

**[REVENUE MEMORANDUM ORDER NO. 23-2018,
June 20, 2018]**

**PRESCRIBING POLICIES, GUIDELINES AND PROCEDURES IN THE
AVAILMENT OF THE EIGHT PERCENT (8%) INCOME TAX RATE
OPTION FOR INDIVIDUALS EARNING FROM SELF-EMPLOYMENT
AND/OR PRACTICE OF PROFESSIONS**

*Adopted: 21 May 2018
Date Filed: 20 June 2018*

I. Objective

This Order is being issued to prescribe policies, guidelines and procedures in availing the eight percent (8%) income tax rate option of individuals earning from self-employment/business and/or practice of profession relative to the implementation of the Republic Act No. 10963, otherwise known as "Tax Reform for Acceleration and Inclusion (TRAIN) Act".

II. Policies and Guidelines

Eight Percent (8%) Income Tax Rate Option for Individuals

1. In general, income of self-employed individuals (includes Single Proprietors, Professionals and Mixed Income Earners) is subject to the graduated income tax rates as provided under Section 24 (A)(2)(a) of the NIRC, as amended.
2. Self-employed individuals earning income purely from self-employment/ business and/or practice of profession whose gross sales and/or receipts and other non-operating income does not exceed the Value-Added Tax (VAT) threshold of Three Million Pesos (P3,000,000.00) shall have the option to avail of the following:
 - a. Graduated income tax rates as provided under Section 24 (A)(2)(a) of the NIRC, as amended; or
 - b. Eight percent (8%) tax on gross sales or receipts and other non- operating income in excess of Two Hundred Fifty Thousand Pesos (P250,000.00) in lieu of the graduated income tax rates and percentage tax under Section 116 under the NIRC, as amended.
3. Individuals earning income both from compensation and from self- employment (business or practice of profession) or Mixed Income Earners shall apply the following income tax rates:

3.1 The compensation income shall be subject to graduated income tax rates as provided under Section 24 (A)(2)(a) of the NIRC, as amended; and

3.2 The income from business or practice of profession shall be subject to the following:

a. If the gross sales/receipts and other non-operating income do not exceed the VAT threshold, the individual has the option to be taxed at:

i. Graduated income tax rates as provided under Section 24 (A)(2)(a) of the NIRC, as amended; or

ii. Eight percent (8%) income tax rate based on gross sales/ receipts and other non-operating income in lieu of the graduated income tax rates and percentage tax under Section 116 of the NIRC, as amended.

b. If the gross sales/receipts and other non-operating income exceeds the VAT threshold, the individual shall be subject to the graduated income tax rates prescribed under Section 24 (A)(2)(a) of the NIRC, as amended.

4. The following criteria should all be satisfied to be able to qualify and avail of the 8% income tax rate option:

a. Individuals (Single Proprietor or Professional or Mixed Income Earner) earning from self-employment and/or practice of profession;

b. Taxpayers whose gross sales/receipts and other non-operating income did not exceed the P3,000,000 VAT threshold during the taxable year;

c. Taxpayers registered and subject only to percentage tax under Section 116 of the NIRC, as amended; or taxpayers exempt from VAT or other percentage taxes; and

d. Must have signified their intention to elect the 8% income tax rate thru any of the enumerations under Section II (7) of this Order.

5. The 8% income tax rate option is not available to the following individual taxpayers and correspondingly shall be taxed based on the graduated income tax rates prescribed under Section 24 (A)(2)(a) of the NIRC, as amended.

a. Purely Compensation Income Earners;

b. VAT-registered taxpayers, regardless of the amount of gross sales or receipts and other non-operating income;

c. Taxpayers exempt from VAT or other percentage taxes whose gross sales/receipts and other non-operating income exceeded the P3,000,000

VAT threshold during the taxable year;

- d. Taxpayers who are subject to Other Percentage Taxes under Title V of the Tax Code, as amended, except those subject under Section 116 of the same Title;
- e. Partners of a General Professional Partnership (GPP);
- f. Individuals enjoying income tax exemption.

Individual person who is exempted from income tax such as those registered Barangay Micro Business Enterprises (BMBEs) is bound to the choice that it made to avail itself the privilege under Republic Act No. 9178 for the entire period of its registration with the BIR pursuant to Department Order No. 17-04.

The BMBE cannot avail both BMBE status (exempted from income tax, but liable to other internal revenue tax) and the 8% income tax rate option (in lieu of the graduated income tax rates and percentage tax) at the same time, since taxpayers are not allowed to avail of double or multiple tax exemption under different laws, unless specifically provided by law.

6. At the beginning of each taxable year, all individuals are subjected to graduated income tax rates as provided under Section 24 (A)(2)(a) of the NIRC, as amended. Self-employed individuals who opted to avail of the 8% income tax rate is effective only for the current taxable year when the election has been made, and shall be automatically subjected to the graduated income tax rates at the beginning of the succeeding taxable years. Thus, the availment of the 8% income tax rate option is required to be signified and selected every taxable year, if the taxpayer wishes to be covered by such income tax rate.

7. Self-employed individuals shall signify the intention to elect the 8% income tax rate in filing any of the following:

7.1 New Business Registrant

- a. Upon registration using BIR Form No. 1901 and/or 1701Q; or
- b. On the initial quarter return (BIR Form No. 2551Q and/or 1701Q) of the taxable year after the commencement of a new business/ practice of profession.

7.2 Existing Individual Business Taxpayers

- a. Filing of BIR Form 1905 (Application for Registration Information Update) at the beginning of the taxable year, to end-date the form type of quarterly percentage tax. Provided that an option to avail the eight percent income tax rate shall be selected in filing the initial quarterly income tax return for income tax purposes; or
- b. 1st Quarterly Percentage Tax Return; and/or c. 1st Quarterly Income Tax Return.

Otherwise, the graduated income tax rates shall apply.

8. The income tax rate option, once elected, shall be irrevocable, and no amendment of option shall be made for the taxable year it has been made.

e.g. Mr. A elected the 8% income tax rate option on February 14, 2019 by filing BIR Form 1905. Later, before the due date on filing of the 1st Quarterly Percentage Tax Return or 1st Quarterly Income Tax Return, Mr. A had a change of heart to be taxed at the graduated rates. Can Mr. A signify the option to be taxed at the graduated rates in filing his 1st Quarterly Percentage Tax Return or 1st Quarterly Income Tax Return or re-filing the BIR Form 1905 before filing his 1st Quarterly Percentage Tax Return?

The answer is no. The election made on February 14, 2019 is irrevocable and no amendment of option shall be made for the said taxable year. Beginning 2020, Mr. A is automatically subjected to the graduated income tax rates, unless opted to elect the 8% income tax rate by signifying his intention.

9. Self-employed individual who is qualified and availed of the 8% income tax rate option is:

- a. Required to file the Quarterly Income Tax Return, unless exempted by any revenue issuances;
- b. Required to file the Annual Income Tax Return [Financial Statement (FS) is not required to be attached];
- c. Not required to file the Quarterly Percentage Tax Return;
- d. Required to signify the intention to avail the 8% income tax rate every taxable year.
- e. Required to maintain books of accounts and issue receipts/invoices;

A taxpayer shall automatically be subjected to graduated income tax rates, liable to VAT prospectively and attached an audited FS in filing of the annual income tax return, if the gross annual sales and/or receipts exceed the amount of Three Million Pesos (P3,000,000.00) anytime during the current taxable year when the option was made. S/he shall immediately update his/ her registration within the month following the month s/he exceeded the VAT threshold to reflect the change in tax profile from non-VAT to a VAT taxpayer. Percentage tax shall be imposed from the beginning of the year until taxpayer is liable to VAT.

10. Taxable income for individuals earning income from self-employment/ practice of profession shall be based on:

- a. The net taxable income, if taxpayer opted to be taxed at graduated rates or has failed to signify the 8% income tax rate option;
- b. The gross sales/receipts and other non-operating income in excess of P250,000, if the 8% income tax rate is availed by