

CFO's Strategic Role in Managing Rising Tax Risks

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The Philippine Tax Environment

1. Rising Compliance Costs
2. More reliance on third party information and exchange of information
3. Stricter and heavy reporting requirements as part of data gathering
4. Uncertainty of rules
5. Focus on tax avoidance schemes bordering on tax evasion
6. More responsibilities and heavier reliance on the Board, the President and the CFO for governance
7. Heavier penalties imposed for non-compliance

The Tax Risks CFO has to Manage

1. Compliance Tax Risk
2. Financial and Tax Reporting Risk
3. Transactional Tax Risk
4. Operational Tax Risk
5. Management Tax Risk
6. Company Reputational Tax Risk
7. Individual Professional Tax Risk

To whom does responsibility fall?

1. Company Board
2. President or CEO
3. CFO
4. Person signing tax returns or supplying information

Penalty

1. Civil Penalty
2. Criminal Liability
3. Closure of Business
4. Reputational Damage to the Company
5. Reputational Damage to the individual

The Role of CFOs in tax reporting

BIR Issuance	Requirement
<p>RR No. 72-10: Guidelines on the Processing of Tax Treaty Relief Applications (TTRA) Pursuant to Existing Philippine Tax Treaties</p>	<p>For application of tax treaty relief (Capital Gains) – Submit Comparative Schedule Property, Plant & Equipment duly certified by a responsible officer of the Philippine corporation.</p> <p>(RR’s footnote: Responsible Officer is the Chief Financial Officer, comptroller or any officer in charge of preparing financial statements for the company).</p>
<p>RR No. 03-10: Submission of the Statement of Management Responsibility (SMR)</p>	<p>Aside from Individual Taxpayer, President and Managing Partner, the Chief Executive Officer and the Chief Financial Officer or any officer performing similar functions regardless of their designation are also required to affix their signatures in the SMR.</p>

The role of CFOs in tax reporting

Issuance	Requirement
<p>RR No. 18-01: Guidelines on the Monitoring of the Basis of Property Transferred and Shares Received, Pursuant to a Tax-Free Exchange of Property for Shares under Section 40(C)(2) of the National Internal Revenue Code of 1997</p>	<p>A sworn certification on the basis of the property to be transferred pursuant to such exchange. The sworn declaration must be executed by the transferor himself, or in case the transferor is a juridical entity, by an official with rank of no less than the Chief Financial Officer or his equivalent.</p>
<p>RMC No. 54-14: Clarifying Issues Relative to the Application for Value Added Tax (VAT) Refund/Credit under Section 112 of the Tax Code</p>	<p>The taxpayer shall submit a statement under oath attesting to the completeness of the submitted documents. If the taxpayer is a juridical person, there should be a sworn statement that the officer signing the affidavit (i.e., at the very least, the Chief Financial Officer) has been authorized by the Board of Directors of the company.</p>

CFO as one of the “responsible officer” for tax reporting

BIR Issuance	Requirement
<p>RR No. 03-11: Regulations Providing for the Policies, Guidelines and Procedures on the Application for Change in Accounting Period Under Section 46 of the National Internal Revenue Code (NIRC) of 1997</p>	<p>A sworn undertaking by a responsible officer of the taxpayer, such as a partner, president, general manager, branch manager, treasurer or officer-in-charge, to file a separate final or adjustment return for the period between the close of the original accounting period and new accounting period.</p>
<p>RR No. 16-06: Submission by Taxpayers of Electronic Books of Accounts and Other Accounting Records in the Course of a Tax Audit/Investigation</p>	<p>A duly notarized certification attesting the completeness, accuracy and appropriateness of the computerized accounting books/records together with the accounting books, records, etc., in electronic form. The CDs, DVDs or other optical media should also be properly authenticated and its label duly signed by the responsible official(s) of the company who are required to sign the tax returns under the Tax Code, using a permanent marker.</p>

CFO as one of the “responsible officer” for tax reporting

BIR Issuance	Requirement
RMO No. 10-14: Policies, Guidelines and Procedure in the Accreditation of Importers and Customs Brokers and the Revocation Thereof	Application Forms for Accreditation of Importer shall be accomplished and signed by any responsible and ranking officer of the entity whose authority to act as such is contained in a Board Resolution, evidenced by a Secretary's Certificate of the minutes/contents of said Board Resolution.
RMO No. 09-14: Requests for Rulings with the Law and Legislative Division	A letter request is a sworn statement executed under oath by the individual taxpayer or by the authorized official/representative of the corporation, partnership or entity.
RMO No. 05-02: Guidelines and Procedures in the Adoption of Electronic Filing and Payment System (EFPS).	Certification from the President, Vice President or other principal officer authorized by law to sign and file the return of the corporation, certified to as such officers by the Corporate Secretary, to the effect that the bearer thereof is authorized to enroll for availment of the EFPS.

How to Manage Tax Risks

1. Good Corporate Governance
2. Tax reporting/sign off systems in place
3. Internal control systems in place
4. A dedicated, capable in-house tax person or unit reporting directly to the CFO
5. Knowledge. Keep updated.
6. Internal control systems in place
7. Use expert services when in doubt or in case of material transactions

“BE IN CONTROL”

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