

**[BIR REVENUE REGULATIONS NO. 10-2010,
October 06, 2010]**

EXCHANGE OF INFORMATION REGULATIONS

Pursuant to the provisions of Section 244 in relation to Section 4 of the National Internal Revenue Code of 1997 (Tax Code of 1997), as amended, these Regulations are hereby promulgated to provide the necessary guidelines to enable the Bureau of Internal Revenue (BIR) to respond to a request for exchange of information pursuant to an existing international convention or agreement on tax matters and to implement Republic Act No. 10021 entitled "An Act to Allow the Exchange of Information by the Bureau of Internal Revenue on Tax Matters pursuant to Internationally-Agreed Tax Standards, Amending Section 6 (F), 71 and 270 of the National Internal Revenue Code of 1997, as Amended, and for Other Purposes".

SECTION 1. Definitions - As used in these Regulations, the following terms shall be defined as follows:

A. Financial Institutions - shall refer to both private and government financial institutions. It shall include but is not limited to banks, non-bank financial intermediaries performing quasi-banking functions, and other non-bank financial intermediaries including financing companies.

B. Foreign Tax Authority - shall refer to the tax authority or tax administration of the requesting State under the tax treaty or convention to which the Philippines is a signatory or a party of.

C. Income Tax Returns - shall refer to all Income Tax Forms issued/prescribed by the BIR including attachments thereto, written statements or other documents designed to be supplemental to and part of the said returns.

D. Inspection - shall not only refer to opening to examination of income tax returns of specific taxpayers subject of a request for exchange of information by a foreign tax authority but also furnishing the latter certified copies of such income tax returns, if included in the request.

E. International Agreements or Agreement on Tax Matters - shall only refer to Tax Information Exchange Agreements (TIEAs) which may be negotiated between the Philippines and other Contracting States or jurisdictions.

F. International Convention or Tax Treaty - shall only refer to the Double Taxation Convention (DTCs) or Double Taxation Agreements (DTAs), negotiated between the Philippine and Other Contracting States or jurisdictions for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

SECTION 2. Authority of the Commissioner of Internal Revenue to Obtain Information Including Information on Bank Deposits and Other Related Information Held by Financial Institutions - Any general or special law notwithstanding pursuant

to Section 3 of Republic Act No. 10021, or to the powers granted to the Commissioner by the Tax Code of 1997, as amended, and for the purpose of complying with the provisions on exchange of information contained in international conventions or agreements on tax matters, the Commissioner is authorized to obtain any information, including but not limited to bank deposits and other related information held by financial institutions, as may be required to respond to a request pursuant to an international convention or agreement on tax matters to which the Philippines is a signatory or a party to.

SECTION 3. Bureau of Internal Revenue (BIR) not Precluded from Using the Information Requested by a Foreign Tax Authority – Once information is gathered pursuant to a request for exchange of information under an international convention or agreement on tax matters, the BIR is likewise authorized to use, for tax assessment, verification, audit and enforcement purposes, any such information obtained from financial institutions.

SECTION 4. Authority of the Commissioner of Internal Revenue to Supply Information which is at His Disposal – For the purpose of exchanging information pursuant to an international convention or agreement on tax matters, the Commissioner of Internal Revenue is hereby designated as the competent authority. Any such exchange of information shall not constitute an unlawful divulgence of information under the Tax Code of 1997, as amended.

SECTION 5. Foreign Tax Authority May be allowed to examine income tax returns of taxpayers in the Philippines – Income tax returns of specific taxpayers subject of a request for exchange of information by a foreign tax authority pursuant to an international convention or agreement on tax matters shall be open to inspection upon the order of the President of the Philippines, under rules and regulations as may be prescribed by the Secretary of Finance, upon recommendation of the Commissioner.

SECTION 6. Obligation to Maintain Confidentiality - Any information received by a foreign tax authority from the BIR pursuant to an international convention or agreement on tax matters shall be treated by the authority as absolutely confidential in nature in the same manner as information obtained by the latter under its laws and regulations, and shall be disclosed only to persons or authorities, including courts and administrative bodies, involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by such conventions or agreements.

SECTION 7. Contents of the Requests – In order for the BIR to promptly act upon a request, the following should be clearly stated in the request:

- a. The identity of the person under examination or investigation;
- b. A statement of the information being sought including its nature and the form in which the said foreign tax authority prefers to receive the information from the Commissioner.
- c. The tax purpose for which the information is being sought;
- d. Grounds for believing that the information requested is held in the Philippines or is in the possession or control of a person within the jurisdiction of the Philippines;