

AGN TAXPRESSO

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PHILIPPINES

The **CREATE More Act** (Republic Act No.12066) is a significant legislative initiative in the Philippines aimed at enhancing the investment climate by building on the foundations of the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Law. This Act introduces a series of tax reforms and incentives designed to stimulate economic growth, attract foreign investments, and create a more business-friendly environment. Below are the key provisions of the CREATE More Act that reflect its comprehensive approach to supporting both domestic and foreign enterprises in the Philippines.

KEY PROVISIONS	DETAILS
1. Tax on Domestic and Foreign Registered Business Enterprises (RBEs)	RBEs under Enhanced Deductions Regime (EDR) taxed at 20% on taxable income from registered projects or activities.
2. Exclusion from Gross Income	<ul style="list-style-type: none"> a. Income required by treaty obligations excluded from gross income. b. Agreements made by the President, with Senate concurrence, are binding.
3. Deduction from Gross Income	Deduction for input taxes paid on local purchases related to VAT-exempt sales.
4. Creditable Withholding Tax	Capped at 15% for items of income payable to natural or juridical persons in the Philippines.
5. Zero-Rated VAT Transactions	<ul style="list-style-type: none"> a. Sale of raw or packaging materials to non-resident buyers for export-oriented enterprises is zero-rated. b. Sales to export-oriented enterprises with at least 70% export sales are zero-rated. c. Goods and services directly related to export operations, including security, financial, consultancy, marketing, human resources, legal, and accounting services, are zero-rated. d. Sales of goods, supplies, equipment, and fuel to entities involved in international shipping or air transport operations are included. e. Sales to bonded manufacturing warehouses operated by export-oriented businesses are also zero-rated.
6. Services at Zero Percent VAT (0%)	<ul style="list-style-type: none"> a. Services rendered to export-oriented enterprises, where at least 70% of their total annual production is exported, are subject to zero percent VAT. b. Services directly linked to export activities are subject to zero percent VAT. c. Sales subject to zero percent VAT under specific laws are also included.
7. Exemption of Petroleum Products from Excise Tax	<ul style="list-style-type: none"> a. Exempts petroleum products sold to international carriers for use outside the Philippines from excise tax. b. Suppliers can claim refunds on excise tax paid for products sold to international carriers.

KEY PROVISIONS	DETAILS
8. Introduction of Section 135-A of the Tax Code	Provides a procedure for claiming excise tax refunds on petroleum products.
9. Enhanced Deduction Schemes for Export and Domestic Market Enterprises	<ul style="list-style-type: none"> a. 100% additional deduction on power expenses. b. Reinvestment allowance deduction capped at 50% over five years (manufacturing and tourism sectors). c. 50% additional deduction for expenses related to exhibitions, trade missions, and trade fairs. d. Net Operating Loss Carry Over (NOLCO) for registered projects can be carried over for five years following the last year of the ITH entitlement.
10. Local Tax on RBEs	Local tax capped at 2% of an RBE's gross income during ITH and EDR periods, replacing all local taxes and fees.
11. Tax Incentives Availment for Registered Enterprises	<ul style="list-style-type: none"> a. Registered Export Enterprises:* <ul style="list-style-type: none"> i. Income Tax Holiday (ITH) followed by Special Corporate Income Tax (SCIT) or EDR. ii. Immediate access to SCIT and EDR for export enterprises. b. Registered Domestic Market Enterprises:* <ul style="list-style-type: none"> i. ITH followed by EDR. ii. Immediate access to EDR for domestic market enterprises. <p>*Elected incentive package shall be irrevocable for the entire duration of entitlement.</p>
12. Taxpayer Support Service	<ul style="list-style-type: none"> a. A dedicated service within the Bureau of Internal Revenue (BIR) to assist RBEs with tax compliance. b. Simplified filing and payment processes.

The CREATE More Act represents a transformative shift in the Philippines' approach to economic development and investment attraction. By offering a wide range of tax incentives and reforms, the Act aims to foster a competitive business environment that encourages both local and foreign investments. With its comprehensive provisions targeting key sectors such as manufacturing, tourism, and exports, the Act is poised to contribute significantly to the country's economic growth, job creation, and long-term sustainability. Through these initiatives, the Philippines is positioning itself as an attractive destination for global investors, ultimately driving innovation and economic resilience.

Compiled by Pamela Grace Tangso on 27th December 2024

SINGAPORE

Singapore revises Transfer Pricing Rules for Domestic Loans and Increases Exemption Threshold for Certain Non-Domestic Transactions

On 14 June 2024, the Inland Revenue Authority of Singapore (“IRAS”) released its seventh edition of the Transfer Pricing (“TP”) Guidelines. Amongst the various updates, two key changes are likely to affect many of our clients.

1. New TP Rules for Domestic Related Party Loans

Effective 1 January 2025, a new safe harbour regime will apply to the interest pricing of domestic related party loans where neither the borrower nor the lender is in the business of borrowing and lending money.

Under the new rules, the interest rate charged on domestic related party loans must reflect the interest rate that would be charged between unrelated parties for similar loans under comparable circumstances. Taxpayers can no longer rely on the simplified interest restriction approach, where domestic loans were allowed to be given interest free. Instead, they must apply **IRAS’ new safe harbour regime** to determine the interest rate that will be accepted as the arm’s length rate by IRAS.

Key points of the new regime include:

- i. For **floating rate loans**, the interest rate should be based on a **risk-free reference rate** plus **IRAS’ indicative margin**.
- ii. For **fixed-rate loans denominated in Singapore dollars**, the taxpayers may use an appropriate **Singapore Government Securities yield or swap rate** as the base reference rate plus IRAS’ indicative margin.

Taxpayers who choose not to apply IRAS’ safe harbour indicative margin must conduct a **detailed transfer pricing analysis** and maintain proper documentation to determine the arm’s length interest rate.

It is important to note that the IRAS indicative margin rates apply regardless of the loan amount for domestic related-party loans. This is in contrast to cross-border related party loans, where the loan amount must be below S\$15 million threshold to apply similar margin rates.

Failure to comply with the arm’s length principle may result in **TP adjustments** by IRAS which could increase the taxpayer’s profits or reduce their losses. If an adjustment is made, it will be subject to a **5% surcharge**.

Companies should be aware of the significant changes to the application of the arm’s length principle for new domestic related party loans effective from 1st January 2025. It is crucial to ensure compliance with the new rules to avoid any TP adjustments, which could lead to additional tax payable and a 5% surcharge.

2. Increase the exemption threshold

Under section 34F of the Income Tax Act, taxpayers are required to maintain Transfer Pricing Documentation (“TPD”) for related party transactions in a given period, unless specific exemptions apply. Currently, the exemption applies if either of the following conditions is met:

- i. The gross revenue from the tax payer’s trade or business (excludes passive source income and capital gains or losses) in the relevant basis period exceeds **S\$10 million**.
- ii. Transfer Pricing Documentation was required for the immediately preceding basis period.

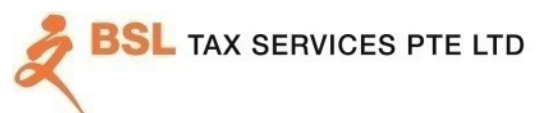
If either of these conditions is satisfied, the taxpayers are required to maintain contemporaneous TPD for non-domestic related party transactions that exceed the prescribed thresholds as outlined below.

CATEGORY OF RELATED PARTY TRANSACTIONS (NON-DOMESTIC)	THRESHOLD IN S\$ PER YEAR
Purchase of goods from all related parties	15 million
Sale of goods to all related parties	15 million
Loans owed to all related parties	15 million
Loans owed by all related parties	15 million
All other related party transactions – services, royalties etc.	1 million per category.

Effective from year of assessment 2026, the exemption threshold for TPD for certain non-domestic transactions - such as services, royalties, guarantees and any other transactions (excluding sales, purchases and loans) will increase from S\$1 million to S\$2 million.

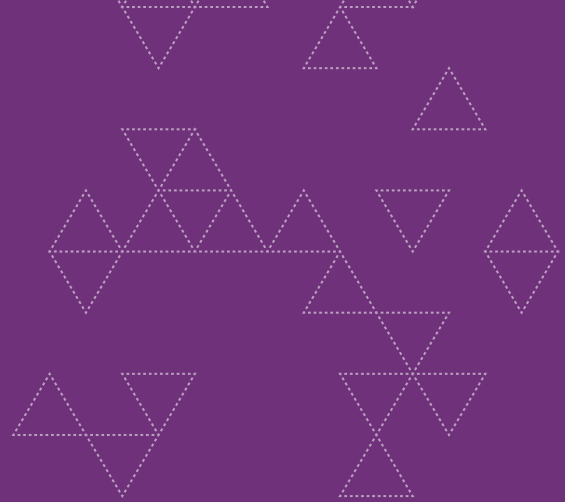
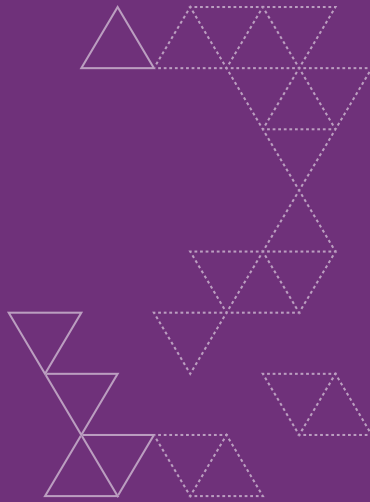
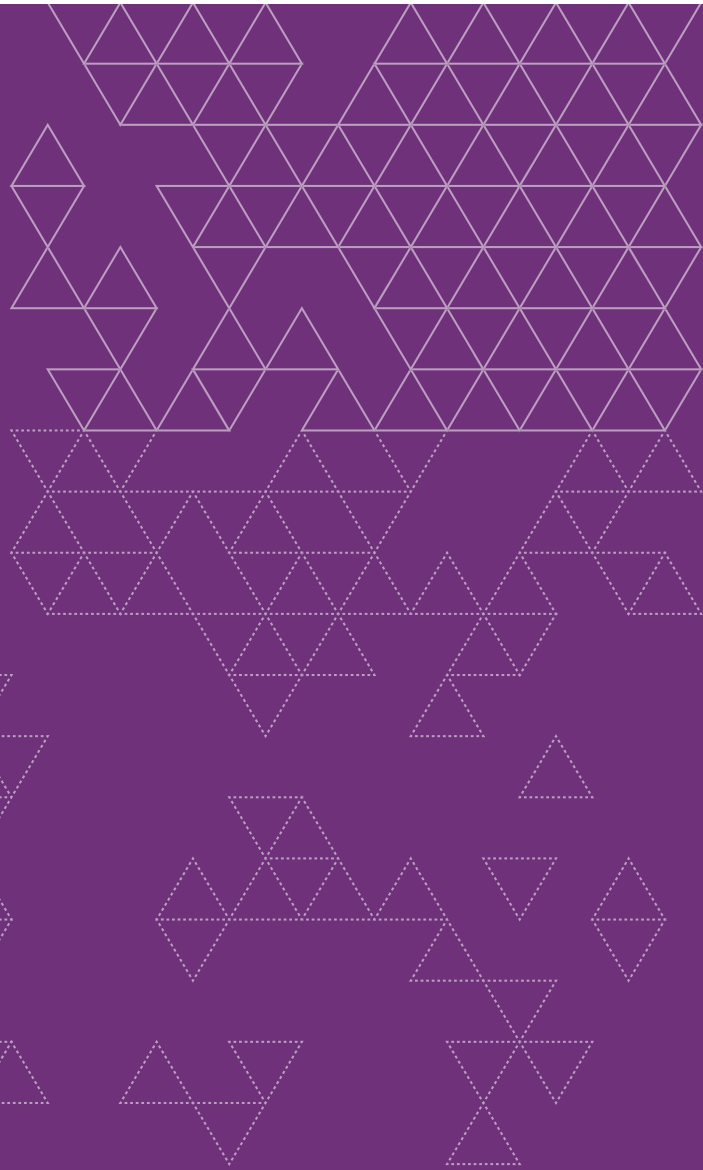
This change is designed to reduce the compliance burden for taxpayers. However, it is important to note that, regardless of whether TPD is required, all related party transactions must still adhere to the arm’s length principle.

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