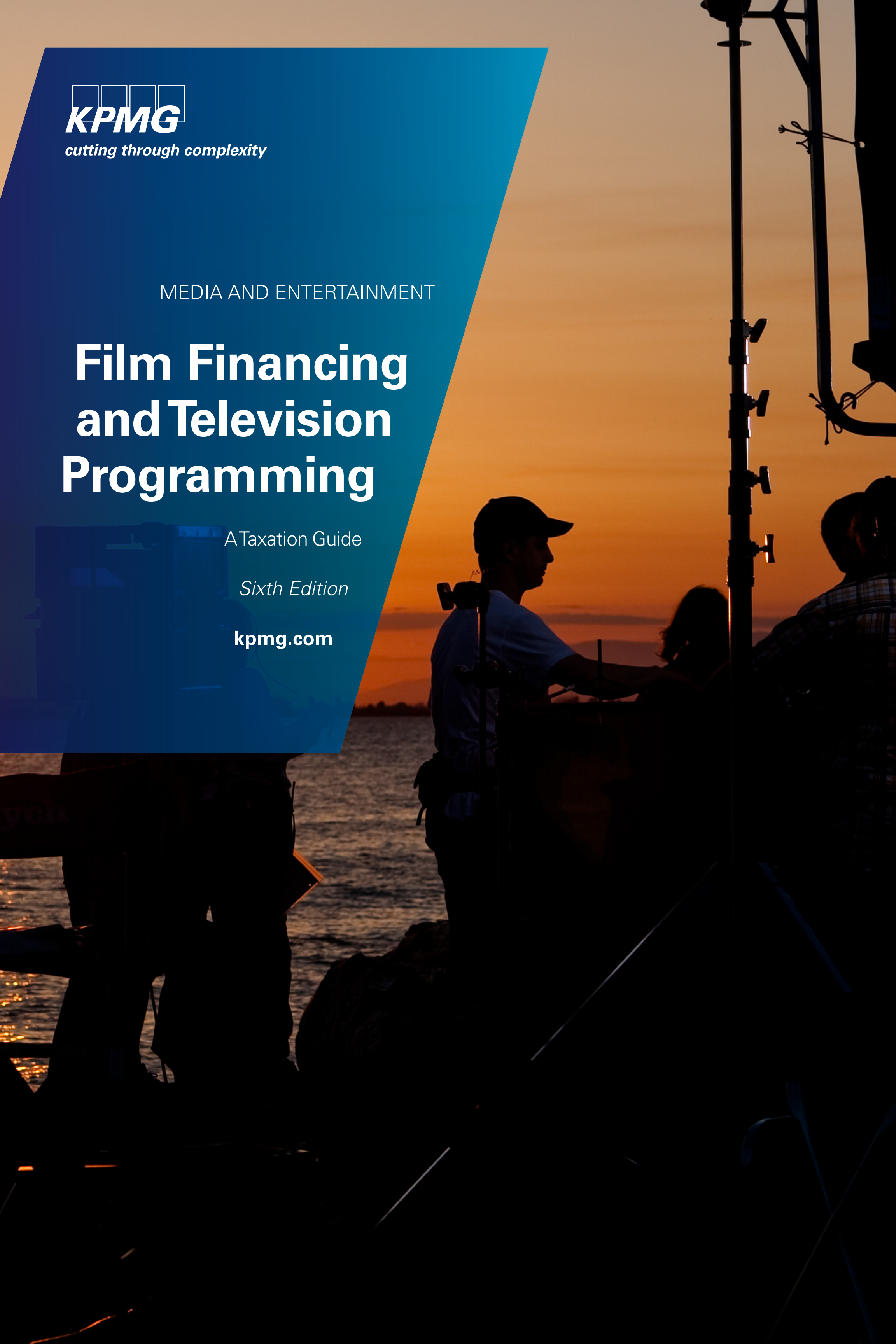

KPMG

cutting through complexity

MEDIA AND ENTERTAINMENT

Film Financing and Television Programming

A Taxation Guide

Sixth Edition

kpmg.com

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ANY TAX ADVICE IN THIS COMMUNICATION IS NOT INTENDED OR WRITTEN BY KPMG LLP TO BE USED, AND CANNOT BE USED, BY A CLIENT OR ANY OTHER PERSON OR ENTITY FOR THE PURPOSE OF (i) AVOIDING PENALTIES THAT MAY BE IMPOSED ON ANY TAXPAYER OR (ii) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY MATTERS ADDRESSED HEREIN.

Preface

KPMG LLP's (KPMG) Film Financing and Television Programming: A Taxation Guide, now in its sixth edition, is a fundamental resource for film and television producers, attorneys, tax, and finance executives involved with the commercial side of film and television production. The guide is recognized as a valued reference tool for motion picture and television industry professionals.
Its primary focus is on the tax and business needs of the film and television industry with information drawn from the knowledge of KPMG International's global network of media and entertainment Tax professionals.

KPMG published the first guide more than 15 years ago as a resource for global coverage of incentives and tax updates as they apply to the film and television industry. Subsequent editions expanded into coverage of financing techniques, credits/incentives, and a thorough appendix of withholding tax rates–a valuable reference tool for all finance and tax professionals.

Each chapter of the sixth edition focuses on a single country and provides a description of commonly used financing structures in film and television, as well as their potential commercial and tax implications for the parties involved. Additionally, the United States chapter focuses on both federal and state incentives, highlighting the states that offer the more popular and generous tax and financial incentives. Key sections in each chapter include:

Introduction

A thumbnail description of the country's film and television industry contacts, regulatory bodies, and financing developments and trends.

Key Tax Facts

At-a-glance tables of corporate, personal, and VAT tax rates; normal non-treaty withholding tax rates; and tax year-end information for companies and individuals.

Financing Structures

Descriptions of commonly used financing structures in film and television in the country and the potential commercial tax implications for the parties involved. The section covers rules surrounding co-productions, partnerships, equity tracking shares, sales and leaseback, subsidiaries, and other tax-effective structures.

Tax and Financial Incentives

Details regarding the tax and financial incentives available from central and local governments as they apply to investors, producers, distributors, and actors, as well as other types of incentives offered.

Corporate Tax

Explanations of the corporate tax in the country, including definitions, rates, and how they are applied.

Personal Tax

Personal tax rules from the perspective of investors, producers, distributors, artists, and employees.

Appendices

Additionally, withholding tax tables setting forth the non-treaty and treaty-based dividend, interest, and film royalty withholding tax rates for the countries surveyed are included as an appendix and can be used as a preliminary source for locating the applicable withholding rates between countries.

KPMG and Member Firm Contacts

References to KPMG and KPMG International member firm contacts at the end of each chapter are provided as a resource for additional detailed information.

The sixth edition of KPMG's Film and Television Tax Guide is available in an online PDF format at www.kpmg.com/filmtax and on CD. The guide is searchable by country.

Please note: While every effort has been made to provide up-to-date information, tax laws around the world are constantly changing. Accordingly, the material contained in this book should be viewed as a general guide only and should not be relied upon without consulting your KPMG or KPMG International member firm Tax advisor.

Finally, we would sincerely like to thank all of the KPMG International member firm Tax professionals from around the world who contributed their time and effort in compiling the information contained in this book and assisting with its publication. Production opportunities are not limited to the 35 countries contained in this guide. KPMG and the other KPMG International member firms are in the business of identifying early-stage emerging trends to assist clients in navigating new business opportunities. We encourage you to consult a KPMG or KPMG International member firm Tax professional to continue the conversation about potential approaches to critical tax and business issues facing the media and entertainment industry.

Thank you and we look forward to helping you with any questions you may have.

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Chapter 26
Philippines

Introduction

Recognizing the need to promote and support the development and growth of the local film industry, the Philippine Congress enacted into law Republic Act No. 9167, "An Act Creating the Film Development Council of the Philippines", to formulate and implement policies and programs to upgrade the art and craft of film making and encourage the production of films for commercial purposes. The Film Development Council of the Philippines (FDCP or the Council) is a government agency under the Office of the President of the Philippines, replacing the Film Development Foundation of the Philippines, Inc. and the Film Rating Board.

The key goals of the Council are to establish and implement a Cinema Evaluation System; to develop and implement an incentive and reward system for the producers based on merit; to encourage the production of quality films; to establish, organize, operate and maintain local and international film festivals, exhibitions and similar activities; to encourage and undertake activities that will promote the growth and development of the local film industry and promote its participation in both domestic and foreign markets; and to develop and promote programs to enhance the skills and expertise of Filipino talents necessary for quality film production.

In order to encourage (i) foreign movie and television makers to produce their films in the country and (ii) the use of the Philippines as a location site for international movie and television making, the Philippine President, in Executive Order No. 674, ordered the creation of the Philippine Film Export Services Office, which operates under the administrative and technical supervision of the FDCP.

The Philippine Film Export Services Office is a "one-stop-shop" for foreign film/television production. Its goal is to facilitate the use of the Philippines as the preferred location for the production of international films and television programs; to formulate incentive packages for foreign film/television companies interested in shooting films/television programs in the country; to assist foreign film companies in processing pertinent documents and various requirements relative to the production of international films/television programs in the country; and to coordinate with various government agencies in assisting the entry and exit of foreign film/television producers, artists and production crew.

Key Tax Facts

Corporate income tax rate	30%
Highest personal income tax rate	32%
Value-added tax rate	12%
Normal non-treaty withholding tax rates: Dividends	30%
Interest	20%
Royalties	30%
Tax year-end: Companies	Companies may choose their own tax year-end
Tax year-end: Individuals	December 31

Film Financing

Financing Structures

Co-Production

For the purposes of Philippine taxation, a co-production venture is akin to a taxable joint venture and it is consequently taxed as a corporation. A joint venture is generally referred to as an association of persons with the intent, by way of a contract, express or implied, to engage in and carry out a single or joint business venture to which purpose the parties combine their efforts, properties, money, skills and knowledge, without creating a partnership or a corporation, pursuant to an agreement that there shall be a community of interest among themselves as to the purpose of the undertaking and that each joint venturer shall stand in relation of principal, as well as agent, as to each of the other co-venturers, with an equal right of control of the means employed to carry out the common enterprise.

Philippine tax authorities have ruled that a group of individuals who pool their resources to form a joint venture with a film production company for the purpose of undertaking the production of a movie come within the purview of a corporation subject to corporate income tax. Each of the parties to the joint venture is liable for the payment of individual income tax and corporate income tax on the profits distributed to them by the joint venture.

Partnership

Under Philippine law, a partnership is defined as a contract whereby two or more persons bind themselves to contribute money, property or industry to a common fund with the intention of dividing the profits among themselves.

For the purposes of limiting the liabilities of partners, a partnership may either be a general partnership or a limited partnership. In a general partnership, all of the partners are liable up to the extent of their personal property, while in a limited partnership, limited partners are liable only up to the extent of their personal contribution. However, there must be at least one general partner in a limited partnership.

Under the Philippine Tax Code, partnerships, no matter how they are created or organized, fall under the definition of a corporation subject to corporate income tax (except for general professional partnerships).

A 10 percent final tax is imposed on the share of an individual's distributable net income after tax of a partnership (except a general professional partnership) of which he/she is a partner, whether actually or constructively received.

Equity Tracking Shares

The equivalent term of "equity tracking shares" in the Philippines is "preferred shares". Preferred shares entitle the shareholder to certain preferences over holders of common shares. Preferred shares of stock are usually given preference in the distribution of the assets of the corporation in the case of liquidation and in the distribution of dividends.

Dividends paid out of preferred shares are taxed in the same manner as those of common shares.

Cash or dividends in the form of property received by resident citizens, resident aliens, and non-resident citizens from a domestic corporation are subject to a final tax of 10 percent, while those received by non-resident aliens engaged in trade or business or non-resident aliens not engaged in trade or business are subject to a final tax of 20 percent and 25 percent respectively. The applicable rate is lower if they are residents of a treaty country subject to compliance with the filing of the mandatory Tax Treaty Relief Application (TTRA).

Dividends received by a domestic corporation from another domestic corporation are not subject to tax. The final withholding tax on payment of dividends from a domestic corporation to a non-resident foreign corporation is 30 percent. The withholding tax is reduced to 15 percent if the country in which the non-resident is domiciled does not subject such dividends to taxation, or allows a tax sparing credit equivalent to 15 percent. The withholding tax on dividends may be further reduced to as low as 10 percent under existing double tax agreements (DTA's), subject to qualifying conditions and compliance with TTRA.

Yield Adjusted Debt

The use of revenue-linked debt securities is not commonly practiced in the Philippines. However, for Philippine taxation purposes, the interest paid on the debt securities shall form part of the taxable income of the Philippine taxpayer.

Debt securities issued by non-resident foreign corporations will be classified as foreign loans, and interest paid thereon is subject to a 20 percent final withholding tax. The rate of withholding may be further reduced to a range of 10 percent to 15 percent under existing double taxation agreements, subject to qualifying conditions and compliance with the TTRA requirement.

Investment Structures

Philippine Subsidiary

One of the most common ways of establishing a business presence in the Philippines is through the incorporation of a Philippine subsidiary. The principal advantage of a subsidiary over a branch office is that a subsidiary has a separate and distinct juridical personality from its parent corporation, so that the liability of the parent corporation to creditors of the subsidiary is limited to its shareholdings in the domestic subsidiary. The parent foreign corporation is thus fully protected from the liabilities of the subsidiary in excess of its shareholdings in such subsidiary.

For a domestic corporation with more than 40 percent foreign equity, the minimum paid-up capital requirement is US$200,000 for a domestic market enterprise and Filipino Peso (PhP) 5,000 for an export market enterprise. The Foreign Investment Negative List (FINL) may limit the form of business foreign investors may engage in. For example, the FINL does not allow for foreign equity in mass media, except recording, in accordance with Sec. 11 Art. XVI of the 1987 Philippine Constitution.

For tax purposes, a Philippine subsidiary is treated as a domestic corporation and is therefore taxed on income derived from all sources.

Philippine Branch

A Philippine branch office of a foreign corporation carries out the business activities of the head office and derives income from the host country. For legal purposes, a branch has no independent existence but is considered a mere extension of its head office. A branch office is required to put up a minimum paid-up contribution of US$200,000, which can be reduced to US$100,000 if it either engages in an activity which involves advanced technology or employs at least 50 direct employees.

A foreign corporation may set up a branch in the Philippines by obtaining a license to transact business with the Securities and Exchange Commission (SEC). It may engage in exactly the same activities as its parent company. Further, the parent corporation may be held responsible for any liability of the branch in excess of its investment.

For tax purposes, a branch office is taxed only on income sourced from within the Philippines. If the head office of the branch is a resident of a tax treaty country, it may reduce Philippine withholding tax and still be allowed to deduct interest and royalty expenses at the same time, which may otherwise not be permitted under Philippine tax laws, by applying the relevant tax treaty provisions.

Profits of a Philippine branch remitted to its parent company are subject to 15 percent branch profits remittance tax. A lower rate may be provided under the applicable DTA subject to compliance with the mandatory TTRA.

Philippine Representative Office

A Representative Office is a foreign corporation organized and existing under foreign laws. It is fully subsidized by its head office and thus does not derive income from the host country. It is created to undertake activities such as information dissemination, acting as a communication center and promoting company products, as well as quality control of products for export for the parent company. An initial minimum inward remittance of US$30,000 is required to cover its operating expenses.

Tax and Financial Incentives

Investors

An investor in film or television production who wishes to utilize the fiscal and non-fiscal incentives under the Omnibus Investments Code may register with the Board of Investments (BOI). Among the incentives granted are as follows:

- An Income tax holiday for four years for projects with non-pioneer status and six years for projects with pioneer status
- An Income tax holiday for three years for expansion projects to the extent of actual increase in production
- Within five years of registration, an additional deduction for labor expenses from taxable income, equivalent to 50 percent of wages, corresponding to the increment in the number of direct labor for skilled and unskilled workers subject to certain conditions
- Tax credit for taxes and duties on raw materials used in the manufacture, processing or production of export products

- For those located in less developed areas, an additional deduction of necessary and major infrastructure expenses from taxable income
- Access to bonded manufacturing/trading warehouse system
- Tax-free importations of required supplies and spare parts for consigned equipment subject to certain conditions
- Simplification of customs procedures
- Unrestricted use of consigned equipment
- Employment of foreign nationals
- Exemption of exports from wharfage dues and export tax, duty fee, and impost

Under Memorandum Order No. 20, otherwise known as the 2011 Investment Priorities Plan and its General Policies and Implementing Guidelines applications for registration for film and TV productions must be endorsed by the Film Development Council of the Philippines on a project-by-project basis. The BOI may consult and/or require an endorsement from other concerned government agencies such as the National Historical Institute (NHI) and the National Commission for Culture and Arts (NCCA).

An income tax holiday is available for income derived from box office returns, royalties including publication rights, and rentals for special showings earned by the producer within the incentive period. Furthermore, those projects with at least 50% of revenues derived from exports may qualify for pioneer status.

Government Funding Schemes

FDCP Film Fund

The Film Development Council of the Philippines manages a revolving fund intended to assist qualified producers. The financing will be in the form of an investment in a co-production venture which shall be up to the lower of 40 percent of total project cost (including costs for print and advertising but excluding distribution/booking fees) or PhP 5,000,000.

The fund is only available to Filipino producers. The films must be shot mainly in the Philippines and the cast and staff should be substantially composed of Filipino actors and craftsmen (i.e. at least 90 percent of cast and crew are Filipinos). Preference is given to film companies who have not produced 35 mm films for the last twelve months. Funds are intended for 35 mm feature films or for blowing up of digital films into 35 mm celluloid film as long as the latter is shot in High Definition.

As of May 2011, the FDCP film fund is on hold as this program is being revised to better address the concerns of potential film producers. FDCP is considering converting this program from a "loan" to a "grant."

FDCP Film Grants

The Film Development Council of the Philippines provides grants to filmmakers invited to international film festivals. The grant includes subsidies for items such as sub-titling, cost of print, air fare and per diem. The purpose of the grants are to provide filmmakers exposure to the global market and to encourage joint ventures and co-productions.

Details of the FDCP film fund and film grants are available at the FDCP website (http://fdcp.ph/)

Other Financing Considerations

Tax Costs of Share or Bond Issues

No tax or capital duty is imposed on any issue of common or preferred shares of stock or bonds.

Stamp Duties

The documentary stamp tax (DST) is an excise tax and is imposed on documents, instruments, loan agreements and acceptances, assignments, sales or transfers of obligations, rights or property and other business instruments. The rate of tax depends on the nature of the document and transaction.

DST applies to transactions effected and consummated outside the Philippines and documents signed abroad where the obligation or right arises from Philippines sources or the property is located within the Philippines.

DST of PhP 1 for every PhP 200 is imposed on the original issuance of shares of stock and PhP 0.75 for every PhP 200 on any agreement to transfer shares of stock. On every original issue of a debt instrument, including bonds, DST of PhP 1 for every PhP 200 is imposed, provided that for debt instruments with a term of less than one year, the DST imposed shall be in proportion to the ratio of its term (in number of days to three hundred and sixty-five days).

Exchange Controls and Regulatory Rules

The Philippines has liberalized foreign exchange controls. Generally, foreign exchange receipts, acquisition or earnings may be sold to or outside of the banking system, or may be brought in or out of the country.

In the case of foreign loans or foreign investments, for foreign exchange purposes and in order for the repatriation of profits and capital to be serviced through the Philippine banking system, it is required that prior approval is obtained for the loan and the foreign investments registered with Bangko Sentral ng Pilipinas (BSP), the Philippines equivalent of the government central bank.

Domestic contracts entered into by Filipino citizens can be settled in any currency. This is in line with the governments program to liberalize economic policies, attract foreign investments, and liberalize foreign exchange control.

Authorized Agent Banks (all categories of banks except OBUs authorized to trade foreign exchange) may sell foreign exchange for non-trade current account transactions without a need to obtain prior approval from BSP. If the amount does not exceed USD 60,000.00, the buyer should submit an application in the required format. If the sale exceeds USD 60,000.00, the application should be notarized, and the supporting documents, depending on the purpose of the purchase should also be submitted (for example, in case of a payment of royalties, a copy of the royalty agreement).

All foreign exchange purchases for non-trade current account transactions shall be directly remitted to the intended non-resident beneficiary's account (whether offshore or onshore). Exceptions to this rule include travel funds, medical expenses abroad not yet incurred, and sales proceeds of emigrant's domestic assets if emigrant is still in the country.

Corporate Taxation

Recognition of Income

Film Production Company – Production Fee Income

Philippine-Resident Company

Domestic corporations (i.e., corporations created and organized under Philippine laws) are taxed on income derived from all sources, while resident foreign corporations (i.e., foreign corporations engaged in trade or business in the Philippines) are subject to tax only on income from Philippine sources.

The regular corporate income tax rate for domestic corporations and resident foreign corporations is 30 percent of taxable income (i.e. gross income less allowable deductions). On the fourth year of operations of the company, a Minimum Corporate Income Tax (MCIT) is imposed where a domestic or resident foreign company's regular corporate income tax liability is less than 2 percent of its gross income. MCIT is imposed at a rate of two percent of gross income. Where MCIT is paid, the excess MCIT over the normal tax that would otherwise have been paid shall be carried forward and offset against the normal tax liability for the three succeeding taxable years.

Non-Philippine Resident Company

Non-resident foreign corporations (i.e., foreign corporations not engaged in trade or business in the Philippines) are subject to 30 percent withholding tax on its gross income sourced within the Philippines, except for certain passive income which are subject to a lower withholding tax rate.

Film Distribution Company

Royalties and other fees received by a Philippine-resident film distribution company, whose primary purpose is licensing and sub-licensing entertainment content such as motion pictures and television programs, are subject to the regular corporate income tax of 30 percent as they received in the nature of ordinary business income derived or generated from activities that are in accordance with its primary purpose. Otherwise, royalties and other fees received by domestic and resident foreign corporations are subject to the 20 percent royalty tax on certain passive income.

Income payments to resident individuals and corporate cinematographic film owners, lessors or distributors are subject to a creditable withholding tax at 5 percent of gross payments.

Non-resident cinematographic film owners, lessors or distributors are subject to a 25 percent final withholding tax on their gross income from Philippine sources. However, if the non-resident foreign corporation is a resident of a country with an existing DTA with the Philippines, the royalties paid to the non-resident foreign corporation by virtue of a distribution agreement may be reduced further to the preferential treaty rates of 15 percent to 25 percent subject to compliance with the TTRA requirement.

For example, royalties paid by a Philippine corporation to a resident of the United States of America is taxed at the lowest rate of the Philippine tax that may be imposed on royalties of the same kind paid under similar circumstances to a resident of a third State. Article 12 of the RP-Denmark Tax Treaty provides that royalties paid by a Philippine resident to a resident of Denmark for the use of or the right to use cinematographic films and films and tapes for television locally is subject to the rate of 15 percent of the gross amount of royalties, the lowest of the same kind paid under similar circumstances among Philippine tax treaties.

Transfer of Film Rights Between Related Parties

The Philippines currently have no specific transfer pricing laws or regulations. However, Section 50 of the Philippine Tax Code gives the Commissioner of Internal Revenue the power to allocate income and expenses, between or among related parties in order to prevent the evasion of taxes or to clearly reflect the income among related parties. Thus, where a worldwide group of companies holds rights to films and videos, and grants sublicenses for the exploitation of those rights to a Philippine-resident company, the terms of the transaction must be at "arm's length."

Under Section 50, in respect of the "allocation of income and deductions In the case of two or more organizations, trades or businesses (whether or not incorporated and whether or not organized in the Philippines) owned or controlled directly or indirectly by the same interests, the Commissioner is authorized to distribute, apportion or allocate gross income or deductions between or among such organization, trade or business, if he determines that such distribution, apportionment, or allocation is necessary to prevent evasion of taxes or clearly to reflect the income of any such organization, trade or business."

Amortization of Expenditure

Production Expenditure

Ordinary and necessary expenses paid or incurred during the taxable year in carrying on or which are directly attributable to the development, management, operation and/or conduct of the trade or business are generally deductible from gross income. However, no deduction from gross income shall be allowed unless the expense is substantiated with sufficient evidence, such as official receipts or other adequate records, to establish the amount of the expense and the direct connection or relation of the expense being deducted to the development, management, operation and/or conduct of the trade or business.

In lieu of the itemized deductions provided under the Tax Code, corporate taxpayers classified as domestic corporations and resident foreign corporations, may claim up to 40 percent of its gross income as an Optional Standard Deduction (OSD). Gross income is calculated as gross sales less sales returns, discounts and allowances and cost of goods sold or cost of services. Individuals classified as resident citizens, non-resident citizens, resident aliens and taxable estates and trusts may claim up to 40 percent of his or her gross sales or receipts as an OSD.

Other Expenditure

Interest

Subject to certain limitations, interest is deductible if it is paid or incurred on indebtedness in connection with the taxpayer's trade or business.

Taxes

All taxes related to the business of the corporation and paid or incurred within the taxable year are deductible, except income tax, foreign income tax, transfer taxes and other special assessments. Subject to certain conditions and limitations, foreign income tax paid by a domestic corporation may be allowed as a deduction from the gross income of a corporation, in lieu of credit against income tax due.

Losses

Losses sustained during the taxable year and not compensated for by insurance or other forms of indemnity are allowed as deductions if incurred in trade or business if the property is connected with the trade or business and if the loss arises from fires, storms, shipwreck, or other casualties, or from robbery, theft or embezzlement.

In the case of a non-resident alien individual or foreign corporation, the losses deductible shall be those actually sustained during the year incurred in business or trade conducted within the Philippines, when such losses are not compensated for by insurance or other forms of indemnity.

Operating losses incurred in a tax year may be carried forward and offset against gross income for the proceeding three consecutive taxable years provided that there is no substantial change in the ownership of the business or enterprise. Substantial change is defined to be a change of ownership of more than 25% of the nominal value of outstanding shares or of the paid-up capital of the company.

Losses cannot be carried-back to previous taxable years.

Tax Depreciation/Capital Allowances

In general, a corporation may adopt any reasonable method of depreciation. The acceptable methods of depreciation include, but are not limited to, the straight-line method, declining-balance method, the sum-of-the-years' digits method and any other method that may be prescribed by the Secretary of Finance upon the recommendation of the CIR.

Foreign corporations are allowed deductions for depreciation only on the properties located in the Philippines.

Except for the general guidelines in claiming depreciation allowance, the BIR has yet to issue a schedule of depreciable useful lives or depreciation rates which taxpayers may use to arrive at reasonable depreciation allowances for different assets.

A corporation is allowed to change the method of computing depreciation allowance upon prior approval from the CIR.

Indirect Taxation

Value-Added Tax (VAT)

VAT of 12 percent is imposed in the course of trade or business on the sale of goods, properties and services in the Philippines and the importation of goods to the Philippines, regardless of whether it is for business use. The term "goods or properties" shall mean all tangible and intangible objects which are capable of pecuniary estimation and includes, among others, the right or privilege to use motion picture films, films, tapes and discs. The term "sale or exchange of services" means the performance of all kinds of services in the Philippines for a fee, remuneration or consideration, including those performed or rendered by lessors of property such as lessors or distributors of cinematographic films, and shall also include, among others, the leasing of motion picture films, films, tapes and discs.

VAT is levied on the gross selling price or the gross value in money of the goods sold or exchanged, including charges for packaging and excise taxes if the goods are subject to such taxes. In the case of services, the tax base is gross receipts, which include not only cash but also constructive receipt of payments. The total value used in determining tariff and customs duties, excise taxes (if any) and any other charges are the bases for the 12 percent VAT on importation.

Companies, enterprises or individuals with annual gross sales or receipts not exceeding PhP 1,500,000 are not subject to VAT, but are subject to 3 percent tax on sales or receipts. However, they may elect to be covered by VAT by voluntarily registering as VAT taxpayers.

There are certain sales or services rendered by VAT-registered persons or entities that are subject to 0 percent VAT, such as export sales.

A VAT-registered person or entity is entitled to credits for input taxes previously paid on the purchase of goods or services used in their trade or business. Anyone whose sales or services are exempted from VAT is not entitled to credit for input taxes on purchases of goods/services used in the production of such goods or services exempted from VAT. A VAT-registered taxpayer with zero-rated sales of goods or services may choose to apply for a tax credit certificate or for the refund of the unused input tax paid corresponding to the zero-rated sales.

Customs Duties

Generally, customs duties are levied on all articles imported into the Philippines. The rates vary depending on the classification and country of origin of the imported goods. If it originates from a country which is a member of the General Agreement on Tariffs and Trade (GATT) or the Association of South-East Asian Nations (ASEAN), the goods may be subject to preferential tariff treatment under the Generalized System of Preference or the ASEAN Common Effective Preferential Tariff.

Customs duties are payable at the time of release or withdrawal of the goods from the customs house or bonded warehouse.

Under the Tariff and Customs Code, there are conditionally-free importations of certain articles which shall be exempt from the payment of import duties upon compliance with the formalities prescribed by existing regulations. Among the articles exempted are:

- those brought by foreign film producers directly and exclusively used for making or recording motion picture films on location in the Philippines, upon their identification, examination and appraisal and the giving of a bond in an amount equal to 1.5 times the ascertained duties, taxes and other charges thereon, conditioned for exportation thereof or payment of the corresponding duties, taxes and other charges within 6 months from the date of acceptance of the import entry, unless extended by the Collector of Customs for another 6 months
- photographic and cinematographic films, undeveloped, exposed outside the Philippines by resident Filipino citizens or by producing companies of Philippine registry where the principal actors and artists employed for the production are Filipinos, upon affidavit by the importer and identification that such exposed films are the same films previously exported from the Philippines. The terms "actors" and "artists" include persons operating the photographic cameras or other photographic and sound recording apparatus by which the film is made

Personal Taxation

Non-Resident Artists (self-employed)

Income Tax Implications

A non-resident alien individual engaged in trade or business in the Philippines shall be subject to income tax in the same manner as a Philippine citizen and a resident alien on taxable income received from all sources within the Philippines. A non-resident alien doing business in the Philippines is one who stays in the Philippines for an aggregate period of more than 180 days during any calendar year.

A non-resident alien individual not engaged in trade or business in the Philippines is subject to a final withholding tax at 25 percent of gross income received from all sources within the Philippines such as interest, cash and/or property dividends, rents, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual or periodic or casual gains, profits and income and capital gains.

Resident Artists (self-employed)

Progressive tax rates ranging from 5 percent to 32 percent, depending on the income bracket, are imposed on Philippine citizens and resident aliens.

For professional fees and talent fees for services rendered by individuals, there is a creditable withholding tax imposed at the rate of 15 percent, if the gross income for the current year exceeds PhP 720,000, and 10 percent if otherwise on the gross professional, promotional and talent fees or any other form of remuneration for the services of professional entertainers, such as, but not limited to, actors and actresses, singers, lyricist, composers and emcees, all directors and producers involved in movies, stage, radio, television and musical productions and other recipients of talent fees.

The amounts subject to withholding tax shall include not only fees, but also per diems, allowances and any other form of income payments. In the case of professional entertainers and recipients of talent fees, the amount subject to withholding tax shall also include amounts paid to them in consideration for the use of their names or pictures in print, broadcast or other media or for public appearances, for the purposes of advertisements or sales promotion.

Employees

Income Tax Implications

For employee services, taxable income includes compensation for services in any form, including, but not limited to fees, salaries, wages, commissions and similar items. In general, the term "compensation" means all remuneration for services performed by an employee for his employer under an employer-employee relationship,

The withholding of tax on compensation income is a method of collecting the income tax at source upon receipt of the income. It applies to all employed individuals (whether citizens or aliens) deriving income for services rendered in the Philippines. The employer is constituted as the withholding agent (i.e. every employer must withhold from compensations paid, an amount computed in accordance with existing regulations).

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