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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE



**BAGONG
PILIPINAS**

MAR 30 2026

REVENUE MEMORANDUM CIRCULAR NO. 024-2026

SUBJECT : Clarifying the Application of Revenue Memorandum Circular Nos. 5- 2024 and 38-2024 on the Tax Treatment of Cross-Border Services

TO : All Internal Revenue Officers and Others Concerned

I. BACKGROUND

On January 10, 2024, the Bureau of Internal Revenue (BIR) issued Revenue Memorandum Circular (RMC) No. 5-2024 on the proper tax treatment of cross-border services in light of the Supreme Court (*En Banc*) Decision in *Aces Philippines Cellular Satellite Corporation v. Commissioner of Internal Revenue*, G.R. No. 226680, promulgated on August 30, 2022 (*Aces Philippines* case).

Thereafter, on March 15, 2024, the BIR issued RMC No. 38-2024 to address and clarify issues arising from the implementation of RMC No. 5-2024.

RMC No. 5-2024, as clarified by RMC No. 38-2024, provides a framework for evaluating the tax implications of services supplied, delivered, or rendered by a non-resident service provider to a person or entity in the Philippines or cross-border services, to enable the Bureau to make informed and consistent determinations of the tax liabilities arising from such transactions.

Notwithstanding the foregoing, concerns have been raised that, in certain instances, tax evaluations and assessments of cross-border services are being undertaken beyond the contemplation of, and in a manner inconsistent with, the framework set forth under the aforesaid jurisprudence.

This Circular is therefore issued to clarify the proper application of RMC Nos. 5-2024 and 38-2024, ensure alignment with statutory and jurisprudential standards, and provide certainty to both revenue officers and taxpayers.

II. CLARIFICATION

Q1.

RMC No. 5-2024 enumerates examples of international service provisions or cross-border services, such as consulting services, IT outsourcing, financial services, telecommunications, engineering and construction, education and training, and tourism and hospitality. Are these cross-border services automatically subject to Philippine income tax (final withholding tax) merely because they are classified as cross-border services, similar to the satellite airline services involved in the *Aces Philippines* case?

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MAR 30 2026

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A1.

No. The cross-border services listed in RMC No. 5-2024 are not automatically subject to Philippine income tax solely by reason of their classification as cross-border services.

The general rule for the taxation situs of services is that the income is taxed where the service is performed. The *Aces Philippines* case expands the situs rule for taxation of services by including the place where the benefit is received or where the service is completed in determining taxability in the Philippines.

A Revenue Officer invoking the rule under the *Aces Philippines* case as a basis for their assessment must establish that the source of income from such cross-border services is within the Philippines, as follows:

*"[I]n ascertaining the income source, we must inquire into the **property, activity, or service that produced the income, or where the inflow of wealth originated.** It is **insufficient** to identify just any property, activity, or service. The subject may only be regarded as an income source if the particular property, activity, or service causes an **increase in economic benefits**, which may be in the form of an inflow or enhancement of assets or a decrease in liabilities with a corresponding increase in equity other than that attributable to a capital contribution."* (Emphasis supplied)

Q2.

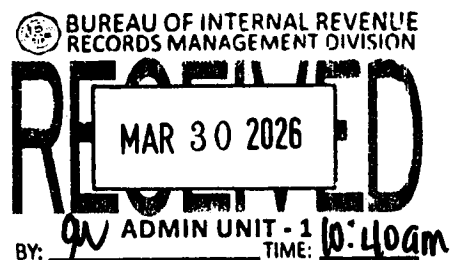
Applying the foregoing rule, how should a Revenue Officer factually establish the taxability of the cross-border service in the Philippines?

A2.

As in *Aces Philippines*, determining the source of income requires an examination of the cross-border service agreement as a whole. The evaluation must consider the entirety of the services performed and must not isolate or compartmentalize a single activity as the sole income-producing act. This approach is consistent with Article 1233 of the Civil Code, which provides that an obligation is deemed performed when the service constituting the obligation has been completely delivered or rendered.

As enunciated in Section 228 of the National Internal Revenue Code, as amended (Tax Code), tax assessments shall specify the applicable law and facts on which the assessment is made. Thus, the Revenue Officer must clearly explain the existence of the following essential elements:

- (1) **The parties involved are (a) a payor who is a Philippine resident individual or domestic corporation doing business, and (b) a payee who is a non-resident service provider;**
- (2) **The specific activity or service:**
 - a. **is integral to the completion or delivery of the non-resident service provider's service; and**



- b. resulted in actual payment or accrual thereof, constituting economic benefit to the non-resident service provider;**

In *Aces Philippines*, it is only when the call is actually routed to its gateway that Aces Philippines is able to connect its local subscriber to the intended recipient of the call. In this sense, the gateway's receipt of the call, the activity occurring in the Philippines, signifies *completion/delivery* of Aces Bermuda's service.

The payment or accrual of satellite air time fees is contingent upon the delivery of satellite air time to Aces Philippines and the utilization thereof by the Philippine subscriber for a voice or data call, with such accrual signifying the inflow of economic benefits to the non-resident service provider.

For this purpose, the income herein stated do not, however, include (a) passive income; (b) income from sale of goods; and (c) pass-through payment in favor of another non-resident for services rendered outside the Philippines.

- (3) The situs of the income-producing activity is within the Philippines; and**
- (4) There is no applicable income tax exemption under tax treaties or domestic law.**

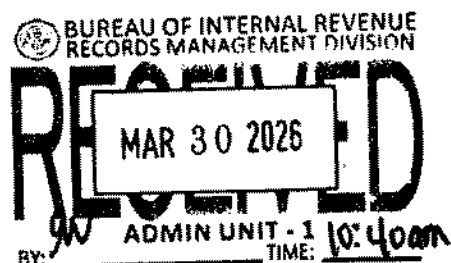
Q3.

What documents should the taxpayer present during an audit to prove that the income payment made to the non-resident service provider was NOT from sources within the Philippines and should, therefore, not be subjected to income tax?

A3.

In *Aces Philippines*, the Supreme Court emphasized that the burden of proof lies with the taxpayer to establish that the income was derived from sources outside the Philippines and is therefore not subject to Philippine income tax. For this purpose, the taxpayer may present the following documents, as applicable:

- (1) A sworn statement executed by the individual payor or the duly authorized representative of the company, detailing the parties to the transaction, their relevant circumstances, and the nature and description of the services rendered;
- (2) Copies of relevant service contracts, master service agreements, statements of work, or similar documents, such as purchase orders, billing statements, invoices, or relevant email correspondences;
- (3) Tax Residency Certificate issued by the tax authority of the non-resident service provider's residence jurisdiction;
- (4) SEC Certification of Non-Registration of the non-resident foreign corporation (NRFC) in the Philippines;
- (5) Proof of organization or registration of the non-resident service provider's residence jurisdiction (e.g., Articles of Incorporation or Association, business registration, etc.);



- (6) Proof of outward remittance of payment;
- (7) If the subject income has been confirmed to be from sources outside the Philippines through a BIR Ruling, a copy of such BIR Ruling;
- (8) If the non-resident service provider is a resident of a jurisdiction with which the Philippines has a valid and effective double taxation agreement or tax treaty and has been confirmed to be entitled to a treaty benefit, a copy of the BIR Certificate of Entitlement to Treaty Benefit; or
- (9) Other relevant documents to prove that the subject income is not from sources within the Philippines.

Pursuant to Revenue Memorandum Order No. 1-2026, where records are physically submitted to the Bureau, photocopies may be accepted provided that they are certified by the taxpayer or its authorized representative as true and faithful reproductions of the original documents (if issued in a foreign country, authenticated by the Philippine Embassy or apostilled, as applicable). The Bureau may require the presentation of original documents for verification purposes, which shall be confined strictly within the authorized scope of the audit.

Q4:

Is it mandatory for a taxpayer to obtain a ruling from BIR confirming the taxability or non-taxability of a cross-border transaction?

A4:

A prior confirmatory BIR ruling shall not be considered a condition precedent for the application of the applicable tax treatment, nor the lack thereof shall, by itself, prejudice the taxpayer's entitlement to the treatment, provided that the legal and factual bases for the same are duly established by competent evidence during the assessment process.

Nevertheless, the taxpayer may request a ruling confirming the non-taxability of the income pursuant to the Tax Code or the relevant tax treaty, following existing rules and procedures.

All internal revenue officers, employees, and others concerned are hereby enjoined to strictly comply and to give this Circular the widest dissemination possible.

This Circular shall take effect immediately.



CHARLITO MARTIN R. MENDOZA
Commissioner of Internal Revenue

