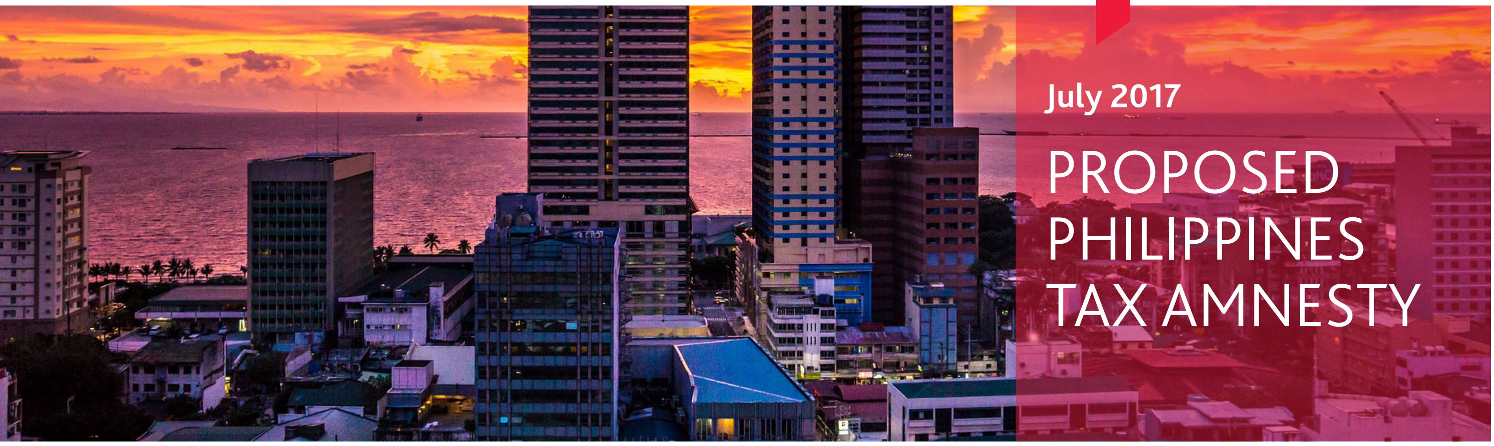
BDO



July 2017

PROPOSED PHILIPPINES TAX AMNESTY

PHILIPPINES' TAX AMNESTY LAWS AND PENDING LEGISLATION

Proposed legislation for a tax amnesty is working its way through the Philippines Congress. Both the House and Senate have passed bills providing for tax amnesties on estate taxes and income taxes. While the details of the bills vary slightly, the terms are broadly similar. This tax alert aims to introduce the proposed changes and provide some thoughts on how they might affect you.

GENERAL AND ESTATE TAX AMNESTIES

The estate tax amnesty is likely to be in the terms set out in House Bill 4814 (HB 4814), approved by Congress earlier this year. HB 4814 provides for estate tax at a rate of 6% of the decedent's net estate, which is towards the lower end of the spectrum of the prevailing estate tax rate, which applies at a graduated rate of 5 – 20%.

At the same time, both the House and Senate have introduced several bills relating to a general tax amnesty. While the details differ slightly, the proposed bills provide that a rate of 5% or PHP 50,000, whichever is higher, would apply to unpaid taxes. This is the lowest tier of the individual income tax rate, which applies at a graduated rate of 5 – 32%.

An important aspect under the proposed tax amnesties is the provision of immunity from civil and criminal penalties. The penalties for filing late returns consist of a 25% surcharge and a 20% deficiency interest per annum, as well as criminal penalties, which include a term of imprisonment of between 1 – 10 years.

When combined with the waiver of penalties for late payment, the proposed tax amnesties may be a good opportunity for taxpayers that have not previously paid taxes to declare their assets without facing a large tax bill or criminal penalties.

THE TAX AMNESTIES AND AUTOMATIC EXCHANGE OF INFORMATION (AEOI)

An important reason for considering the tax amnesties is the development of the AEOI regime. Under this regime, tax authorities of participating countries send an individual's information to the country of tax residence of that individual. This means that the individual would no longer be able to avoid having his assets scrutinised by the tax authorities of his resident country by holding their assets offshore.

Unlike Indonesia, which has recently conducted a successful tax amnesty program, the Philippines is not part of the AEOI regime. Due to its banking secrecy laws, the Philippines is not a signatory to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting, which was entered into by 70 other countries on 7 June 2017.

This means that there is no obligation for other countries to share information with the Philippines on the assets held by its tax residents in their jurisdictions. This significantly reduces the incentive for non-compliant tax residents to take part in the tax amnesties.

However, this does not mean the Philippines will not take part in the AEOI. The Philippines has already shown its desire to co-operate with other countries by signing the Convention on Mutual Assistance in Tax Matters in 2014.

Tax residents should therefore look beyond the current landscape in deciding whether or not to take part in the tax amnesties. By proposing the tax amnesties, the government shows commitment that it will make the necessary changes to raise the necessary tax revenue. Changes to banking secrecy laws to enable participation in the AEOI no longer look far-fetched.

HOW TO APPLY

While details on the mechanism for applying for the proposed tax amnesties vary in the bills, they generally consist of making a tax amnesty return to the tax authority and a tax amnesty payment within a limited time. The earliest deadline for the proposed bills is 31 December 2017.

There are conditions attached to the amnesty. Notably, an understatement of the gross assets by 30% would result in the cessation of the privileges and subject the taxpayer to penalties for perjury. It is therefore important that the returns are properly prepared and submitted within the stipulated time frame.

WHAT CAN I DO?

The terms of the tax amnesties and whether they will even take place have not been confirmed. However, it is not too early to undertake a review of your holding structure to identify risk areas, as well as develop a sound strategy on how to comply with the new laws should they be introduced.

HOW WE CAN HELP

At BDO, we have the expertise and experience in a broad range of services including but not limited to managing tax amnesty applications, reviewing structures and resolving tax disputes. We are also in a position to assist you should you wish to avail of the amnesty once the law has been passed. We can evaluate the estate's assets, prepare the tax amnesty return or estate tax return, as the case may be, prepare and file the application for amnesty and assist in meeting with the revenue examiners to discuss the filing of amnesty, when necessary. Please feel free to contact us and let us know how we can assist you.

YOUR BDO PCS TAX CONTACT

KYLIE LUO
Executive Director
kylieluo@bdo.com.sg
+65 6828 9157 | +65 9711 3760

BDO TAX ADVISORY PTE LTD
600 North Bridge Road #23-01 Parkview Square
Singapore 188778
Tel: +65 6828 9118
Fax: +65 6828 9111

www.bdo.com.sg