



DELAMIDE & LOCK



TRAIN LAW UPDATE

Taxation of Educational Institutions

May 31, 2019

TRAIN LAW

Highlights

TAXATION OF EDUCATIONAL INSTITUTIONS





HIGHLIGHTS

- ❖ Revised Income Tax Rates effective Year 2018 and Year 2023
 - Five-tier income tax brackets
 - Exemption level – Php250,000
 - Lowest rate – 20%
 - Highest rate – 35%
- ❖ Option to avail of 8% income tax rate
- ❖ No personal and additional exemption
- ❖ P90,000 tax exempt for 13th month pay and other benefits
- ❖ May 15 – New deadline of Q1 ITR for individual



New Individual Income Tax Rates

Effective January 1, 2018 until December 31, 2022:

RANGE OF TAXABLE INCOME		TAX DUE = a + (b x c)		
OVER	NOT OVER	BASIC AMOUNT (a)	ADDITIONAL RATE (b)	OF EXCESS OVER (c)
-	250,000.00	-		-
250,000.00	400,000.00	-	20%	250,000.00
400,000.00	800,000.00	30,000.00	25%	400,000.00
800,000.00	2,000,000.00	130,000.00	30%	800,000.00
2,000,000.00	8,000,000.00	490,000.00	32%	2,000,000.00
8,000,000.00	-	2,410,000.00	35%	8,000,000.00

Effective January 1, 2023 and onwards:

RANGE OF TAXABLE INCOME		TAX DUE = a + (b x c)		
OVER	NOT OVER	BASIC AMOUNT (a)	ADDITIONAL RATE (b)	OF EXCESS OVER (c)
-	250,000.00	-		-
250,000.00	400,000.00	-	15%	250,000.00
400,000.00	800,000.00	22,500.00	20%	400,000.00
800,000.00	2,000,000.00	102,500.00	25%	800,000.00
2,000,000.00	8,000,000.00	402,500.00	30%	2,000,000.00
8,000,000.00	-	2,202,500.00	35%	8,000,000.00

Taxable Income	Graduated Income Tax Rates	
Not over P10,000	-	5%
Over P10,000 but not over P30,000	P500	+ 10% of the excess over P10,000
Over P30,000 but not over P70,000	P2,500	+ 15% of the excess over P30,000
Over P70,000 but not over P140,000	P8,500	+ 20% of the excess over P70,000
Over P140,000 but not over P250,000	P22,500	+ 25% of the excess over P140,000
Over P250,000 but not over P500,000	P50,000	+ 30% of the excess over P250,000
Over P500,000	P125,000	+ 32% of the excess over P500,000



HIGHLIGHTS

- ❖ Increase in VAT threshold to Php3 million
- ❖ Increase in gross sales requirement for audited FS from Php500,000 to Php3,000,000
- ❖ Increase in minimum invoicing amount from Php25.00 to Php100.00
- ❖ Doubling of DST rates

General Taxation of Educational Institutions



Constitutional Provisions

❖ ARTICLE VI- The Legislative Department

- Charitable institutions, churches and parsonages or convents appurtenant thereto, mosques, non-profit cemeteries, and all lands, buildings, and improvements, actually, directly, and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation.

❖ ARTICLE XIV - Education, Science and Technology, Arts, Culture, and Sports Education

- All revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties. Upon the dissolution or cessation of the corporate existence of such institutions, their assets shall be disposed of in the manner provided by law.
 - Proprietary educational institutions, including those cooperatively owned, may likewise be entitled to such exemptions subject to the limitations provided by law including restrictions on dividends and provisions for reinvestment.
- Subject to conditions prescribed by law, all grants, endowments, donations, or contributions used actually, directly, and exclusively for educational purposes shall be exempt from tax.
 - Per Tax Code, subject to the condition that not more than 30% of said gift shall be used for administration purposes.



Income Tax

❖ Nonstock and nonprofit educational institution

■ General Rule: Covered under corporate taxation

■ Exemption:

■ Sec. 30(H) – Nonstock and nonprofit educational institution

- Covers only income taxes for which it is directly liable
- Tax exemption covers ONLY the revenues derived in pursuance of its purpose as an educational institution and used actually, directly and exclusively for educational purposes
- Subject to tax on its income derived from any of its properties, real or personal, or any activity conducted for profit regardless of the disposition thereof
- Revenues derived from assets used in the operation of cafeterias/canteens and bookstores are exempt from taxation provided they are owned and operated by the school as ancillary activities and the same are located within its premises.

■ Passive income covered by general rules except interest



Income Tax

❖ Nonstock nonprofit educational institution

- School, college or university
- Scheduled curriculum, regular faculty, regularly enrolled student body
- Incorporated as nonstock, nonprofit
 - Nonprofit means no net income or asset accrues to or benefits any member or specific person, with all the net income or asset devoted to the institution's purposes and all its activities conducted not for profit.
- Purposely established as an educational institution
- Pays no dividends, earnings not inuring to any member, organizer, officer, or any specific person
- Governed by trustees who receive no compensation
- Devotes all income, whether student fees or gifts, donations, subsidies, to the accomplishment and promotion of the purposes in its Articles
- Registered or recognized by DepEd, CHED, or TESDA



Income Tax

❖ Nonstock nonprofit educational institution

■ Two tests:

1. Organizational Test – Constitutive documents must show that upon dissolution, assets shall go to entities of similar nature or purpose or to government
2. Operational Test – Substantial part of its operations must not be “activities conducted for profit”

■ Inurement

- Payment of compensation, salaries or honorarium to trustees or organizers
- Payment of exorbitant or unreasonable compensation to employees
- Provision of welfare aid and financial assistance to its members
- Donations to other entity or person unrelated to educational purpose
- Purchases at above fair market value from related entity



Income Tax

❖ Requirements for special treatment of interest income

- DOF Department Order No. 149-95 dated November 24, 1995 amending Department Order No. 137-87
 - Interest income from currency bank deposits and yield from deposit substitute instruments used actually, directly and exclusively in pursuance of its purpose as an educational institution, are exempt from the 20% final tax and 7 1/2% tax on interest income under the expanded foreign currency deposit system imposed under Section 27 (D) (1) of the Tax Code of 1997, subject to compliance with the conditions that as a tax-exempt educational institution it shall on an annual basis submit to the Revenue District Office concerned an annual information return and duly audited financial statement together with the following:
 - a) Certification from their depository banks as to the amount of interest income earned from passive investment not subject to the 20% final withholding tax and 7 1/2% tax on interest income under the expanded foreign currency deposit system imposed by Section 27 (D) (1) of the Tax Code of 1997;
 - b) Certification of actual utilization of the said income; and
 - c) Board Resolution by the school administration on proposed projects (i.e., construction and/or improvement of school buildings and facilities, acquisition of equipment, books and the like) to be funded out of the money deposited in banks or placed in money markets, on or before the 15th day of the fourth month following the end of its taxable year (Sec. 4, Finance Department Order No. 137-87).



Income Tax

- ❖ Requirements for securing a certificate of exemption after the three (3)-year period (Section 2 of Revenue Memorandum Order (RMO) 44-2016)
 - a) Original copy of the application letter for issuance of Tax Exemption Ruling;
 - b) Certified true copy of the Certificate of Good Standing issued by the Securities and Exchange Commission;
 - c) Original copy of the Certification under Oath by the Treasurer of the corporation or association as to the amount of income, compensation, salaries or any emoluments paid by the corporation or association to its trustees, officers and other executive officers.
 - d) Certified true copies of the Financial Statements of the corporation or association for the last three (3) years;



Income Tax

- e) Certified true copy of government recognition/permit/accreditation to operate as an educational institution issued by the Commission on Higher Education (CHED) and/or the Department of Education (DepEd);
- f) For TESDA-Accredited Institutions offering Technical and Vocational Educational Training (TVET) Programs/Courses, certified true copies of the TESDA Registrations of the TVET Programs/Courses offered;
- g) If the government recognition/permit/accreditation to operate as an education institution was issued more than five (5) years prior to the application for tax exemption/revalidation, an original copy of a current Certificate of Operation/Good Standing, or other equivalent document, issued by the appropriate government agency (i.e., CHED, DepEd, or TESDA) shall be submitted as proof that the non-stock and non-profit educational institution is currently operating as such;



Income Tax

- f) Original copy of Certificate of Annual revenues and assets by the Treasurer or his equivalent of the non-stock and non-profit educational institution. In accordance with the guidelines set forth in Section 1.3 of Department of Finance (DOF) Order No. 137-87, the Certificate shall provide a breakdown of the following:
- 1) Any amount in cash or in kind (including administrative expenses) paid or utilized to accomplish one or more purposes for which the educational institution was created or organized, including grant of scholarship to deserving students and professorial chairs for the enhancement of professorial course.
 - 2) Any amount paid to acquire an asset used (or held for use) directly in carrying out one or more purposes for which it was created or organized, including the upgrading of existing facilities to support the conduct of the above activities.
 - 3) Any amount in cash or in kind invested in an activity related to the educational purposes for which it was created or organized.
 - 4) Any amount set aside for a specific project, which must be supported by a Board Resolution issued by the school administration on proposed projects (i.e., construction and/or improvement of school buildings and facilities, acquisition of equipment, books and the like) to be funded out of the money deposited in banks or placed in money markets, on or before the 15th day of the fourth month following the end of its taxable year.



Income Tax

❖ Proprietary Nonprofit Educational Institution

■ General Rule: Covered under corporate taxation – special rate of 10%

- Gross income from unrelated trade, business or other activity does not exceed fifty percent (50%) of their total gross income derived from all sources
 - If it exceeds fifty percent (50), the entire taxable income shall be subject to the regular corporate income tax rate prescribed under Section 27 (A) of the Tax Code." (Section 27 [B] of the Tax Code of 1997, as amended; Commissioner of Internal Revenue vs. St. Luke's Medical Center, Inc., G.R. Nos. 195909 and 195960 dated 26 September 2012)
 - 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
 - Canteen operated by concessionaires or owned by school but caters to private events or functions or to the general public
 - Rental of commercial stalls, gym, parking, equipment, dormitories outside school premises
- Passive income covered by general rules under Section 27 (D) of the Tax Code.
- "Proprietary" means private, following the definition of a "proprietary educational institution" as "any private school maintained and administered by private individuals or groups" with a government permit. "Non-profit" means no net income or asset accrues to or benefits any member or specific person, with all the net income or asset devoted to the institution's purposes and all its activities conducted not for profit.

VAT



Value-Added Tax

- General Rule: 12% on gross receipts
- Exemption:
 - Educational services rendered by private educational institutions, duly accredited by the Department of Education (DepEd), the Commission on Higher Education (CHED), the Technical Education and Skills Development Authority (TESDA) and those rendered by government educational institutions
 - Gross receipts not exceeding Php3 Million (become subject to Percentage Tax)

QUESTIONS?

THANK YOU
