

**By Email**

21 May 2020

Mr. Caesar R. Dulay  
Commissioner of Internal Revenue  
Bureau of Internal Revenue (BIR)  
Republic of the Philippines

**ASIFMA COVID-19 Operational Tax Challenges and Suggestions for Access to Withholding Tax Relief**

Dear Mr. Dulay,

In light of the recent development of the COVID-19 situation, ASIFMA<sup>1</sup> would like to take the opportunity to highlight the operational tax challenges that are faced by the industry and make some suggestions below.

COVID-19 continues to impact all aspects of society, respecting no borders. Operational tax processes are no exception to this and COVID-19 is impacting the ability of portfolio investors to access withholding tax relief either under domestic law or relevant double tax treaties. Many Governments in Asia Pacific mandate that operational tax processes require paper-based documentation, including wet signatures, tax authority certification and in some cases notarization and consularisation / apostille.

Given the uncertainty in a number of jurisdictions, a number of challenges have arisen in respect of the afore-mentioned processes including, but not limited to:

- printing documentation from home, noting information security concerns;
- sending documentation across borders, given a number of couriers cannot fulfil certain routes;
- obtaining signatories, particularly where more than one is required;
- certification, as some tax authorities are now not issuing certification e.g. US IRS and turn-around-times have increased;
- bank processing of documentation, as some locations cannot move documentation around;
- notarisation, due to non-availability of notary publics; and
- consularisation, due to closure of non-essential services.

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<sup>1</sup> ASIFMA is an independent, regional trade association with over 135 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, professional and consulting firms, and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive and efficient Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the United States and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

## DEVELOPING ASIAN CAPITAL MARKETS

The above-mentioned challenges have led to strains on well-established processes for foreign investors, service providers and tax authorities alike (both in home and investment jurisdictions), removing much of the certainty behind processes.

We note with approval the attached joint trade association letter to the European Commission and OECD dated 20 April regarding recommended tax administration responses to the COVID-19 crisis.

Building on these suggestions, with specific application to Asia Pacific, this letter requests for a number of steps to be taken to encourage the relaxation of certain requirements in the region on a temporary or even permanent basis:

- authorise acceptance by all parties in the withholding tax chain of electronic documentation including electronic signatures as well as the ability to send documentation electronically. This should be applied to both applications for certification of residence and in investment markets;
- address any outstanding certification requests as soon as possible via electronic means;
- delay the implementation of new tax measures which do not assist in the simplification of existing processes;
- introduce an extension of validity for existing 2019 documentation through at least the third quarter of 2020 to support existing relief e.g. rely on existing documentation on hand. It should be noted that some tax authorities in Europe have already done this e.g. France and Italy;
- eliminate the requirement for notarisation, apostille or any other form of confirmation and mandating that withholding agents follow this requirement strictly;
- remove the requirement for non-standard documentation or specific wording or dates on certification and simplify documentation requirements to rely on tax authority certificate;
- extend statutes of limitation by 6 months to allow for additional time to submit withholding tax claims; and
- issue clear guidance to support the above.

ASIFMA would welcome an opportunity to discuss this further, or to receive any comments on the matters set out above. If you require further clarification on any of the matters discussed in this letter, please do not hesitate to contact Patrick Pang ([ppang@asifma.org](mailto:ppang@asifma.org)).

Yours sincerely,



Patrick Pang  
Head of Compliance and Tax, ASIFMA