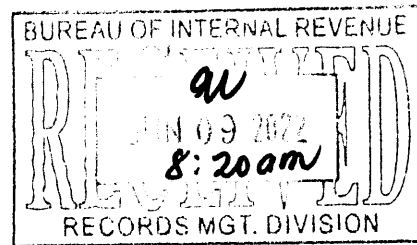




REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City



Date 08 JUN 2022

REVENUE MEMORANDUM CIRCULAR NO. 78 - 2022

SUBJECT : Clarifying the Income Tax Treatment of the Different Classifications of Educational Institutions and Their Tax Obligations

TO : All Internal Revenue Officers and Others Concerned

SECTION 1. BACKGROUND

This Circular is issued to clarify the different classifications of educational institutions referred to in the National Internal Revenue Code of 1997, as amended ("Tax Code"), the income tax treatment under each classification, the tax exemption and tax liabilities of specified class of educational institutions, the required withholding taxes on certain income payments, and their compliance requirements.

SECTION 2. COVERAGE

This Circular shall cover the following educational institutions and their income tax treatment, to wit:

A. **Proprietary Educational Institution** – refers to any private school 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, in accordance with existing laws and regulations.

1. **Domestic Corporation** – The income of a proprietary educational institution that is considered a "corporation", as defined under Section 22(B) of the Tax Code, and is organized in or existing under the laws of the Philippines, is subject to the ten percent (10%) preferential income tax rate under Section 27(B) of the Tax Code. Provided, that beginning July 1, 2020 until June 30, 2023, the tax rate imposed shall be one percent (1%).

Moreover, all domestic non-stock, non-profit (NSNP) educational institutions whose net income or assets accrue /inure to or benefit any member or specific person shall likewise be subject to the ten percent (10%) preferential income tax rate under Section 27(B) of the Tax Code. Provided, that beginning July 1, 2020 until June 30, 2023, the tax rate imposed shall be one percent (1%).

If the gross income of the domestic corporation proprietary educational institution - including NSNP educational institution in the preceding paragraph insofar as its revenues or income not used actually, directly and exclusively for educational purposes are concerned - from 'unrelated trade, business or other activity exceeds fifty percent (50%) of the total gross income it derived from all sources, the regular corporate income tax prescribed in Section 27(A) of the Tax Code shall be imposed on the entire taxable income of the said institution.

The term 'unrelated trade, business or other activity' means any trade, business or other activity, the conduct of which is not substantially related to the exercise or performance by such educational institution of its primary purpose or function.

2. **Others** – The other proprietary educational institutions that are not organized as domestic corporations are taxable as follows:

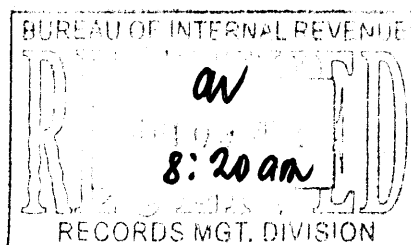
- i. **Individual** – The income of an individual, trust, or estate that owns the proprietary educational institution as a sole proprietor, is taxable under Sections 24 and 25 of the Tax Code, and the applicable tax rates shall depend on the citizenship and residence of such individual, trust, or estate.
- ii. **Other Corporations** – The income of a corporation, as defined under Section 22(B) of the Tax Code, that is not organized as domestic corporation but is classified as resident foreign corporation, is taxable under Section 28(A) of the Tax Code.

B. **Government Educational Institution** – refers to a public university or college that is fully owned and subsidized by the government. A government educational institution (GEI) may be created through a charter or a law passed by the Congress of the Philippines.

1. **Express Provision in Charter or Law**– If the GEI has a charter and the charter expressly provides that it is exempt from taxes, then such GEI is exempt from applicable taxes as may be provided in the aforesaid charter.
2. **No Express Provision in Law**– If the GEI's charter does not expressly provide that it is exempt from tax, it is nonetheless exempt from income tax on the income received as such pursuant to Section 30(I) of the Tax Code.

C. **Non-stock and Non-profit Educational Institution** – All revenues and assets of a non-stock, non-profit (NSNP) educational institution used actually, directly and exclusively for educational purposes shall be exempt from taxes and duties, pursuant to Paragraph 3, Section 4, Article XIV of the 1987 Constitution, and as reiterated in Section 30 of the Tax Code. For the Constitutional exemption to be enjoyed, the NSNP educational institutional must comply with the two requisites: (1) the school must be non-stock and non-profit; and (2) the income is actually, directly and exclusively used for educational purposes.

To avail of the exemption, the taxpayer must factually prove that its income or revenues are used actually, directly and exclusively for educational purposes, and that no net income or asset accrues to the benefit of any member of the corporation. For this purpose, the NSNP educational institution shall submit, together with the required annual income



tax return, a detailed breakdown of the expenses defrayed from each nature of revenues/income or an accounting for those actually, directly and exclusively used for educational purposes for the exemption to set in.

SECTION 3. OTHER APPLICABLE TAXES

A. Contributions or Gifts/Donations to Educational Institutions

Contributions or gifts/donation to educational institution may be subject to the following treatment:

1. Deduction from Gross Income of Donor

Contributions or gifts actually paid or made within the taxable year to domestic corporations organized and operated exclusively for educational purposes may be allowed as deduction from the gross income of the donor, in an amount not in excess of ten percent (10%) in the case of an individual, and five percent (5%) in the case of a corporation, of the donor's taxable income; *provided*, that no part of the net income or asset of the done corporation inures to the benefit of any individual or private stockholder; *provided further*, that if the conditions under Section 34(H)(2)(c) of the Tax Code are complied with, the contributions or gifts may be deductible in full.

2. Exemption from Donor's Tax

Certain gifts or donations in favor of an NSNP educational institution may be exempt from donor's tax, subject to the condition that not more than thirty percent (30%) of said gifts shall be used by the donee institution for administration purposes.

B. Withholding of Taxes

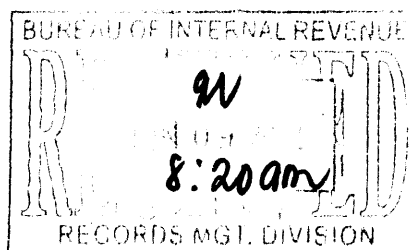
1. Withholding Tax obligations as income payor

An educational institution shall be constituted as a withholding agent for the government if it acts as an employer and its employee/s receive compensation income subject to withholding tax under Section 79(A) of the Tax Code as amended, or if it makes income payments to individuals or corporations subject to withholding tax pursuant to Section 57 of the Tax Code, as amended.

2. Withholding tax on income received

- a. NSNP educational institutions shall not be subject to any creditable or final withholding tax on their revenues and assets used actually, directly and exclusively for educational purposes as provided under the Constitution.

For this purpose, existing NSNP educational institutions shall continue to present to withholding agents their duly issued certificate of income tax exemption or exemption rulings, and SEC registration.



Newly-organized NSNP educational institutions must secure their certificate of tax exemption within three (3) months from the issuance of their Certificate of Registration with the SEC.

- b. The income payments to proprietary educational institutions, including NSNP educational institutions, which are subject to preferential income tax under Sec. 27(B) are subject to creditable and final withholding taxes. The creditable withholding tax on the income payments to these institutions should not be more than the statutory income tax rate imposed on proprietary educational institutions under Section 27(B) of the Tax Code.
- c. The income payments to educational institutions organized as sole proprietorships under Sec. 24(A)(2)(a) or Sec. 24(A)(2)(b), are also subject to creditable and final withholding taxes.

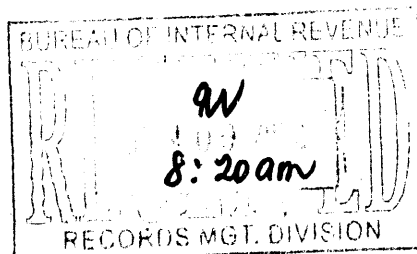
SECTION 4. COMPLIANCE REQUIREMENTS. All educational institutions are required to comply with the following:

A. Registration

1. All educational institutions are required to be registered with the BIR using the Application for Registration Form (BIR Form No. 1903, January 2018 ENCS for corporation and No. 1901 for Individuals) on or before the commencement of its operations. Mark line item number 5, "Taxpayer Type". If non-stock, non-profit, mark the box corresponding to "Non-stock, Non-Profit Organization" and fill-up line items number 23 and 24 for the specific legal basis of the exemption. *[e.g. Article XIV or Section 30 (H)]*
2. The registrant educational institution shall provide the specific legal basis *[e.g. Article XIV or Section 30(H)]* non-stock and nonprofit educational institutions] and the incentives to which it may be entitled as such organization (e.g. Income tax exemption) in the application form during registration.
3. **Tax Types.** Determine the proper tax type (i.e., whether IT, VAT or other percentage taxes) based on the nature of the business activity of the taxpayer, as provided under existing Regulations.

Register each type of internal revenue tax for which the corporation is obligated to file a return or pay taxes due thereon. Register for withholding tax if the educational institution is an employer and its employees receive compensation income under Section 79(A), or if it is expected to make income payments subject to expanded withholding tax under Section 57(B), both of the Tax Code, as amended. The said educational institution shall be constituted as withholding agent for the government.

4. **Compliance with Secondary Registration Processes.** Upon registering with BIR, the registrant must comply with the primary as well as the secondary registration processes which are all under the said BIR Form 1903/1901, except for registration of books of accounts which is under BIR Form 1905, and observe the prescribed periods therefor, pursuant to existing Regulations:



- a) Pay Annual Registration Fee (ARF), as applicable;
- b) Secure Certificate of Registration (COR);
- c) Proceed to Secondary Registration (*i.e.* Apply for Authority to Print [ATP] receipts/invoices and Register Books of Accounts); and
- d) Get "NOTICE TO ISSUE RECEIPT/INVOICE" (NIRI), if applicable.

i. Authority to Print Receipts/Invoices

The Application for Authority to Print Receipts and Invoices should be secured by the corporation or association before the commencement of business operations and the printing of its principal and supplementary receipts/invoices containing all the information required in the existing revenue issuances.

All educational institutions are required to obtain receipts by accomplishing an Application for Authority to Print Receipts and Invoices (included in BIR Form No. 1903/1901) and submit the same together with the documentary requirements to RDO where the Head Office is located or concerned office under the Large Taxpayer Service.

The serial numbers of such receipts/invoices shall be the continuation of previously approved Authority to Print, if any.

ii. Registration of Books of Accounts

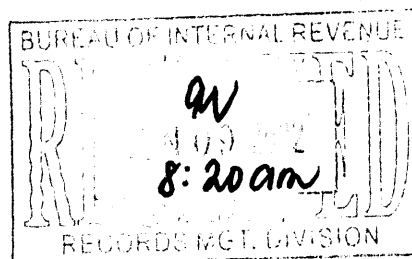
The Educational institutions shall likewise register its books of accounts and/or secure appropriate Permits to Use Loose Leaf Books of Accounts/Computerized Books of Accounts before its use.

The books or chart of accounts and other pertinent records are required to be at the place of business, and ready for presentation/examination to authorized Revenue Officers.

iii. Updating Registration

The educational institution is required to update its registration information by accomplishing and filing an Application for Registration Information Update (BIR Form No. 1905) together with the required documents with the Revenue District Office (RDO) where registered, for any of the following circumstances:

1. When the registered educational institution amends or changes its registered corporate/business name, business address, line of activity/business;
2. When there is a need to change in tax types, pursuant to a BIR Ruling/Certificate of Tax Exemption; or
3. Such other updates such as changes in incentive details, and accounting period. In the event of closure or cessation of operation, the educational institution should promptly inform the BIR and follow the existing procedures therefor.



B. Issuance of Receipts and Invoices

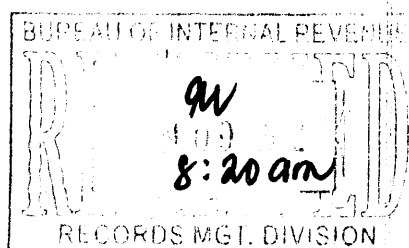
1. In the regular conduct of business, all educational institutions shall issue duly registered receipts or sales/commercial invoices showing the date of transaction, quantity, unit cost and description of merchandise or nature of service for each sale or transfer of merchandise or for services rendered valued at one-hundred pesos (P100.00) or more.
2. The original of each receipt or invoice shall be issued to the purchaser, customer or client and which receipt or invoice shall show the name, business style, if any, and address of the purchaser, customer or client. Where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser.
3. The non-stock, non-profit educational institutions shall issue official receipts with the words "Tax Exempt" printed prominently for all exempt revenues/receipts including donations received.

C. Filing of Tax Returns

1. NSNP educational institutions whose assets or income are all used actually, directly and exclusively for educational purposes, shall file annual income tax returns under BIR Form No. 1702-EX, together with the required attachments. No monthly and quarterly VAT or percentage tax returns shall be required.

However, the revenues or income of NSNP educational institutions not used actually, directly and exclusively for educational purposes shall be subject to the 25% regular corporate income tax pursuant to Section 27 (A) of the Tax Code, as amended. The NSNP educational institution shall file its annual income tax return under BIR Form No. 1702MX which shall be reflected under the column that will be subject to the regular income tax rate.

2. Proprietary educational institution, other than non-stock, non-profit, which is taxable under Section 27(B) of the Tax Code, as amended, with revenues from related, or from related and unrelated activities, where the gross revenues from the unrelated activities do not exceed 50% of the total gross revenues, shall file the annual income tax returns under BIR Form No. 1702-MX. If the gross revenues from the unrelated activities exceeds 50% of the total gross revenues, the proprietary educational institution's total taxable income shall now be subject to the regular tax rate of twenty-five percent (25%) under Sec, 27(A) of the Tax Code, as amended, the income tax return form to be used is BIR Form No. 1702RT.
3. In case organized as a sole proprietorship educational institution, which is taxable under Sec. 24(A)(2)(a), or Sec. 24(A)(2)(b), the income tax return form applicable is BIR Form Nos. 1701 and 1701A, respectively.
4. In case of sale, barter, exchange or lease of goods and/or services other than educational services, both the corporation (proprietary educational institution and NSNP educational institution) and sole proprietorship are required to file business tax



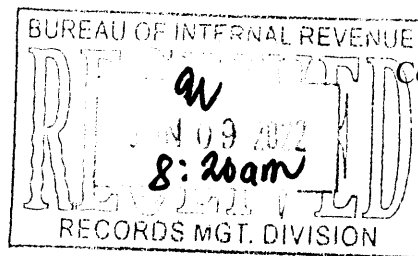
returns, either VAT or Percentage tax returns, as the case may be, using BIR Form Nos. 2550M/2550Q or 2551Q, respectively.

D. Certificate of Income Tax Exemption

1. As provided under Section 2 (C) of this Circular, all revenues and assets of a NSNP educational institution used actually, directly and exclusively for educational purposes shall be exempt from **income taxes**.
2. To ensure that the exempt income of a NSNP educational institution are used actually, directly, and exclusively for educational purposes, the NSNP educational institution is required to secure a **one-time** certificate of income tax exemption or exemption ruling from the BIR, subject to the submission of applicable documents, pursuant to Revenue Memorandum Circular (RMC) No. 24-2016 and Revenue Memorandum Order (RMO) No. 44-2016. Otherwise, the income of the NSNP educational institution shall be subject to applicable taxes under the Tax Code.

SECTION 5. EFFECTIVITY

This Circular shall take effect immediately. All are enjoined to give this Circular a wide publicity as possible.




CAESAR R. DULAY
Commissioner of Internal Revenue

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