REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Date 08 APR 2021

REVENUE REGULATIONS NO. 5-2021

SUBJECT : Implementing the New Income Tax Rates on the Regular Income of Corporations, on Certain Passive Incomes, Including Additional Allowable Deductions from Gross Income of Persons Engaged in Business or Practice of Profession Pursuant to Republic Act (RA) No.11534 or the "*Corporate Recovery and Tax Incentives for Enterprises Act*" (CREATE), Which Further Amended the National Internal Revenue Code (NIRC) of 1997.

TO : All Revenue Officers and Others Concerned

SECTION 1. SCOPE. Pursuant to the provisions of Sections 244 and 245 of the National Internal Revenue Code (NIRC) of 1997, as amended, in relation to Section 21 of Republic Act (RA) No. 11534 or the "*Corporate Recovery and Tax Incentives for Enterprises Act*" (CREATE), these Regulations are hereby promulgated to implement the new income tax rates on the regular income of corporations, on certain passive incomes and additional allowable deductions of persons engaged in business or practice of profession as provided for in the CREATE.

SECTION 2. DEFINITION. – The following words or phrases, when used in these regulations, shall have the following meaning:

A. **Corporations** - shall include one-person corporations, partnerships, no matter how created or organized, joint-stock companies, joint accounts (cuentas en participacion), associations, or insurance companies, but does not include general professional partnerships and joint ventures or consortiums formed for the purpose of undertaking construction projects or engaging in petroleum, coal, geothermal and other energy operations pursuant to an operating consortium agreement under a service contract with the Government.

   A one-person corporation is a corporation with a single stockholder; *Provided*, That only a natural person, trust, or an estate may form a one person corporation.

B. **General professional partnerships** - are partnerships formed by persons for the sole purpose of exercising their common profession, no part of the income of which is derived from engaging in any trade or business.

C. **Proprietary Educational Institutions** – refer to any private schools, which are non-profit for the purpose of these Regulations, maintained and administered by private individuals or groups, with an issued permit to operate from the Department of Education (DepEd) or the Commission on Higher Education (CHED) or the

Technical Education and Skills Development Authority (TESDA), as the case may be, under existing laws and regulations.

D. **Proprietary Hospitals** – refer to any private hospitals, which are non-profit for the purpose of these Regulations, maintained and administered by private individuals or groups.

E. **Non-profit** - as used in the definition of Proprietary Educational Institutions and Proprietary Hospitals, means that no net income or asset accrues to or benefits any member or specific person, with all the net income or assets devoted to the institution's purposes and all its activities conducted not for profit.

F. **Government-Owned or Controlled Corporations (GOCCs), Agencies or Instrumentalities** – all corporations, agencies, or instrumentalities owned or controlled by the Government.

G. **Resident Foreign Corporation** – a corporation organized, authorized, or existing under the laws of any foreign country, engaged in trade or business within the Philippines.

H. **Non-resident Foreign Corporation** - a corporation organized, authorized, or existing under the laws of any foreign country, not engaged in trade or business within the Philippines.

I. **Reorganization** – shall mean any of the following instances:

   a. A corporation, which is a party to a merger or consolidation, exchanges property solely for stock in a corporation, which is a party to the merger or consolidation; or

   b. The acquisition by one (1) corporation, in exchange solely for all or a part of its voting stock, or in exchange solely for all or part of the voting stock of a corporation which is in control of the acquiring corporation, of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation, whether or not such acquiring corporation had control immediately before the acquisition; or

   c. The acquisition by one (1) corporation, in exchange solely for all or a part of its voting stock or in exchange solely for all or part of the voting stock of a corporation which is in control of the acquiring corporation, of substantially all of the properties of another corporation. In determining whether the exchange is solely for stock, the assumption by the acquiring corporation of a liability of the others shall be disregarded; or

   d. A recapitalization which shall mean an arrangement whereby the stock and bonds of a corporation are readjusted as to amount, income, or priority or an agreement of all stockholders and creditors to change and increase or decrease the capitalization or debts of the corporation or both; or

e. A reincorporation, which shall mean the formation of the same corporate business with the same assets and the same stockholders surviving under a new charter.

J. Control - shall mean ownership of stocks in a corporation after the transfer of property possessing at least fifty-one percent (51%) of the total voting power of all classes of stocks entitled to vote: Provided, that the collective and not the individual ownership of all classes of stocks entitled to vote of the transferor or transferors shall be used in determining the presence of control.

K. Unrelated Trade, Business or Other Activity of Proprietary Educational Institutions and Hospitals - means any trade, business, or other activity, the conduct of which is not substantially related to the exercise or performance by such educational institution or hospital of its primary purpose or function.

L. Foreign-sourced dividends – are dividends received from non-resident foreign corporations.

M. Related party/ies – are those which are identified under Section 36 (B) of the Tax Code, as amended.

SECTION 3. CORPORATE INCOME TAX RATES. The matrix below shows the new income tax rates applicable to the regular taxable income of corporations:

Type of Corporation	**The higher between the "Regular" or "Minimum Corporate Income Tax (MCIT)" rates**			
	Regular		**MCIT**	
	Rate	**Effectivity**	**Rate**	**Effectivity**
Domestic Corporation:				
Domestic corporations, in general	25%	July 1, 2020	1% 2%	July 1, 2020 to June 30, 2023 July 1, 2023
For corporations with net taxable income not exceeding Five Million Pesos (P5,000,000) **AND** total assets not exceeding One Hundred Million (P 100,000,000), excluding the land on which the particular business entity's office, plant and equipment are situated	20%	July 1, 2020	1% 2%	July 1, 2020 to June 30, 2023 July 1, 2023
Proprietary Educational Institutions and Hospitals	1% 10%	July 1, 2020 to June 30, 2023 July 1, 2023	Not Applicable	
Foreign Corporation [on taxable income (e.g., net or gross income, as applicable) derived from all sources within the Philippines]:				

Type of Corporation	The higher between the "Regular" or "Minimum Corporate Income Tax (MCIT)" rates			
	Regular		MCIT	
	Rate	Effectivity	Rate	Effectivity
Resident Foreign Corporation	25%	July 1, 2020	1% 2%	July 1, 2020 to June 30, 2023 July 1, 2023
Offshore Banking Unit (OBUs) (Note: OBUs shall now be taxed as resident foreign corporation upon effectivity of the CREATE)	25%	Upon the effectivity of the CREATE	1% 2%	Upon the effectivity of the CREATE until June 30, 2023 July 1, 2023
Regional Operating Headquarters (ROHQ)	25%	January 1, 2022	1% 2%	January 1, 2022 to June 30, 2023 July 1, 2023
Non-Resident Foreign Corporation	25%	January 1, 2021	Not applicable	

The MCIT is imposed beginning on the fourth taxable year immediately following the year in which such corporation commenced its business operations, when it is greater than the regular income tax computed for the taxable year.

Domestic corporations shall account separately in their Annual Financial Statements (AFS) the cost of the land on which the particular business entity's office, plant and equipment are situated, and shall not lump the same in one account title nor consolidate its cost with other fixed asset accounts.

In the case of proprietary educational institutions or hospitals, if the gross income from "unrelated trade, business or other activity" (as defined under Section 2 hereof) exceeds fifty percent (50%) of the total gross income derived by such educational institutions or hospitals from all sources, the tax prescribed for domestic corporations shall be imposed on the entire taxable income.

GOCCs, agencies and instrumentalities, except the Government Service Insurance System (GSIS), the Social Security System (SSS), the Home Development Mutual Fund (HDMF), the Philippine Health Insurance Corporation (PHIC), and the local water districts, shall pay such rate of tax upon their taxable income as are imposed upon corporations or associations engaged in a similar business, industry, or activity.

ILLUSTRATIONS:

A. DOMESTIC CORPORATION

A.1 LMB Corporation, a retailer, has a gross sales of P1,400,000,000.00 with a cost of sales of P560,000,000.00 and allowable deductions of 150,000,000.00 for the calendar year 2021. Its total assets of P180,000,000.00 as of December 31, 2021 per Audited Financial Statements includes the land costing P50,000,000.00 and the building of P25,000,000.00 in which the business entity is situated, with an aggregate amount of P75,000,000.00 as Fixed Assets. Assuming CY 2021 is the 5th year of operation of LMB Corporation, computation of income tax (Income Tax – whichever is higher between Regular Rate and MCIT) shall be as follows:

REGULAR RATE

Gross Sales	1,400,000,000.00
Less: Cost of Sales	560,000,000.00
Gross Income	840,000,000.00
Less: Allowable Deductions	150,000,000.00
Net Taxable Income	690,000,000.00
REGULAR RATE	25%
TAX DUE	**172,500,000.00**

MINIMUM CORPORATE INCOME TAX (MCIT)

Gross Income	840,000,000.00
MINIMUM CORPORATE INCOME TAX (MCIT) RATE	1%
TAX DUE	**8,400,000.00**

* **INCOME TAX DUE** shall be: **P 172,500,000.00**

A.2 JPL Corporation, a manufacturer, has a gross sales of P 190,000,000 for CY 2021, its 2nd year of operation. Its total assets amounted to P 50,000,000, net of the value of the land of P6,000,000 where its manufacturing plant and business operations are situated. Its cost of sales and allowable operating expenses amounted to P 100,000,000 and P 50,000,000, respectively. Compute for its income tax due for CY 2021.

INCOME TAX DUE SHALL BE THE REGULAR INCOME TAX RATE OF 25%

Gross Sales	190,000,000.00
Less: Cost of Sales	100,000,000.00
Gross Income	90,000,000.00
Less: Allowable Deductions	50,000,000.00
Net Taxable Income	40,000,000.00
REGULAR RATE	**25%**
TAX DUE	**10,000,000.00**

* Although the total assets, net of the value of the land, is less than P 100,000,000.00, its net taxable income is above P 5,000,000.00. Hence, the income tax rate is 25%. Not subject to MCIT since it is in its 2nd year of operation.

A.3 Given the same facts under Illustration A.2, except for the allowable operating expenses, which amounted to P 85,000,000.00. The net taxable income will be P 5,000,000.00. With this, the income tax rate shall be 20%, and the income tax due shall be P 1,000,000.00.

* In both illustrations A.2 and A.3, the MCIT shall not be applied since it is only the second year of operation of JPL Corporation.

B. PROPRIETARY EDUCATIONAL INSTITUTIONS

Rosa Private School of Values or RPSV is a non-profit private educational institution with an issued permit to operate from the Commission on Higher Education (CHED). It is maintained and administered by MCGJ Inc., a private domestic corporation registered under the Securities and Exchange Commission.

RPSV uses a fiscal year accounting ending July 31st of each year. On July 31, 2021, it recorded total gross receipts amounting to P18,000,000.00, of which P10,000,000.00 came from education-related activities, while P8,000,000.00 from other unrelated business activities. Also, RPSV recorded cost of service and operating expenses from related activities amounting to P2,000,000.00 and P1,000,000.00, respectively, and from unrelated business activities amounting to P3,000,000.00 and P2,000,000.00, respectively.

	Related activities	Unrelated Activities	Total
Gross Receipts/Sales	10,000,000.00	8,000,000.00	18,000,000.00
Less: Cost of Service/Sales	2,000,000.00	3,000,000.00	5,000,000.00
Gross Income	**8,000,000.00**	**5,000,000.00**	**13,000,000.00**
Less: Allowable Deductions	1,000,000.00	2,000,000.00	3,000,000.00
NET TAXABLE INCOME	7,000,000.00	3,000,000.00	10,000,000.00
REGULAR RATE			**1%**
TAX DUE			**1,000,000.00**

The educational institution is subject to income tax at the rate of 1% since its gross income from unrelated activities did not exceed 50% of the total gross income.

C. PROPRIETARY HOSPITAL

ILR Hospital, a private non-profit hospital, has gross receipts of P15,000,000.00 with a cost of P6,000,000.00 and allowable deductions of P3,250,000.00 from related activities, while for its unrelated activities, it incurred P5,000,000.00 and P2,000,000.00 as cost of sales and allowable deductions, respectively, with a gross income of P18,000,000.00, for Calendar Year 2021.

Computation of tax shall be as follows:

	Related activities	Unrelated Activities	Total
Gross Sales	15,000,000.00	18,000,000.00	33,000,000.00
Less: Cost of Sales	6,000,000.00	5,000,000.00	11,000,000.00
Gross Income	**9,000,000.00**	**13,000,000.00**	**22,000,000.00**
Less: Allowable Deductions	3,250,000.00	2,000,000.00	5,250,000.00
NET TAXABLE INCOME	5,750,000.00	11,000,000.00	16,750,000.00
REGULAR RATE			**25%**

TAX DUE			**4,187,500.00**

* ILR Hospital is subject to the regular rate of 25% since its gross income from non-related activities is more than 50% of its total gross income.

D. REGIONAL OPERATING HEADQUARTERS

EBQ Corporation is registered as a Regional Operating Head Quarter (ROHQ) since 2015. For taxable years 2020 to 2023, its operation showed the financial results:

	TY 2020	TY 2021	TY 2022	TY 2023
Annual Income	75,000,000.00	120,000,000.00	130,000,000.00	75,000,000.00
Cost of Services	41,250,000.00	66,000,000.00	71,500,000.00	41,250,000.00
Gross Income	33,750,000.00	54,000,000.00	58,500,000.00	33,750,000.00
Allowable Deductions	33,625,000.00	41,200,000.00	42,550,000.00	35,125,000.00
	125,000.00	12,800,000.00	15,950,000.00	(1,375,000.00)
Computation of Income Tax Due				
Net Taxable Income/Gross Income	125,000.00	12,800,000.00	15,950,000.00	(1,375,000.00)
Multiply by	**10%**	**10%**	**25%**	**25%**
Income Tax Due	**12,500.00**	**1,280,000.00**	**3,987,500.00**	**0.00**
MCIT:	**N/A**	**N/A**		
Gross Income			P558,500,000.00	33,750,000.00
MCIT Rate			**1%**	**1.5%***
MCIT			**585,000.00**	**506,250.00**
Income Tax Due			**3,987,500.00**	**P 506,250.00**

* The regular rate of 25% shall be effective on January 1, 2022 for ROHQ. It will also be subject to MCIT beginning on the said date, since EBQ Corp. started its operations way back in 2015.

* MCIT rate of 1.5% was used since the rate from January 1 to June 30, 2023 is 1%, and for July 1 to December 31, 2023, the rate is 2%; thus, the average rate is 1.5%, the income tax rate to be used by EBQ Corporation in computing the income tax due/payable for TY 2023.

SECTION 4. INCOME TAX RATES ON CERTAIN PASSIVE INCOMES. The matrix below shows the new income tax rates applicable to certain passive incomes of individuals and corporations.

Type of Individual/ Corporation	Nature of Income	Rate	Effectivity
Non-Resident Alien Individual	Winnings from Philippine Charity Sweepstake Office (PCSO) games amounting to more than P10,000.00	20%	Upon the effectivity of the CREATE

Type of Individual/ Corporation	Nature of Income	Rate	Effectivity
	Winnings from PCSO games amounting to P10,000.00 and below	Exempt	
Domestic Corporation	Intercorporate Dividends (domestic and foreign source dividends)	From another domestic corporation - Exempt From nonresident foreign corporation - 25% or 20%, as the case may be	For foreign source dividends, these will be exempt from income tax upon the effectivity of the CREATE, subject to the conditions imposed under Section 5 of these Regulations
Resident Foreign Corporation	Interest income from a depositary bank under the expanded foreign currency deposit system	15%	Upon the effectivity of the CREATE
	Capital gains from sale of shares of stock not traded in the stock exchange	15%	Upon the effectivity of the CREATE
Non-resident Foreign Corporation	Gross income received from all sources within the Philippines, such as interests, dividends, rents, royalties, salaries, 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 from sale of shares of stock not traded in the stock exchange	25%	January 1, 2021
	Intercorporate dividend received from a domestic corporation, in general However, if the country in which the non-resident foreign corporation is domiciled, allows a tax credit equivalent to the difference between the	25% 15%	January 1, 2021 January 1, 2021

Type of Individual/ Corporation	Nature of Income	Rate	Effectivity
	regular income tax rate of 25% under Section 28(B)(1) of the Tax Code (25%) and the fifteen percent (15%) tax on intercorporate dividends or does not impose tax on dividends, the rate to be imposed shall be 15%		
	Capital gains from sale of shares of stock not traded in the stock exchange	15%	Upon the effectivity of the CREATE

SECTION 5. EXEMPTION FROM INCOME TAX OF FOREIGN-SOURCED DIVIDENDS RECEIVED BY DOMESTIC CORPORATIONS. In general, foreign-sourced dividends received by domestic corporations are subject to income tax. However, the same shall be exempt if all of the following conditions concur:

A. The dividends actually received or remitted into the Philippines are reinvested in the business operations of the domestic corporation within the next taxable year from the time the foreign-source dividends were received or remitted;

B. The dividends received shall only be used to fund the working capital requirements, capital expenditures, dividend payments, investment in domestic subsidiaries, and infrastructure project; and

C. The domestic corporation holds directly at least twenty percent (20%) **in value** of the outstanding shares of the foreign corporation and has held the shareholdings uninterruptedly for a minimum of two (2) years at the time of the dividends distribution. In case the foreign corporation has been in existence for less than two (2) years at the time of dividends distribution, then the domestic corporation must have continuously held directly at least twenty percent (20%) **in value** of the foreign corporation's outstanding shares during the entire existence of the corporation.

Absent any one of the above conditions, the foreign-sourced dividends shall be considered as taxable income of the domestic corporation in the year of actual receipt or remittance, subject to surcharges, interest, and penalties, as applicable.

For this purpose, to avail of the exemption, the domestic corporation shall:

1. Submit, thru the responsible corporate officers, to the concerned BIR office within thirty (30) calendar days from actual receipt of the remitted dividends a Sworn Statement/Affidavit containing (*i*) the fact of actual receipt of such dividends, (*ii*) the amount and the source (non-resident foreign corporation [NRFC]) of such dividends, including their shareholdings in that NRFC and the holding period at the time of the dividends distribution, and (*iii*) a statement that they shall fully comply with the conditions of the exemptions above stated;

2. In the year of receipt of dividend , attach to the Audited Financial Statements (AFS) an Independent Auditor Sworn Certification as to (*i*) the fact of actual receipt of the remitted dividends, (*ii*) the amount and the source (NRFC) of such dividends, including their shareholdings in that NRFC and the holding period at the time of the dividends distribution, *(iii)* the fact that the domestic corporation, thru its Board, has appropriated or has a plan to reinvest the dividends in its business operations to fund its working capital requirements, capital expenditures, dividend payments, investment in domestic subsidiaries, or infrastructure project, and *(iv)* if any amount has been disbursed, a statement that said disbursement complies with the above requirements.

   The Sworn Statement/Affidavit in item (1) hereof and the Independent Auditor Sworn Certification shall be deemed as substantial compliance with the above-conditions for exemption without the need of securing a written tax exemption ruling/certificate from the BIR. In addition, a disclosure of the dividends in the said AFS which shall be attached to the Annual Income Tax Return (AITR) to be filed in the year of receipt, as well as the amount of dividend deemed exempt from income tax shall be declared in reconciliation part of the said AITR.

3. In the immediately following taxable year, attach to the AITR a Sworn Certification prepared and executed by an Independent Auditor on the utilization or non-utilization of the dividends received by the corporation. The Sworn Certification on the utilization of the dividends received shall confirm the taxpayer's full compliance with the conditions for its exemption. However, if the Certification will state non-utilization of the dividends received, the corresponding tax due on the unutilized dividends shall be declared as taxable income, subject to surcharges, interest, and penalty, if any.

Further, no credit or deduction under Section 34(C) of the Tax Code shall be allowed for any taxes of foreign countries paid or incurred by the domestic corporation in relation to the exempt foreign-sourced dividends. Finally, any taxes of foreign countries paid or incurred by the domestic corporation in relation to the exempt foreign-sourced dividends shall be disregarded in computing the limitations provided under Section 34(C)(4) of the Tax Code.

ILLUSTRATIONS:

a. RLI Corporation, a domestic corporation, owns twenty percent (20%) of the outstanding shares of USA Corporation, a non-resident foreign corporation (NRFC), since August 1, 2015. On June 30, 2021 it received dividends amounting to P1,000,000.00 from the said NRFC. The said dividend has not been used until January 13, 2023. In this case, the P1,000,000.00 shall be declared as taxable income for calendar year 2021, subject to surcharge, interest, and penalty, since it was not utilized within the next taxable year, which is in 2022.

b. RSDV Corporation, a domestic corporation, owns twenty percent (20%) of the outstanding shares of UK Corporation, a non-resident foreign corporation (NRFC), since August 1, 2015. On May 1, 2021, it received dividends amounting to P1,000,000.00 from the said NRFC. On September 1, 2022, RSDV Corporation utilized P800,000.00 for its dividend payments. On January 1, 2023, it utilized the remaining P200,000.00 for its working capital requirements. In this case, P800,000.00 shall be treated as tax-exempt since this was properly utilized within 2022. On the other hand, P200,000.00 shall be declared as taxable income for the taxable year 2021, subject to surcharge, interest, and penalty, since the utilization is not within the following taxable year, which is in 2022.

c. BKTD Corporation, a domestic corporation, holds 20% of the stocks of EU Corporation, a non-resident foreign corporation. BKTD is a wholly-owned subsidiary of GKCM Corporation, a non-resident foreign corporation. BKTD's holding in EU Corporation started in 2018, and the holding period is uninterrupted. On July 1, 2021, BKTD Corporation received dividends from EU Corporation amounting to P2,000,000 and subsequently paid out dividends on December 31, 2022, in the amount of P 1,500,000. The remaining amount of P500,000 has not been used in any qualified activity for exempt foreign-sourced dividends. In this situation, BKTD Corporation shall be subject to income tax on the unused amount in the taxable period 2021, subject to surcharge, interest, and penalty.

SECTION 6. IMPROPERLY ACCUMULATED EARNINGS TAX.- The improperly accumulated earnings tax shall no longer be imposed on corporations upon the effectivity of the CREATE onwards. This shall apply to the entire taxable year for all fiscal years/taxable years ending after the effectivity of CREATE.

ILLUSTRATION:

JDS Corporation, a domestic corporation, has unappropriated retained earnings in excess of its paid-up capital stock amounting to P20,000,000 and P50,000,000 as of the fiscal years ending June 30, 2020 and June 30, 2021, respectively. JDS Corporation shall be subject to the 10% improperly accumulated earnings tax as of June 30, 2020. However, JDS Corporation shall no longer be subject to improperly accumulated earnings tax for the entire fiscal year ending June 30, 2021, which is after the effectivity of CREATE.

SECTION 7. ALLOWABLE DEDUCTIONS FROM GROSS INCOME FOR BUSINESS PERSONS. Under Sec. 34 of the Tax Code, as amended, it was provided that except for taxpayers earning purely compensation income arising from personal services rendered under an employer-employee relationship, in computing taxable income subject to income tax under Sections 24(A), 25(A), 26, 27(A), 27(B), 27(C) and 28(A)(1) of the National Internal Revenue Code of 1997, as amended, where the person subject to income tax opted to claim itemized deductions, there shall be allowed the following deductions from gross income:

(A) **Expenses** –

(1) Ordinary and Necessary Trade, Business or Professional Expenses. - In general, there shall be allowed as deductions from gross income all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on or which are directly attributable to, the development, management, operation and/or conduct of the trade, business or exercise of a profession, including:

a. A reasonable allowance for salaries, wages, and other forms of compensation for personal services rendered, including the gross-up monetary value of fringe benefit furnished or granted by the employer to the employee: Provided, that the income tax imposed on such salaries and fringe benefits has been paid;

b. A reasonable allowance for travel expenses, here and abroad, while away from home in the pursuit of trade, business or profession;

c. A reasonable allowance for rentals and/or other payments which are required as a condition for the continued use or possession, for purposes of the trade, business or profession, of property to which the taxpayer has not taken or is not taking title or in which he has no equity other than that of a lessee, user or possessor;

d. A reasonable allowance for entertainment, amusement and recreation expenses during the taxable year, that are directly connected to the development, management and operation of the trade, business or profession of the taxpayer, or that are directly related to or in furtherance of the conduct of his or its trade, business or exercise of a profession not to exceed such ceilings as prescribed under RR 10-2002. Provided, that any expense incurred for entertainment, amusement or recreation (EAR) that is contrary to law, morals, public policy or public order shall in no case be allowed as deduction.

e. Upon the effectivity of the CREATE, an additional deduction from taxable income of one-half (1/2) of the value of labor training expenses incurred for skills development of enterprise-based trainees enrolled in Public Senior High Schools, Public Higher Education Institutions, or Public Education Institution, or Public Technical and Vocational Institutions and duly covered by an apprenticeship agreement under Presidential Decree No. 442, Series of 1974, or the Labor Code of the Philippines, as amended, shall be granted to enterprises. Provided, further, that for the additional deduction for enterprise-based training of students from Public Educational Institutions, the enterprise shall secure proper "certification" from the Department of Education (DepEd), Technical Education and Skills Development Authority (TESDA), or Commission on Higher Education (CHED). Provided, finally, that such deduction shall not exceed Ten Percent (10%) of Direct Labor Wage.

ILLUSTRATION:

MOC Corporation, a domestic manufacturing corporation, had gross sales of P100,000,000.00 for Fiscal Year ending June 30, 2021 and incurred cost of sales of P60,000,000.00 and operating expenses of P17,500,000.00, with the following details:

Cost of Sales			
	Direct Materials	P	30,000,000.00
	Direct Labor		20,000,000.00
	Manufacturing Overhead		10,000,000.00

	Total	P	60,000,000.00
Operating Expenses			
	Salaries and Wages	P	7,000,000.00
	Taxes		300,000.00
	Depreciation		3,500,000.00
	Professional Fees		200,000.00
	Advertising Expenses		3,000,000.00
	Training Expenses		3,000,000.00
	Office Supplies		500,000.00
	Total	P	17,500,000.00

Assuming MOC corporation has complied with the withholding tax requirement on all cost and expenses incurred subject to withholding tax, compute for the corporation's net taxable income:

Gross Income			P	40,000,000.00
Less: Allowable Deductions				
Salaries and Wages	P	7,000,000.00		
Taxes		300,000.00		
Depreciation		3,500,000.00		
Professional Fees		200,000.00		
Advertising Expenses		3,000,000.00		
Training Expenses		**3,000,000.00**		
Office Supplies		500,000.00		
Expenses before additional deduction on Training Expenses	P	17,500,000.00		
Additional Allowable Deductions on Training Expenses (see Note)		***1,500,000.00***	P	19,000,000.00
Net Taxable Income			P	21,000,000.00

* The amount of P 1,500,000.00, which is one-half of the value of the actual training expenses of P 3,000,000.00, can be claimed as additional deduction, since it did not exceed ten percent (10%) of the Direct Labor Wage. In this scenario, the corporation's direct labor wages incurred was P 20,000,000.00. Thus, the one-half value of the actual training expenses of P 1,500,000.00 did not exceed the P 2,000,000.00 (10% of P 20,000,000.00) threshold. Provided further, that all the prescribed requirements in this section has been complied with (e.g., Apprenticeship Agreement, Certification from DepEd or TESDA or CHED, whichever is applicable). If the company's direct labor wage is only P10,000,000.00, the additional deduction that can be allowed shall be P1,000,000.00 and not P1,500,000.00.

(2) Expenses allowable to Private Educational Institutions. – xxx

(B) **Interest**. – Interest paid or incurred within a taxable year on indebtedness in connection with the taxpayer's profession, trade or business shall be allowed as deduction from gross income, provided the same also satisfied the following criteria:

(1) The indebtedness must be that of the taxpayer;

(2) The interest must have been stipulated in writing;

(3) The interest must be legally due;

(4) The interest payment arrangement must not be between related taxpayers as mandated in Sec. 34(B)(2)(b), in relation to Sec. 36(B) both of the Tax Code of 1997;

(5) The interest must not be incurred to finance petroleum operations; and

(6) The interest was not treated as "capital expenditure", if such interest was incurred in acquiring property used in trade, business or exercise of profession.

Provided, further, that the taxpayer's otherwise allowable deduction for interest expense shall be reduced by an amount equivalent to twenty percent (20%) of interest income subjected to final tax. However, if the final withholding tax rate on interest income of 20% will be adjusted in the future, the interest expense reduction rate shall be adjusted accordingly.

In the case of corporations, since the income tax rates changed effective July 1, 2020, it follows that the deduction from the interest expense of 20% shall be effective also on the said date. For other domestic corporations with net taxable income not exceeding Five Million Pesos (P5,000,000) and total assets not exceeding One Hundred Million (P 100,000,000), excluding the land on which the particular business entity's office, plant and equipment are situated, the deduction is 0% since there is no difference in the income tax rate on the taxable income (20%) with the tax rate applied on the interest income subjected to final tax (20%). However, in the case of individuals engaged in business or practice of profession, such deduction shall take effect upon the effectivity of CREATE.

ILLUSTRATIONS:

a. For fiscal year ending June 30, 2021, assuming that JHB Corporation, aside from the operating expenses of P17,500,000.00, incurred interest expense of P 400,000.00 which satisfied the prescribed requirement for deductibility, but it also earned interest income of P 100,000.00, net of final tax of twenty percent (20%), how shall the taxable income be computed?

Gross Income			P	40,000,000.00
Less: Allowable Deductions				
Salaries and Wages	P	7,000,000.00		
Taxes		300,000.00		
Depreciation		3,500,000.00		
Professional Fees		200,000.00		

Advertising Expenses		3,000,000.00		
Training Expenses		3,000,000.00		
Interest Expense		**400,000.00**		
Office Supplies		500,000.00		
Expenses before additional deduction	P	17,900,000.00		
Add: Additional Deduction-Training		1,500,000.00		
Less: 20% of Interest Income earned		***25,000.00***	P	19,375,000.00
Net Taxable Income			P	20,625,000.00

* Actual interest expense of P400,000 was reduced by an amount of P25,000, representing 20% of the interest income subjected to final tax. The net interest income of P100,000 is divided by 80% to get the gross interest income earned. Thus, the quotient of P125,000 multiply by 20%, the product is P25,000. Then deduct it from the interest expense incurred to get the allowable interest expense: P400,000 – P25,000 = P375,000.00.

b. For taxable year 2021, SGC Corp. incurred interest expense of P 500,000 on its bank loan. For the year, its gross assets amounted to P50,000,000, exclusive of the cost of the land of P7,100,000. It registered a gross income of P 10,000,000 and incurred operating expenses of P6,000,000, inclusive of the interest expense. It had interest income earned for the same year amounting to P150,000. Compute for the allowable interest expense.

* In this scenario, the corporation is subject to CIT of 20% since its taxable income did not exceed P5M and its total assets did not exceed P100M, exclusive of the land. Since the CIT is 20%, and the final tax on interest income is also at 20%, there is no difference on these two rates. Thus, there is no interest arbitrage. The allowable interest expense, in this case, is P500,000.

(C) Taxes - xxx

(D) Losses - xxx

(E) Bad Debts - xxx

(F) Depreciation - xxx

(G) Depletion of Oil and Gas Wells and Mines – xxx

(H) Charitable and other Contributions – xxx

(I) Research and Development – xxx

(J) Pension Trusts –xxx

Existing implementing rules and regulations governing the policies in the application of other allowable deductions, if any, shall remain in effect.

SECTION 8. NON-RECOGNITION OF GAIN OR LOSS ON EXCHANGE OF PROPERTY. No gain or loss shall be recognized on a corporation or on its stock or securities if such corporation is a party to a reorganization and exchanges property in pursuance of a plan of reorganization solely for stock or securities in another corporation that is a party to the reorganization as defined under Section 2 hereof.

No gain or loss shall also be recognized if property is transferred to a corporation by a person, alone or together with others, not exceeding four (4) persons, in exchange for stock or unit of participation in such a corporation of which as a result of such exchange, the transferor or transferors, collectively, gains or maintains control of said corporation: Provided, that stocks issued for services shall not be considered as issued in return for property.

Sale or exchanges of property used for business for shares of stocks covered under this subsection shall not be subject to value-added tax (VAT). In all of the foregoing instances of exchange of property, prior Bureau of Internal Revenue (BIR) confirmation or tax ruling shall not be required for purposes of availing of the tax exemption. The concerned parties can implement the transaction covered by this Section including, but not limited to, the issuance of the Certificate Authorizing Registration (CAR) by the Revenue District Office (RDO) where the property is located, in case of real properties, or to the RDO where the business is registered, in case of shares of stocks, subject to post-transaction audit by the Bureau.

SECTION 9. TRANSITORY PROVISIONS. –

A. For the rate to be used in the deduction of a certain percentage of interest income subject to final tax from the claimed interest expense to come up with the allowable interest expense, or the interest arbitrage, the following shall be applied for taxable year 2020 by corporations, except non-resident foreign corporations:

Compute for the interest arbitrage using the applicable rate:

(a) Divide the gross interest income subjected to final tax for the year by 12 months:
    Interest income subjected to final tax ÷ 12
(b) Multiply the number of months applicable to old arbitrage rate by the resulting monthly gross interest income subjected to final tax; then, multiply the product by the old arbitrage rate:
    number of months applicable x (a) x 33.33%
(c) Multiply the number of months applicable to the new arbitrage rate by the resulting monthly gross interest income subjected to final tax; then, multiply the product by the new arbitrage rate:
    Number of months applicable x (a) x (20% or 0%, as the case may be)
(d) Add the computed interest arbitrage under items (b) and (c) above to get the amount to be deducted from the interest expense claimed to arrive at the allowable interest expense.

ILLUSTRATIONS:

a. For calendar year ended December 31, 2020, assuming that MTMI Corporation, aside from the operating expenses of P17,500,000.00, incurred interest expense of P 400,000.00 which satisfied the prescribed requirement for deductibility, but it also earned interest income of P 100,000.00, net of final tax of twenty percent (20%), how shall the taxable income be computed?

Gross Income			P	30,000,000.00
Less: Allowable Deductions				
Salaries and Wages	P	7,000,000.00		
Taxes		300,000.00		
Depreciation		3,500,000.00		
Professional Fees		200,000.00		
Advertising Expenses		3,000,000.00		
Training Expenses		3,000,000.00		
Interest Expense		**400,000.00**		
Office Supplies		500,000.00		
Expenses before additional deduction	P	17,900,000.00		
Add: Additional Deduction-Training		1,500,000.00		
Less: 33% / 20% of Interest Income earned deductible from Interest Expense		***33,125.00***	P	19,366,875.00
Net Taxable Income			P	10,633,125.00

* Actual interest expense of P400,000 was reduced by an amount of P33,125, representing the interest to be deducted from interest expense. The net interest income of P100,000 is divided by 80% to get the gross interest income earned. Thus, the quotient of P125,000 divided by 2 to get the interest income per six months. This is equal to P62,500, for the first half of the year, multiply by 33%, the product is P20,625. For the second half of the year, P62,500 multiply by 20% is P12,500. Add the two products of P20,625 and P12,500 will equal to P33,125. Then deduct it from the interest expense incurred to get the allowable interest expense: P400,000 – P33,125= P366,875.

b. GPS Corporation secured in 2018 a bank loan for its business expansion, and incurred interest expense of P2,000,000 in CY 2020 on the said bank loan. In the same year, it likewise earned interest income of P300,000 subjected to final tax of 20%. For CY 2020, its gross income amounted to P 20,000,000. Its gross assets, excluding the value of the land where its building and plant are situated, is P 100,000,000. Its operating expenses amounted to P10,000,000, inclusive of the interest expense of P2,000,000.

To compute for its allowable interest expense:

Interest Expense before interest arbitrage.............................		P 2,000,000.00
Less: Interest Arbitrage:		
P300,000 /2 = P 150,000 X 33% ....P	49,500.00	
P300,000/2 = P150,000 X 20%..................................	30,000.00	79,500.00
Allowable Interest Expense...		P 1,920,500.00

OR:

Allowable Interest Expense Before Deduction	P 2,000,000.00
Less: Interest Arbitrage using the average Interest Arbitrage for CY 2020... 26.5%	
Multiply by .... X P 300,000.00...............	79,500.00
Allowable Interest Expense	P 1,920,500.00

* The taxpayer is subject to CIT of 25% in the second semester of 2020 even though the total assets did not exceed P100M, excluding the land, but the taxable income is more than P5M. In this case, the interest arbitrage for the 2nd semester is 20% since the difference in the CIT of 25% and the final tax rate on the interest income of 20% is 5%, which is equivalent to 20% (5% ÷ 25%) interest arbitrage.

c. MAFD Corporation incurred interest expense of P 500,000 in CY 2020 on its bank loan. The said loan was secured in 2019 to finance the construction of its warehouse. In CY 2020, its gross assets amounted to P50,000,000, excluding the land with a cost of P5,500,000. It recorded a gross income of P 10,000,000 and incurred operating expenses of P6,000,000, inclusive of the interest expense. It had interest income earned for the same year amounting to P150,000. Compute for the allowable interest expense:

To compute for its allowable interest expense:

1. Compute for the interest arbitrage:

P 150,000 x 6/12 X 33%	P 24,750.00
P 150,000 X 6/12 X 0%..	0.00
Total..	P 24,750.00

2. Deduct the resulting amount from the interest expense:

Interest Expense before deductions....................................	P 500,000.00
Less: Interest Arbitrage...	24,750.00
Allowable Interest Expense...	P 475,250.00

OR

1. Simply multiply the interest income with the prescribed interest arbitrage under the transitory provision (P 150,000 X 16.50%).......................... P 24,750.00
2. Deduct the said amount from the interest expense

Interest Expense before deductions....................................	P 500,000.00
Less: Interest Arbitrage...	24,750.00
Allowable Interest Expense...	P 475,250.00

* The corporation is subject to 30% Corporate Income Tax (CIT) in the 1st semester. For the 2nd semester the CIT is 20% since the taxable income did not exceed P5M and the total assets did not exceed P100M, exclusive of the land.

* The interest arbitrage for the 2nd semester is 0% since the CIT is 20% and the final tax imposed on the interest income is 20%, there is no difference between the two rates, thus there is no interest arbitrage for the 2nd semester.

Another option in the computation of the interest arbitrage is to use the rates reflected in the table below, and multiply the same with the amount of gross interest income subjected to final tax to find the amount of interest deductible from the interest expense claimed, with the allowable interest expense as the end result.

Transitory rates for interest arbitrage applicable for TY 2020 for corporations under itemized deductions:

For the computation of Interest Arbitrage		
Annual Accounting Period (Transition TY 2020)	**Corporations subject to Regular Rates**	**Other domestic corporations with net taxable income ≤5M & total assets ≤100M, exclusive of land**
	30% / 25%	***30% / 20%***
FY 7-31-20	31.92 %	30.25 %
FY 8-31-20	30.83	27.50
FY 9-31-20	29.75	24.75
FY 10-31-20	28.67	22.00
FY 11-31-20	27.58	19.25
CY 12-31-20	26.50	16.50
FY 1-31-21	25.42	13.75
FY 2-28-21	24.33	11.00
FY 3-31-21	23.25	8.25
FY 4-30-21	22.17	5.50
FY 5-31-21	21.08	2.75
FY 6-30-21	20.00	0.00

B. In the computation of income tax due of the corporations for taxable year 2020, regardless of the taxpayers' annual accounting period, the taxable income shall be computed without regard to the specific date when sales, purchases and other transactions occur. The income and expenses shall be deemed to have been earned and spent equally for each month of the period. The corporate income tax due for taxable year 2020 shall be computed as follows:

1. Compute for the tax due using the regular income tax rate:
   a. Divide the taxable income for the year by 12 months
   b. Multiply the number of months applicable to old rate by the resulting monthly taxable income; then multiply by 30%
   c. Multiply the number of months applicable to the new rate by the resulting monthly taxable income; then multiply by either 25% or 20%, as applicable
   d. Add the computed regular income tax under item 1.b and 1.c.

2. Compute for the income tax due using the MCIT rate, if applicable:
   a. Divide the gross income by 12 months;
   b. Multiply the number of months applicable to the old MCIT rate by the resulting monthly gross income; then multiply by 2%
   c. Multiply the number of months applicable to the new MCIT rate by the resulting monthly gross income; then multiply by 1%
   d. Add the computed MCIT under 2.b and 2.c

3. Compare the resulting figures under 1.d and 2.d above, and the higher amount shall be the income tax due/payable.

ILLUSTRATIONS:

a. MVAA Corporation, a domestic retailer, has gross sales of P1,400,000,000.00 with cost of sales of P560,000,000.00 and allowable deductions of 150,000,000.00 for calendar year 2020, its 4th year of business operations. Its total assets of P180,000,000.00 includes the land and building in which the business is situated, amounting to P50,000,000.00 and P25,000,000.00, respectively. Computation of Tax (Income Tax – whichever is higher between Regular Rate and MCIT) shall be as follows:

For Calendar Year

Net Taxable Income (P 840,000,000 – 150,000,000)	P 690,000,000.00
Divide by 12 months	÷ 12
Taxable Income per month	P 57,500,000.00
Tax Due: January 1 to June 30, 2020- (P57,500,000 X 6)X 30%	P 103,500,000.00
July 1, 2020 to December 31, 2020 (P57,500,000 X 6) 25%	86,250,000.00
Total Tax Due- Regular	**P 189,750,000.00**
Gross Income	P 840,000,000.00
Divide by	÷ 12
Gross Income per month	P 70,000,000.00
Tax Due: January 1 to June 30, 2020 (P70,000,000 X 6) 2%	P 8,400,000.00
July1, 2020 to December 31, 2020 (P 70,000,000 X 6) 1%	4,200,000.00
Total Tax Due- MCIT	**P 12,600,000.00**
Income Tax Payable (Higher between Regular and MCIT)	**P 189,750,000.00**

For Fiscal Year

If the taxable period of MVAA Corporation is ending on April 30, 2021, the computation of the income tax due shall be:

Net Taxable Income	P 690,000,000.00
Divide by 12 months	÷ 12
Taxable Income per month	P 57,500,000.00
Tax Due: May 1 to June 30, 2020- (P57,500,000 X 2)X 30%	P 34,500,000.00
July 1, 2020 to April 30, 2021 (P57,500,000 X 10)25%	143,750,000.00
Total Tax Due-**Regular**	**P 178,250,000.00**

MCIT:	
Gross Income	P 840,000,000.00
Divide by	÷ 12
Gross Income per month	P 70,000,000.00
Tax Due: May 1 to June 30, 2020 (P70,000,000 X 2) 2%	P 2,800,000.00
July 1, 2020 to April 30, 2021(P 70,000,000 X 10) 1%	7,000,000.00
Tax Due-**MCIT**	**P 9,800,000.00**

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Tax payable shall be (higher amount under the regular rate)	**P 178,250,000.00**

b. LMAT Corporation had gross sales of P10,000,000, cost of sales of P 6,000,000 and operating expenses of P 2,000,000 for fiscal year ending October 31, 2020, its 3rd year of operation. Its total assets amounted to P 5,000,000.00. It does not own the land and building where its business operations are conducted. Computation of the income tax for 2020 shall be:

Net Taxable Income	P 2,000,000.00
Divide by	÷ 12
Taxable Income per month	P 166,666.67
Tax Due:	
November 1, 2019 to June 30, 2020- (P166,666.67 X 8)X **30%**	P 400,000.00
July 1, to October 31, 2020 (P166,666.67 X 4) **20%***	133,333.34
Total Tax Due-Regular	**P 533,333.34**

* 20% was used as the rate since the net taxable income did not exceed P 5,000,000.00 and the total assets of the corporation is less that P 100,000,000.00. MCIT computation is not applicable since it is only the 3rd year of operation of the corporation.

c. MGLC Company, for calendar year 2020, its 2nd year of business operations, had net taxable income of P 12,000,000.00. Its total assets, net of the value of the land where its business is situated, is P 80,000,000.00. Income tax shall be computed as follows:

Net Taxable Income	P 12,000,000.00
Divide by	÷ 12
Taxable Income per month	P 1,000,000.00
Tax Due:	
January 1 to June 30, 2020- (P1,000,000 X 6) X **30%**	P 1,800,000.00
July 1 to December 31, 2020 (P1,000,000 X 6) X **25%***	1,500,000.00
Total Tax Due-Regular	**P 3,300,000.00**

* 25% was used since its net taxable income exceeds P 5,000,000.00. Not subject to MCIT at this time.

FOREIGN CORPORATION

d. REJ Corporation, a resident foreign corporation, has gross sales of P500,000,000.00, cost of sales of P 300,000,000.00 and allowable deductions of P 75,000,000.00 for Fiscal Year ending April 30, 2021, its fourth year of business operations. Its total assets is P800,000,000.00 which included the land of P50,000,000.00 and other fixed assets of P200,000,000.00.

Gross Sales	500,000,000.00
Less: Cost of Sales	300,000,000.00
Gross Income	200,000,000.00
Less: Allowable Deductions	75,000,000.00

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NET TAXABLE INCOME	125,000,000.00
Divide by	÷ 12
Net Taxable Income per month	10,416,666.67
TAX DUE- REGULAR	
May 1 to June 30, 2020 (P10,416,666.67 X 2) 30%	P 6,250,000.00
July 1, 2020 to April 30, 2021 (P10,416,666.67 X10) 25%	26,041,666.67
INCOME TAX DUE	**P 32,291,666.67**
MCIT:	
Gross Income	200,000,000.00
Divide by	÷ 12
Gross Income per month	16,666,666.67
TAX DUE-MCIT	
May 1 to June 30, 2020 (16,666,666.67 X 2) 2%	P 666,666.67
July 1, 2020 to April 30, 2021 (16,666,666.67 X 10) 1%	1,666,666.67
TOTAL	**P 2,333,333.34**

* The **income tax payable** shall be **P 32,291,666.67** (the higher amount between the regular rate and MCIT).

For ease of computing the income tax due during the transition period, the following rates reflected in the matrix below may be used:

TRANSITORY RATES				
Annual Accounting Period (Transition TY 2020)	**Regular Corporate Income Tax Rates**	**Other domestic corporations with net taxable income ≤5M & total assets ≤100M, exclusive of land**	**MCIT**	**Proprietary Non-profit Edu/Hosp**
	30% / 25%	***30% / 20%***	***2% / 1%***	***10% / 1%***
FY 7-31-20	29.58 %	29.16 %	1.91 %	9.25 %
FY 8-31-20	29.16	28.33	1.82	8.50
FY 9-31-20	28.75	27.50	1.73	7.75
FY 10-31-20	28.33	26.66	1.64	7.00
FY 11-31-20	27.91	25.83	1.55	6.25
CY 12-31-20	27.50	25.00	1.50	5.50
FY 1-31-21	27.08	24.16	1.41	4.75
FY 2-28-21	26.66	23.33	1.32	4.00
FY 3-31-21	26.25	22.50	1.23	3.25
FY 4-30-21	25.83	21.66	1.14	2.50
FY 5-31-21	25.41	20.83	1.05	1.75
FY 6-30-21	25.00	20.00	1.00	1.00

For taxpayers who have already filed their income tax returns for taxable year 2020 (calendar year 2020; fiscal year ending from July 31, 2020 to fiscal year ending February 28, 2021) may amend their income returns using the transitory rates per above matrix, and any resulting excess/overpayment can be claimed for refund or tax credit certificate, or carried over to the next taxable year, at taxpayers' option.

SECTION 10. REPEALING CLAUSE. Any provisions of existing revenue regulations or revenue issuances which are inconsistent with these Regulations are hereby repealed, modified or amended accordingly.

SECTION 11. EFFECTIVITY. These regulations shall take effect immediately upon publication in the Official Gazette or in any two newspapers of general circulation, whichever comes earlier.

DEPARTMENT OF FINANCE
REPUBLIC OF THE PHILIPPINES
013130

CARLOS G. DOMINGUEZ
Secretary of Finance

APR 07 2021

Recommending Approval:

CAESAR R. DULAY
Commissioner of Internal Revenue

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