



2023 Tax Changes and Compensation:

All You Need to Know Before Year-End



Sprout held an online webinar that focused on the TRAIN Law and the upcoming 2023 Compensation Tax Table, especially those tax updates that will affect employers and their employees. Sprout's corporate clients were targeted to be served by the online webinar. Non-client employers, employees, HR specialists, financial professionals, and any other attendees also attended the webinar.

Sprout invited Mr. Conrado P. Item, Revenue Office under the Miscellaneous Operations Monitoring Division of BIR, was invited as keynote speaker, and Atty. Jay-ryan Trinidad as the Moderator.

After the presentation, a Q & A session was conducted to give the audience the opportunity to ask questions and raise suggestions. The following questions were raised and answered during the webinar:

1. Is the minimum wage based on the employer's head office and not based on the worker's location when it comes to remote and hybrid workers?

It should be based on the worker's location or work assignment pursuant to Revenue Regulation 10-2008.

2. Considering that commissions are taxable, should the tax collected on commission be returned to the employee who is an MWE with less than P250,000 yearly income?

Yes. Tax on commission deducted to a minimum wage earner with income as commission which did not reach P250,000 must be refunded.

3. What if leave credits are not categorized as vacation leave (VL) and sick leave (SL), but are only categorized as PTO (Paid Time Off) credits in general, how many days can be converted to cash that would be non-taxable?

The regulations provide that only VL can be monetized. If leave credits are categorized as PTO credits in general, then VL and SL cannot be distinguished, which means vacation leave credits that are convertible to cash and non-taxable cannot be determined. Hence, PTO credits will be taxed all together.

4. How can employers substantiate that they indeed provide de minimis benefits to its employees?

Receipts such as medical checkup receipts or any other proof that it was provided will be given weight.

5. Can employers provide medical allowance although it is already covered by HMO and if this medical allowance will be in the form of cash credit on top of the HMO benefit? What are acceptable receipts to administer this benefit to all employees?

Same answer with the previous question. Receipts and proof of checkup must be provided. In general, allowance is considered as additional income, so if an employee is not qualified to be entitled to the de minimis benefit then it's taxable.

6. Is the BIR considering revising the de minimis exemptions due to the increase of cost of prices?

Yes, the Tax Management Association of the Philippines proposed to increase the threshold of de minimis benefits because of the rise of the cost of prices. However, it is still under consideration.

7. For year-end adjustments, employees have a taxable allowance, now some allowance will be paid on January 15, 2022 but the Employer already considered such allowances as expenses for this year (2022). What would be the basis of tax computation, should the employer include the accrual of allowances this year, or next year since allowances will be released next year.

This year (2022) since allowances are already claimed as expenses this year.

8. About substituted filing, the spouse should be also substituted should this also be changed since there is no more dependent exemption unlike before? Is joint filing of husband and wife required in filing of IPR?

There is no change in status between husband and wife. The important matter is whether qualified with substituted filing. Filing jointly is not strictly implemented by BIR. The filing can be done separately.

9. What needs to be filed for MWE substituted filing if there are no deductions?

Still the BIR Form 2316. Although no deductions, MWE still qualified for substituted filing even without withholding tax. Include in 2316 that all are taxable, no income taxable

10. With regard to problematic employees who do not submit Form 2316 from their previous employer, what should we do as a new employer?

We cannot do anything since some employers do not provide 2316. As a remedy, the employee can report said employers to the BIR to be audited. Form 2316 is a demandable document from the employer.

11. Are employees with other employers within the calendar year qualified for substituted filing?

NO. income tax return must be filed. Such an employee is not qualified from substituted filing. If there are two (2) employers within the calendar year, an income tax return must be filed.

12. Individuals who had two (2) employers were able to submit Form 2316 from the previous employer, is that employee qualified for substituted filing?

Yes, since the employee had two (2) employers within the year.

13. Should the new employer file the data update for new hires or the employee should go to BIR RDO (where the workplace is located) for data update?

Employees should do it. As a new rule, if an employee transfers from one employer to another, the transfer registration should be the place of residence of the employee, not the City of the office of the employer.

14. Non resident aliens and expatriates are still considered qualified for substituted filing if they are earning compensation from their home country in the same calendar year? Also are they required to report their income earned from outside in the PH?

Not qualified for substituted filing and no need to report income from outside PH. Only their earnings received in the PH are taxable based on the territorial application under the tax code.

15. How to attach Form 2316 in BIR Form 1700?

If there is a need to pay, then it is possible to attach 2316 with 1700 upon payment in the bank. If an end-to-end transaction is online, then there is no way to attach.

16. With regard to monitoring of Form 1700, is it safe to say that it has been filed when an employee files it?

The employer should make sure the employee, indeed, filed ITR.

17. Do you accept e-signed forms of BIR documents?

Yes, acceptable.

18. Where can we get an official template of waiver for employees who cannot provide Form 2316?

No template.

19. Is there a sanction to employers who do not provide Form 2316?

Must be reported to BIR to be audited first.

20. Employees are given uniforms. Is the cost of uniforms paid to the suppliers considered as taxable income to employees?

If the uniform is not an employee benefit but just an expense of the employer and if employer is a withholding agent, employer shall deduct 2% withholding to the supplier. If uniform is a benefit to employees, de minimis benefit of 6% annually will be the basis for taxation.

21. An employee retires but the employer requested that such employee extend for another year as a volunteer with an allowance of 25k. Is the 25k taxable?

Cannot be called allowance or volunteer since s/he is receiving compensation. Allowance in general is taxable. If categorized as allowance then taxable. The employee will be subject to expanded withholding tax 5% or 10%.

22. Should de minimis benefit be given to all employees?

The employer has the discretion to provide de minimis benefits. De minimis benefit can be demandable if giving of such benefit has ripen into a company practice.

23. If an employee retires below 50 years of age, is s/he still subject to withholding tax in relation to his/her retirement benefit?

Retirement benefit will not be taxable if a retiring employee who is below 50 years old has rendered service for at least 10 years with a retirement benefit plan approved by BIR.

24. If an employee has a part-time job like consultancy, what form should such an employee file to the BIR?

BIR Form 1701 being a mixed income earner.

25. If an employee transfers to another company but within the group of companies. Is the employee subject to substituted filing even if within the same mother company?

No, not qualified to substitute filing.

26. Insurance agents who are earning commissions and not from regular employment, how to process income tax?

If an insurance agent is earning commission from another company, he is a mixed income earner. For employers, only the compensation should be withheld. Employees need to file an income tax return and combine income from employer and income as commission in BIR Form 1701.

27. One employer but an employee was assigned to different locations like isabela,manila, CDO, is she subject to different rates?

If minimum wage, basis would be the employee's rate in the location. If a regular employee then no problem.

28. On the eFPS of the BIR, what will be the remedy of the taxpayer if the system broke down during the last day of filing?

Report the matter to the respective RDO and send an email to contact_us@bir.gov.ph, indicating the error encountered and attaching proof of such error, such as screenshot.

29. Is there a special tax exemption extended to an employee who presented a PWD ID of his / her dependent?

No. Under the TRAIN law, the personal and additional exemption are removed. These include PWD and Senior Citizen dependents. Only the first Php250,000 income is exempted from tax.

30. How can an employer verify the TIN of an individual?

There are TIN verification stations in the RDO. However, an individual has to physically go to the RDO to verify his /her TIN. BIR also has a verifier. BIR will also release the RAVI chat box initiative of BIR to help employers.

31. Who shall sign the BIR Form 2316?

The one who is authorized by the employer.

32. What is the percentage amount of salary that can be a tax shield?

Only the first Php250,000 income is exempted from tax and those who are receiving below the minimum wage.

33. If an employer has senior citizen employees (beyond 65 years old) who are already receiving pension, are they still eligible to receive pension?

They should be given a consultant fee which is not subject to withholding tax and included in expanded withholding tax. The labor Code does not cover such a peculiar scenario, hence the best practice is to have consultancy agreement covered by civil code since the mandatory retirement is 65 years old.

34. Will there be changes in alpha list data entry?

Yes, a column will be added for personal equity and retirement accounts since there were employees who availed. When the money in said account matures, it will have a 5% incentive which is a tax deductible to tax due of the account holder.

35. Is there a change in tax table?

Yes, there will be changes in the rate of the tax table. Rates will be lower.

36. If there are changes in the alpha list, will there be an extension in filing?

Maybe. Too early to tell. It would depend on the progress in developing data entry.

37. An employee resigns and now an outsource consultant of the company, such employee is earning 65k per month, what is the tax rate?

Expanded withholding tax is applicable. Rate will be 5% or 10%. Rate of 5% is applicable if such employee presents a sworn declaration of income. If no sworn declaration of income, then 10%. Employers must only withhold to the excess of 250k if there is sworn declaration.

38. What is the basis of ITR computation if there will be an update next year?

Same with the basis of the current year.

39. Is HMO part of other benefits, de minimis benefit?

No.

40. Regarding SL and VL, not used all leave, planning all the unused this december, is this taxable?

10 days of VL are non-taxable. SL is supplementary compensation hence taxable.

41. Currently, the alphalist is 7.0 version, will this version be replaced or it is still being used?

Yes, 7.0 is still the current version since no new version has been released yet.

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