ports, shipping and cold chain facilities.

In addition, service tax exemption has also been given to the following logistics services:

- ✓ logistics services for directly exported goods;
- ✓ logistic services of transshipment activities;
- ✓ logistics services of transit activities;
- ✓ door-to-door logistics services; and
- ✓ food and beverage delivery services through e-commerce.



**PHILIPPINES**

**THE EASE OF PAYING TAXES ACT**



The **Ease of Paying Taxes (EOPT)** Act was signed into law by President Ferdinand Marcos, Jr. in January 2024. The EOPT Act introduced significant amendments to the National Internal Revenue Code of 1997 (“Tax Code”) which are intended to protect and safeguard taxpayer rights and welfare, to modernize tax administration by providing mechanisms that encourage easy compliance at the least cost and resources, and to update the tax system and adopt best practices.

The amendments include the following, among others:

- File-and-pay anywhere mechanism. Taxes shall be paid either electronically or manually at the time the return is filed.

The out-of-district or wrong venue filing of tax returns is no longer subject to the 25% surcharge [Section 248].

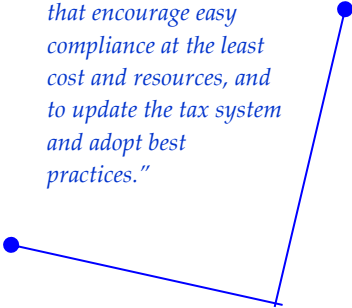
- Classification of taxpayers into micro, small, medium and large taxpayers

Group	Gross Sales
Micro	Less than Php3 million
Small	Php3 million to less than Php20 million
Medium	Php20 million to less than Php1 billion
Large	Php1 billion and above

- Withholding of tax on income payments only when payable

The obligation to deduct and withhold tax shall arise when the income has become payable. This simplifies the timing of withholding of taxes, and abolishes the long-standing rule prescribed by the Bureau of Internal Revenue (BIR) regulations that

*“...to protect and safeguard taxpayer rights and welfare, to modernize tax administration by providing mechanisms that encourage easy compliance at the least cost and resources, and to update the tax system and adopt best practices.”*



**(Continued)**

taxes should be withheld when they are paid, payable or accrued, whichever comes first.

- Imposing value-added tax (VAT) on services based on gross sales, no longer on gross receipts.

The VAT liability on the sale or exchange of services and lease of property shall be levied, assessed and collected on gross sales. It shall no longer be based on gross receipts.

- Consequently, sales invoices shall be sufficient to substantiate sales of services and the corresponding input VAT arising therefrom
- VAT-registered sellers of services shall issue only one type of document, the VAT sales invoice.
- VAT invoices are sufficient to substantiate input VAT arising from the purchase of both goods and services.
  - A VAT official receipt is no longer required to be issued in the sale of services or lease of property.
  - 'Business style' is no longer required to be indicated in the invoice.
  - If a VAT invoice lacks information required under Section 113(B), here are the consequences:
    - i. Issuer shall be liable for non-compliance; and
    - ii. Purchaser shall be allowed to claim the input tax if the invoice contains the sales amount, VAT amount, name and TIN of both parties, description of the goods or service, and transaction.
- Removal of 'business style' as a VAT invoicing requirement (as mentioned above).
- Removal of withholding tax as a requirement for deductibility of income payments.

The withholding of applicable income taxes shall no longer be a requirement for deductibility of expenses for purposes of computing income taxes.

The provision of the EOPT bill granting micro-enterprises exemption from the obligation to withhold taxes was vetoed by the President.

The BIR will issue the implementing rules and regulations of the EOPT Act at a later date.

*"The withholding of applicable income taxes shall no longer be a requirement for deductibility of expenses for purposes of computing income taxes."*

### Disclaimer

The information contained 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 upon such information without appropriate professional advice after a thorough examination of the particular situation.

**Business consultants with a  
global perspective**

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