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"Outstanding professionals working together to deliver value"



Our Valued Clients,

A number of important developments were made in the midst of the Fourth Quarter Storm.

- The SEC amended its rules on the filing of certain reports, which will take effect on 01 January 2008.
- The Supreme Court has ruled that under Section 76 of the Tax Code the option to carry over excess income tax or claim the same as refund are alternative remedies, and the choice of one precludes the other.
- BIR has now aligned and required the computation of the Minimum Corporate Income Tax with the mandatory quarterly filling of the normal corporate income tax.

Also in this issue of **INTAX** we are featuring various clarificatory provisions issued by the BIR regarding the tax amnesty program. This will be most useful for those parties intending to avail of it.

Our clients and readers will likewise be interested in the new directives issued by the Bureau of Customs that cover a range of topics, such as:

- Increase in the tariff of imported steel
- Formation of the National Task Force on the modernization of the Tariff and Customs Code
- Treatment of importers who are either blacklisted or whose broker's licenses are revoked
- Disbanding of the Monitoring Group for Warehousing
- PEZA/Free Port Zones Operations

All these changes will impact the way business is conducted, as we enter into the new year. We at KPMG Manabat sanagustin & Co. can help you navigate through these new in-roads. So please do not hesitate to call us for any clarification or advice.

In behalf of our Chairman, Roberto Manabat and our Vice Chairman for Audit Services, Jorge S. Sanagustin, and the rest of the KPMG staff, I would like to greet all of you, our dear clients and readers, a very Merry Christmas! May 2008 usher in more business opportunities for all of us.

Warm personal regards.

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Supreme Court Cases



Excess Tax Credit

The exercise of the option to carry over excess tax credits bars a taxpayer from claiming the same excess tax credits for refund in the succeeding taxable year. Section 76 of the Tax Code provides that once the option to carry over and apply the excess quarterly income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of tax credit certificate (TCC) shall be allowed. These remedies are in the alternative and the choice of one precludes the other.

The phrase "such option shall be considered irrevocable for that taxable period" in Section 76 of the Tax Code means that the option to carry over the excess tax credits of a particular taxable year can no longer be revoked. (SYSTRA Philippines, Inc. v. CIR, G.R. No. 176290, promulgated 21 September 2007)

VAT Refund/Application for TCC

The submission of photocopies of invoices and official receipts in support of a claim for excess input VAT refund/application for TCC is mandatory. Court of Tax Appeals (CTA) Circular No.1-95 requires that photocopies of the receipts or invoices must be pre-marked and submitted to the CTA to verify the correctness of the summary listing and the CPA certification. The submission of photocopies of purchase invoices and receipts is indispensable when applying for tax credit or refund. In fact, the original copy of the invoices or receipts must be presented for cancellation prior to the issuance of a TCC or payment of cash refund. (*Atlas Consolidated Mining and Development Corporation v. CIR*, G.R. No. 146221, promulgated 25 September 2007)

Taxes on Freezone Imports

In a recent ruling, the Supreme Court declared that while RA 7227 (Bases Conversion & Development Act of 1992) granted certain exemptions from local and national taxes, including excise taxes on importations of general merchandise, nevertheless, RA 9334, which took effect on 01 January 2005, withdrew such tax exemption privilege on cigar, cigarette, distilled spirit, fermented liquor, and wine imports. Section 6 of RA 9334 amended Section 131 of the Tax Code withdrawing private respondents' tax exemption privilege and provides in part: "The provision of any special or general law to the contrary notwithstanding, the importation of cigars and cigarettes,

distilled spirits, fermented liquors and wines into the Philippines, even if destined for tax and duty free shops, shall be subject to all applicable taxes, duties, charges, including excise taxes due thereon. This shall apply to cigars and cigarettes, distilled spirits, fermented liquors and wines brought directly into the duly chartered or legislated freeports of the Subic Economic Freeport Zone, created under Republic Act No. 7227." (Republic of the Philippines, et. al. v. Hon. Caguioa, et. al., G.R. No. 168584, promulgated 15 October 2007)

Court of Tax Appeals En Banc



Certificates of Creditable Withholding Tax

The certificates of creditable tax withheld at source are sufficient to prove the fact of withholding and remittance of withholding tax. The information contained therein are presumed correct as it was executed under the penalties of perjury. Moreover, the fact of withholding and remittance are functions vested with the payor–withholding agents who are the agents of the BIR. (*CIR vs. Philippine National Bank*, CTA EB No. 285, promulgated 1 October 2007)

Prescriptive Period of Refund

The 2 year prescriptive period for a claim for refund under Sections 204(c) and 229 of the Tax Code must be counted from the date of payment of the tax and not from the issuance of the BIR ruling. The principle of *solutio indebiti*, which has a 6 year prescriptive period, is not applicable as the Civil Code is merely a general law while the Tax Code is a special law. (*CIR vs. Manila Electric Company*, CTA EB No. 264 promulgated, 15 October 2007)

Refund of Excess Tax Credits

A taxpayer who opts to carry over and apply its excess creditable withholding tax credits against its tax liability for the subsequent year may refund the excess tax credits in the event it incurs a net loss during such subsequent year, ceases operations, and is cleared of any income tax liability. It is necessary, however, that the taxpayer comply with the following three (3) substantiation requirements:

- a. that the claim for refund was filed within the two–year prescriptive period prescribed under Section 204(c) in relation to Section 229 of the Tax Code;

- b. that the fact of withholding is established by a copy of a statement duly issued by the payor (withholding agent) to the payee, showing the amount paid and the amount of tax withheld; and
- c. the income upon which the taxes were withheld were included in the return of the recipient.

(Shell Services International Sendirian Berhad v. CIR, CTA EB No. 196, promulgated 30 October 2007)

Court of Tax Appeals

Income Tax Exemption of a GOCC

For government-owned or controlled corporations (GOCC) to qualify for tax exemption granted under Section 32(B)(7)(b) of the Tax Code, such income must accrue to the government or any political subdivision. The exemption granted under Section 32(B)(7)(b) of the Tax Code does not apply if the income derived by a GOCC does not accrue to the government, such as, when its charter provides that income shall be utilized for the operation and maintenance of the company. (*Silang Water District vs. CIR*, CTA No. 7403 promulgated 9 October 2007)



Bureau of Local Government Finance

Local Government Authority to Tax

Local governments cannot authorize municipalities to levy a tax on a newly started business on the basis of contract price, invested capital, or capital investment, the latter being only applicable in the case of franchise tax and tax on business of printing and publication. In addition, local government units cannot validly levy and collect taxes, fees and charges in the absence of an enabling ordinance, otherwise, the imposition and collection are without legal basis. The municipalities cannot impose a local business tax based on the gross sales/receipts of the power plant for the preceding calendar year. As owner of the power plant, it is the National Power Corporation that is liable for the business tax based on gross receipts of the plant prior to 25 April 2007. (BLGF Opinion, 08 October 2007)

Bureau of Internal Revenue

Computation of the Minimum Corporate Income Tax (MCIT)

Revenue Regulations No. (RR) 12–2007, issued 10 October 2007, amended certain provisions of RR 9–98 regarding the due date within which to compute the MCIT in order to align the time of payment of the latter with the mandatory quarterly filing of normal corporate income taxes. The salient features of the regulations are as follows:

- The rule on the computation and the payment of MCIT shall likewise apply at the time of filing of the quarterly corporate income tax.
- If the quarterly MCIT is higher than the quarterly normal income tax, the MCIT of 2% on gross income as of the end of the taxable quarter shall be paid. The following are creditable against the quarterly MCIT due:
 1. MCIT paid for the previous quarter/s of the same taxable year;
 2. Normal income tax paid for the previous quarter/s of the same taxable year;
 3. Expanded withholding tax (EWT) in the current year; and
 4. Excess EWT from the prior year.

Excess MCIT from the previous taxable year/s are not creditable.

- Computation of the annual income tax due:
 - If the normal income tax due is higher than the computed annual MCIT, all the above may be credited, plus excess MCIT in the prior year/s (subject to prescriptive period allowed for its credibility); and
 - If the computed annual MCIT due is higher than the annual normal income tax due, all of the above may be credited against the annual MCIT.
- For MCIT purposes, the term “gross income” shall include all items of the gross income enumerated under Section 32(A) of the Tax Code, as amended, except income exempt from income tax and income subject to final withholding tax.
- Items of gross income arising from an activity apart from the taxpayers core business activities which are subject to the normal corporate income tax must be included as gross income in computing MCIT.



- MCIT shall be computed on a cumulative basis covering the current taxable quarter and the previous taxable quarters of the same taxable year. The higher amount between the computed MCIT and the cumulative normal income tax shall be paid for said taxable quarter.

Availment of Tax Amnesty

Revenue Memorandum Circular No. (RMC) 69–2007, issued 5 November 2007, was issued to clarify certain issues on the availment of the Tax Amnesty Program (TAP). The salient features are as follows:

Coverage of the TAP

- All national internal revenue taxes as of 31 December 2005 and previous years, except withholding taxes and taxes passed–on and already collected from customers for remittance to the BIR.
- Donors and capital gains tax: only for underdeclarations / undervaluations previously issued with a Certificate Authorizing Registration.
- Cases subject of criminal complaint filed with the Department of Justice (DOJ), except Run–After–Tax–Evaders (RATE) and tax evasion cases.
- Taxable Year 2005 includes all taxable years which end in any month of the year 2005, whether calendar or fiscal year.

Exclusions from TAP

- Delinquent Accounts/Accounts Receivable and unpaid self–assessed taxes, as of the date of amnesty availment.
- Taxpayers with an agreement with the BIR for payment of deficiency taxes, whether in full or installment basis, can no longer avail of TAP for such particular tax case.
- Assessments which are final and executory prior to amnesty availment.
- Cases covered by compromise program or abatement program of the BIR, insofar as the tax subject of the compromise/abatement is concerned

Qualified Taxpayers

- Individuals and juridical entities, including representative offices and branches, and ecozone and Freeport entities.



- Surviving or new corporations may avail of TAP on behalf of absorbed or dissolved corporations pursuant to a merger or consolidation that took effect prior to taxable year 2005 for purposes of obtaining tax clearances.
- Retiring companies under liquidation and/or dissolution.

Basis for Computing the TAP and prescribed Rates

- Qualified taxpayers who have not previously filed statements of assets, liabilities and net worth (SALN)/ balance sheet as of 31 December 2005: the higher amount between the 5% of the net worth as of 31 December (or any month–end in 2005) as declared in the SALN or the minimum amnesty payments.
- Qualified taxpayers who have previously filed their SALN/balance sheet together with their income tax returns for taxable year 2005 and who desire to avail of the tax amnesty shall amend their previously filed statements by including still undeclared assets and/or liabilities: 5% based on the resulting increase in the networth or the minimum amount prescribed by the Tax Amnesty Law, whichever is higher.
- Qualified taxpayers who had been filing their current net worth and have no additional asset to declare but would like to avail of the TAP: the higher amount between the 5% of the total declared net worth as a Balance Sheet date in 2005 or the minimum amnesty payments.

Valuation Rules to be Observed in the Availment of TAP

- For Corporations: generally value all assets, liabilities and network following PFRS/IFRS;
- For Individuals: GAAP for business–related assets, liabilities and network. For non–business–related assests, liabilities & network, valuation shall be at cost; if acquired through purchase, or at Fair Market Value (FMV), if acquired through inheritance or donation;
- For Cooperatives, Foundations, and Partnerships: the mandated rules of SEC, Cooperative Development Authority (CDA), etc.;
- For Estates under Administration: GAAP. Otherwise, GAAP will be used for business–related assets, and valued at cost if acquired by purchase or FMV, if acquired through donation or inheritance, for non–business–related assets/liabilities;
- For Trusts: GAAP.

Procedures for Availment of TAP

- Accomplish and submit Notice of Availment Form, SALN, Tax Amnesty Form (BIR Form No. 2116), Payment Form (BIR Form No. 0617), together with the prescribed supporting documents
- Pay the amnesty tax using BIR Form No. 0617 to the appropriate agent bank or BIR collection agent
- Residents shall file the above amnesty forms with the BIR office with jurisdiction over them. Nonresi–dents shall file with the Office of the Commissioner or any Revenue District Office (RDO).

Others

- Balance Sheet, for TAP purposes, should be converted into the SALN format.
- Amendments of 2006 Balance Sheet are allowed even after Letters of Authority (LA), Tax Verification Notices (TVNs), or Audit Notices (ANs) are issued only if the taxpayer avails of the TAP. Amendments are limited to the increase in previously declared business-related assets and net worth.
- The SALN can be presented in US dollars or the company's functional currency provided that the peso value shall also be shown using the exchange rate as of Balance Sheet date.
- LAs or TVNs for 2005 and prior taxable years may still be issued to taxpayers who availed of TAP to audit withholding taxes, unpaid self-assessed taxes, and funds collected from customers held in trust for the Government.
- LAs/TVNs or ANs for ongoing examination shall be deemed cancelled upon presentation of proof of availment of TAP corresponding to that taxable period under examination except those specifically excluded by law.
- Duly protested FAN, as a rule, can be covered by TAP.
- **Only companies reflecting positive net worth can avail of TAP.**
- Payments under NAP, IVAP, and EVAP are not allowed to be deducted from TAP payments.
- Amnesty tax is a non-deductible expense for tax purposes.
- There is only one application for the tax amnesty covering taxable year 2005 and prior years and not an application on a per year basis.
- Only CASH payments are allowed as payment of the Amnesty Tax, which must be paid in full.
- The amended 2005 SALN/Balance Sheet for TAP purposes does not require the opinion of an independent auditor.
- A SALN already filed under TAP may still be amended but only to reflect additional asset with corresponding increase in net worth. No reduction in payment is allowed.

Effective Period to Avail TAP

- Qualified taxpayers have until **6 March 2008** to avail of TAP.

Readers are encouraged to read the full text of RMC 69–2007.

Treatment of Protested Deficiency Tax Cases for Tax Amnesty Purposes

RMC 70–2007, issued 7 November 2007, clarifies the proper treatment of cases under administrative or judicial protest for amnesty tax purposes. Cases under administrative and judicial protest involving issues decided by the Supreme Court are no longer covered by the Amnesty Law if:

1. There is already a final resolution by the Supreme Court on that issue; and
2. This resolution has been applied to at least one instance under similar circumstances.

Under the above conditions, the same treatment is accorded to all others similarly situated. In any event, it is believed that the BIR will need to take steps to further clarify RMC 70–2007.

Guidelines and Procedures for Withholding Tax Returns

Revenue Memorandum Order No. (RMO) 28–2007, issued 17 September 2007, prescribes the guidelines and procedures for the transmittal and processing of withholding tax returns under the Tax Reconciliation System (TRS). Through the consolidation and cross–referencing of data from withholding agents (WA) and declaration of income recipients, discrepancy reports can be generated to uncover possible tax violations such as:

- underdeclaration/non–declaration of income;
- under remittance and/or non–remittance of taxes withheld;
- over/under withholding; and
- over declaration of credits.

Timely recognition and reporting of unregistered taxpayers and non–filers are also made possible with the use of TRS.

Procedure

- Taxpayers with a discrepancy that breaches the threshold fixed by the BIR from time to time will receive a TRS Letter Notice (TRS–LN).
- Taxpayers may refute the TRS–LN within 15 days from receipt of the LN by submitting schedules, supporting documents, and a sworn statement attesting to the veracity and authenticity of documents submitted.
- If the Taxpayer does not reply within 15 days, a follow–up letter is issued.
- If the Taxpayer does not reply within 15 days from receipt of the follow–up letter, a Letter of Authority and Notice of Informal Conference are issued.
- If the Taxpayer still does not reply within 15 days, either a Preliminary or Final Assessment Notice is issued. Thereafter, the assessment will run its normal course.

Settlement/Payment of TRS-LN

- To settle a TRS–LN, the taxpayer should pay not only the deficiency income tax on the discrepancy but also the VAT and Percentage Tax applicable.
- The settlement and payment of the deficiency taxes under TRS–LN **does not** bar a regular tax audit but any payment made may be credited against an assessment of the same nature and for the same taxable year.

Effect on Taxpayers

- TRS–LN shall be considered as equivalent to a Letter of Authority (LA), such that returns for the period and/or transaction involved can no longer be amended.
- If there is an existing LA, the TRS–LN will be included in the tax audit findings.
- If the tax audit has been closed and terminated but the taxable year has not yet prescribed, the taxpayer is still liable for the amount stated in the TRS–LN.
- Notwithstanding the prescription of the case, if the tax due has been underreported by over 30%, fraud is presumed; hence, assessment notices and demand letters shall still be issued against the taxpayer.

Guidelines for Letter 2006 Letter Notices

RMO 32–2007, issued 8 October 2007, prescribes the guidelines and procedures in handling 2006 Letter Notices generated thru Reconciliation of Listing for Enforcement System (RELIEF)–Summary List of Sales and Purchases (SLSP) and Third Party Matching–Bureau of Customs (TPM–BOC) Data Program. The following are the salient features of the RMO:

- Taxpayers with a discrepancy found in their sales and/or purchases (domestic or imported) shall be notified of such findings through the issuance of a Letter Notice (LN).
- There shall be no conversion of 2006 LNs to Letters of Authority/Tax Verification Notices (LAs/TVNs). If there is an on–going audit/investigation pursuant to an LA/TVN for taxable year 2006, the LN shall be separately handled and whatever discrepancy paid for under an LN shall be credited against any assessment that may be made by the investigating office handling an LA/TVN.
- The 2006 LNs, together with the Details of Taxpayers Customers/Suppliers/ Details of Importations with Return Information Matching, shall be served to taxpayers through personal delivery and registered mail with Registered Return Card by the LN Task Force. A Follow–up Letter shall be prepared and served to the taxpayer for which no response was received after fifteen (15) days from receipt of the LN.
- In the event a taxpayer who has been issued an LN by the LN Task Force refutes the discrepancy, he shall be given an opportunity to reconcile his records with those of the BIR within thirty (30) days from receipt of the LN, and to submit documentary proofs in support of his arguments.
- If after fifteen (15) days from receipt of Follow–up Letter, no response is received from the taxpayer or he fails to submit the required documents after filing his protest within the thirty(30)–day period after receipt of the LN, the LN Task Force shall endorse the docket and recommend to the Office of Deputy Commissioner Operations Group or to the Office of the Commissioner of Internal Revenue, thru the Office of the Assistant Commissioner – Assessment Service, the issuance of an issue–based LA to cover specifically “Income and Value Added Taxes Due to Discrepancy Reflected in the LN”



- The Taxpayer shall be entitled to the abatement of interests and penalties provided he pays the deficiency tax(es) within thirty (30) days from receipt of the LN.
- Installment payment shall be allowed in cases where the tax liabilities exceeds five hundred thousand pesos (P500,000.00).
- The settlement and payment of the deficiency tax(es) under an LN or issue based LA by a taxpayer shall not preclude the Bureau from issuing an LA/TVN covering the comprehensive audit/investigation of his tax liabilities, if warranted. However, any payment of deficiency tax(es) shall be credited against any assessment that may be made by the investigating office pursuant to an LA/TVN, provided the discrepancies disclosed by said audit/investigation are of the same nature as the discrepancies reflected in the LN.
- LNs issued to taxpayers can be considered notice of audit/investigation insofar as the amendment of any return covering the period referred to in the LN. Accordingly, a taxpayer is disqualified from amending his return covering the period referred to in the LN upon issuance of the same.

Real Property and Capital Gains Tax

BIR Ruling No. DA-523-2007, issued 4 October 2007, held that the exchange of real property, without monetary consideration and done merely to correct an erroneous entry in a Deed of Partition, is not subject to capital gains tax and documentary stamp tax. Since the exchange transaction is without any monetary consideration and the execution of the Deed of Exchange is merely for the purpose of correcting the mistake in the entries in the Deed of Partition previously executed between the parties, the exchange of realties is not subject to capital gains tax and documentary stamp tax imposed under Section 196 of the Tax Code of 1997.

Taxes on Filipino Multinational Company Managers

BIR Ruling No. DA-524-2007, issued 4 October 2007, held that a Filipino employee of a Regional Operating Headquarters of a Multinational Company occupying a managerial position has the option to be taxed at either 15% of gross income or at the regular tax rate on taxable income, regardless of whether there is an alien occupying the position similar to that of the Filipino employee.

Japanese Liquidation of Advances

BIR Ruling No. DA-536-2007, 16 October 2007, held that liquidation of advances made by the Head Office in Japan used to pay for the construction and/or operating costs and expenses of its branch operations does not constitute profits taxable under the law. The advances made by the Head Office in Japan are in the nature of temporary capital contributions and therefore are not subject to income tax and withholding tax, and consequently to the Branch Profit Remittance Tax of 15%. However, it is necessary for the company to adequately provide supporting documents to prove the veracity of such advances. Thus, it is required to submit information return or statement certified by responsible official of its company showing details of the advances remitted directly by the Head Office to its branch, the inclusive dates, and duly supported by original or certified true copies of local bank credit advances for yen and/or US dollar inward remittances.

Bureau of Customs



Tariff Rates on Steel

Customs Administrative Order (CAO) 9–2007, issued 09 October 2007, increases the Most Favored Nation (MFN) tariff rates on importations of hot–rolled and cold–rolled steel from 3% to 7%. This is pursuant to Executive Order 375, which provides that imports of the above articles will be imposed a 3% MFN rate until such time that the local steel producer Global Steelworks International, Inc is in commercial operation as determined by the Tariff and Related Matters Committee (TRM). It is expected that more Orders will be issued by the Bureau of Customs (BoC) on the details of how this increase will be implemented and monitored. All covered articles that were “loaded on board” on or before the specified effective date will still enjoy the 3% duty rate.

National Task Force

Customs Special Order (CSO) 26–2007, 23 October 2007, forms a “National Task Force on the Modernization of the Tariff and Customs Code of the Philippines.” The said Task Force was formed to prepare and present BoC’s position on how local legislation should be amended to conform with international legal standards and best practices promulgated by international agreements such as the Revised Kyoto Convention, the Istanbul Convention, and the Arusha Declaration, among others. It is also tasked to work with the House of Representatives and the Senate in drafting a new Tariff and Customs Code for the above purpose. Deputy Commissioner Reynaldo S. Nicolas will chair the Task Force, with Deputy Commissioner Alexander Arevalo as co–chair.

Blacklisting of Importers

Customs Memorandum Order (CMO) 28–2007, 02 October 2007, implements CAO 8–2007. It provides for the blacklisting of importers and the revocation of broker licenses if they are found to have misclassified their products (on at least 3 occasions) by using vague descriptions, in violation of CAO 8–2007. The said Order requires importers to describe their imported articles in clear detail down to brand and model numbers. Also, according to BoC Commissioner Napoleon Morales, entries of those found to have misclassified their products will be held and the importing entities concerned to be subjected to post–entry audits. These measures are being set in place in the context of the BoCs efforts to recover from a P12.1–billion revenue target shortfall as of August.

Disbanding BoC Warehouse Monitoring Group

CMO 29–2007, issued 10 September 2007 but published on 04 October 2007, revokes Customs Special Order 9–2006, thereby disbanding the Monitoring Group for Warehousing and PEZA/Free Port Zones Operations. The Group was earlier created under the Office of the Commissioner. Although former members of the said Group have been reassigned back to their mother units, Mr. Ernesto P. Pineda and his staff Mr. Rico E. Reyes, will continue to assist the Commissioner on matters related to warehousing and PEZA/ecozones operations.

Tax Values for Rubber Tires

CMO 30–2007, issued 03 October 2007, subjects the following brands of rubber tires imported from South Africa, China, Indonesia and Korea based on existing test values: Hankook, Ceat, MRF, Kenda, Gajah Tunggal, Falken, Nangkang. Importers who want to contest the test values should post a cash or surety bond to allow the tentative release of their shipments, which would thereafter be brought before the Valuation and Classification Review Committee (VCRC) of the port concerned. If additional items such as flaps, tire interiors, and wheel rims be found, the shipment will be subject to x-ray scan and 100% examination.

Certificate of Payment for Vehicles

CMO 31–2007, issued 03 October 2007, amends CMO 26–2007 regarding the issuance of certificate of payment (CP) and clearance of brand new and used motor vehicles. An additional paragraph was inserted to the previous CMO stating that it would cover all CPs except those of members of the Chamber of Automobile Manufacturers of the Philippines (CAMPI) and the Motor Vehicle Development Program (MVDP).

Implementation of BoC Personnel Rules

CMO 32–2007, issued 29 September 2007 but published in October, implements the Revised Rules, Regulations and Procedures in Reassignment and Designation of Personnel superseding CMO 25–2001 and CMO 2–2005. It details the guidelines, criteria and procedures necessary for Customs personnel to be designated or reassigned in other positions.

Securities and Exchange Commission

Rules in Filing Certain Reports

SEC Memorandum Circular No. 3–2007, issued 06 September 2007, which will take effect on 01 January 2008, amends the rules on the filing of certain reports. The salient features of the Circular are the following:

- The following reports to the Company Registration and Monitoring Department (CRMD) will be discontinued:
 - a. Notice of Postponement of Annual Meeting
 - b. Affidavit of Non–Holding of Annual Meeting
 - c. Report of election, death, resignation, cessation of office of directors, trustees and officers. However, in case any of these incidents happens, the corporation shall report the incident through an Amended General Information Sheet (GIS), which shall be filed within 30 calendar days from the occurrence of the incident.

- The filing of the GIS, the audited financial statements, and other reports by certain companies such as broker dealers, investment houses/underwriters, investment company advisers, financing companies, pre–need companies with the Market Regulation Department, Corporation Finance Department, or the Non–Traditional Securities and Instruments Department of the SEC will be discontinued. Moreover, the format, content, and/or frequency of the submission of certain reports filed with these departments have been revised. However, the GIS and the audited financial statements shall be filed with the CRMD within the prescribed periods. Likewise, the notice of change of address of transfer agents shall now be filed with the CRMD.

- In the submission of the GIS, the 30–calendar day period shall be counted from the date the annual stockhold–ers meeting is actually held. If the corporation is unable to hold the said meeting for the calendar year, the GIS shall be filed not later than 30 January of the following year.



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