

the Republic of the Philippines
Bureau of Internal Revenue

**Philippines
Data Collection Survey on Capacity
Development for Tax Administration**

FINAL REPORT

OCTOBER 2021

Japan International Cooperation Agency (JICA)

PACSA, Inc.

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JR
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ABBREVIATIONS

AAT	Automated Auditing Tools
ADB	Asian Development Bank
AEOI	Automatic Exchange of Information
AOA	Authorized OECD Approach
APA	Advance Pricing Agreement
BEPS	Base Erosion and Profit shifting
BIR	Bureau of Internal Revenue
BOC	Bureau of Customs
CbCR	Country-by-Country Reporting
BLGF	Bureau of Local Government Finance
CFA	Committee on Fiscal Affairs
CREATE	Corporate Recovery and Tax Incentives for Enterprises
CRS	Common Reporting Standard
DBCC	Development Budget Coordination Committee
DMCs	Developing Member Countries
DOF	Department of Finance
DRM	Domestic Resource Mobilization
DSAs	Data Sharing Agreements
DTAs	Double Taxation Agreements
DX	Digital Transformation
eFPS	Electronic Filing and Payment System
EOI	Exchange of Information
EOIR	Exchange of Information on Request
eReg	eRegistration
eTIS	electronic Tax Information System
FATCA	Foreign Account Tax Compliance Act
FDI	Foreign Direct Investment
FHTP	Forum on Harmful Tax Practices
FPI	Facilitating Public Investment
GAAR	General Anti-Avoidance Rules
GDP	Gross Domestic Product
HRDS	Human Resource Development Services
ICT	Information and Communication Technology
IMF	International Monetary Fund
IP	Intellectual Property
IRIS	Internal Revenue Integrated System
ITAD	International Tax Affairs Division
ITP TWG	International Tax Policy Technical Working Group
JETRO	Japan External Trade Organization
JICA	Japan International Cooperation Agency
LOB	Limitation-on-benefits
LTS	Large Taxpayer Service
MAC	Multilateral Convention on Mutual Administrative Assistance in Tax
MAP	Mutual Agreement Procedure

MCAA	Multilateral Competent Authority Agreement
MLI	Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS
MNEs	multinational enterprises
MTRS	Mid-term Revenue Strategy
NIRC	National Internal Revenue Code
NO	National Office
NTA	National Tax Agency, Japan
NTC	National Training Center
OECD	Organisation for Economic Co-operation and Development
PE	Permanent Establishment
PPT	Principal Purpose Test
PROTECT	Professional Team for E-Commerce Taxation
PTA	Philippine Tax Academy
RAMOs	Revenue Audit Memorandum Orders
RAOs	Revenue Administrative Orders
RATE	Run After Tax Evaders
RDAOs	Revenue Delegation Authority Orders
RDOs	Revenue District Offices
RMCs	Revenue Memorandum Circulars
RMOs	Revenue Memorandum Orders
RMRs	Revenue Memorandum Rulings
ROs	Regional Offices
ROHQ	Regional Operating Headquarters
RRs	Revenue Regulations
SPMS	Strategic Performance Management System
TA	Technical Assistance
TDD	Training Delivery Division
TIEAs	Tax Information Exchange Agreement
TIN	Taxpayer Identification Number
TMD	Training Management Division
TNA	Training Needs Analysis
ToR	Terms of Reference
TP	Transfer Pricing
USAID	United States Agency for International Development
VAT	Value Added Tax
WB	World Bank

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EXECUTIVE SUMMARY

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The Philippine government has been promoting Foreign Direct Investment as a priority in order to achieve the high economic growth necessary for the country to strengthen its tax revenue base. To this end, the government is required to adjust its policies relating to the rapidly changing socioeconomic environment by introducing new legal frameworks, revising existing law, and improving its administrative capacity. Also, actualizing a fair tax administration by meeting international standards is vital for maintaining a high volume of investment.

The Bureau of Internal Revenue, the national tax authority, needs to expand its administrative capacity in the following areas to meet the government target.

	Areas	Situation of international community	Philippines	
			Current situation/Challenge	Recommendations
1	Laws and Regulations	N/A	The DOF drafts a revision of tax law, and the Congress approves. The BIR prepares revenue issuances to be signed by either the Finance Secretary or the BIR Commissioner. Some issues are pending. Communication among them does not proceed smoothly, so information pertinent to the progress is not shared sufficiently.	<ul style="list-style-type: none"> • Communication must be improved by establishing a close channel of communication at both a high-level as well as at the practitioners' level among all stakeholders to smoothly implement necessary legislation.
2	BEPS Action 5: Preventing Harmful Tax Practices	If a country issues tax rulings on this issue, the tax administration must spontaneously exchange information. Almost 30,000 Spontaneous Exchanges of Information were made by July 2020.	The draft, "RR: Spontaneous Exchange of Information of rulings" was forwarded to the DOF in June 2021. Preferential regimes have been identified and eliminated by amending laws. The rulings that need to be exchanged must be identified in a timely manner and measures must be taken as recommended by peer review.	<ul style="list-style-type: none"> • Drafted RR needs to be approved by the DOF secretary. • Make sure there is a follow-up mechanism for exchanging rulings to comply, e.g., conducting periodic guidance by ITAD, potential ruling cases identified in consultation and audits to be referred to ITAD.
3	BEPS Action 6: Preventing the Granting of Treaty Benefits in Inappropriate Circumstances	95 countries and regions signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI) by June 2021 and it covers more than 1,700 bilateral tax treaties.	Current tax law does not contain General Anti-Avoidance Rules. Most of the Philippines' tax treaties don't meet the requirements of BEPS minimum standards. While there are no signs of a future ratification towards MLI which are to be decided by the DOF, administrative preparation for the implementation is necessary.	<ul style="list-style-type: none"> • A legal framework needs to be prepared. Draft GAAR and DOF needs to continue working with ADB for updating tax treaties and signing MLI. • The Covered Tax Agreement should be drafted and be ready for the smooth implementation of MLI.

	Areas	Situation of international community	Philippines	
			Current situation/Challenge	Recommendations
4	BEPS Action 13: Country-by-Country Reporting (CbCR)	90 countries/regions have completed legislation regarding filing obligations. CbCR is shared based on (1) MAC, (2) Bilateral tax convention, or (3) TIEAs.	CbCR has not been implemented. The Philippines has not ratified (1) and signed MCAA. Certain taxpayers are required to submit Form 1709 and other TP documentations to the BIR. FAQs on the preparation and submission of Form 1709 are prepared.	<ul style="list-style-type: none"> • Need to proceed with the procedure of MAC, MCAA, and a domestic legal framework. • Create a team to conduct risk assessment for international taxation including TP by using CbCR, Form 1709, and other documents.
5	BEPS Action 14: Dispute Resolution Mechanism (MAP)	2,821 MAP cases were completed, and 5,955 MAP cases were carried forward in 2019. The average time to conclude one case was 30.5 months.	The tax conventions of the Philippines provides MAP. The BIR has dealt with ten MAP cases since 2013 even in the absence of MAP guidelines. The BIR is now drafting MAP guidelines and revising APA guidelines. There is no dedicated MAP team/APA team.	<ul style="list-style-type: none"> • Create teams with relevant authority. • Staff must be trained in the enforcement procedure of TP, MAP and APA. • MAP and APA staff should have experience in TP audits.
6	Transfer Pricing Taxation	Rapid Development of global cooperation based on BEPS	TP audit guidelines were issued in 2019. A TP audit has not been done yet. There is a lack of a dedicated TP audit team, and a lack of budget for software for benchmarking analysis.	<ul style="list-style-type: none"> • Create a dedicated TP audit team. • Create a team to support the TP team from the review side. • Create systematic TP training.
7	Taxation on Digital Economy	Unilateral taxation and VAT are imposed in some countries. A consensus will be reached among participating countries addressing the issue by mid-2021.	House Bill No. 7425 was submitted to the House of Representatives in August 2020. The bill was forwarded to the Senate on Sep. 23, 2021.	<ul style="list-style-type: none"> • Follow-up on the status of the bill and prepare relevant issuances for implementation. • Establish a designated division/team in BIR to monitor and analyze e-commerce.
8	Exchange of Information and Common Reporting Standard (CRS)	More than 100 tax authorities have committed to exchange CRS based on the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, the CRS multilateral competent authority agreement, AEOI, or TIEAs. The Co-ordinating Body of the MAC is accepting countries wishing to ratify MAC as observers to their meeting.	CRS has not been introduced. The country has not signed any mechanism to exchange CRS. The BIR proposed a way to sign TIEAs to the DOF in 2018 but no response was obtained. The law of bank secrecy prevents the BIR from obtaining financial information for AEOI.	<ul style="list-style-type: none"> • A legal framework needs to be prepared. • It is worth considering the use of the “Anti-Money Laundering Act” to obtain financial information for AEOI. • Since the Philippines is qualified, participate in the Coordinating Body as an observer and report to Congress. • Create a designated team solely for EOI.

	Areas	Situation of international community	Philippines	
			Current situation/Challenge	Recommendations
9	Further Improvement for Tax Administration	N/A	<p>Laws and Regulations: Taxpayers are given a short period of time to adjust to the change in regulations.</p> <p>Taxpayers request a unified law application and enhanced compliance.</p>	<ul style="list-style-type: none"> • Provide more time for taxpayers to adjust to the change. • 1) provide more training to officers, 2) provide adequate materials for officers' work, and 3) fully functionalize the chain of command to obtain official interpretation in the BIR.
			<p>VAT Refund: Taxpayers are requesting VAT refunds to be fairly and quickly processed.</p>	<ul style="list-style-type: none"> • Implement a timely feed-back mechanism for VAT refunds when it is unable to be processed within the target period. • Provide more FAQs especially in cases unable to be refunded.
			<p>Tax Audit: Taxpayers are complaining about the high cost of compliance through audits and requesting auditors to follow laws.</p>	<ul style="list-style-type: none"> • Make sure evidence-based results are presented. • Estimated taxation should be allowed only when the facts are confirmed but taxpayers' cooperation could not be obtained. • Introduce OJT for auditors in ROs and RDOs to work in LTS, and LTS auditors to help cases in other offices in an ad-hoc manner to enhance organizational capacity.
10	BEPS training	N/A	<p>BIR's Curriculum Building Matrix, including BEPS training, was developed. Several training opportunities have been utilized. HRDS plans to design and develop the TP basic and intermediate training courses while a TP audit has not been conducted yet. Knowledge and expertise on BEPS, especially TP issues, is yet not sufficient.</p>	<ul style="list-style-type: none"> • TP basic training should be implemented at an early stage. • Acquiring deeper and higher specialized knowledge on BEPS is needed. • Human resource development mechanism should be established to secure continuous accumulation of knowledge and expertise through training and practice.

	Areas	Situation of international community	Philippines	
			Current situation/Challenge	Recommendations
11	e-Learning (ICT infrastructure)	N/A	<p>The PTA/iLean platform has been utilized for the BIR's online training courses since 2020. The BIR developed this e-learning platform in the mid-2021 and uses it as a pilot platform.</p> <p>The system capacity is not sufficient. Insufficient knowledge and skills on the e-learning system operation and on developing training materials.</p>	<ul style="list-style-type: none"> Necessary budget funds should be secured to enhance the functionality of the BIR's e-learning platform, Examine a way to improve the existing systems, Assessment, optimizing the standards on creating materials, exploring other possible tools, seeking learning opportunities etc.
12	Donor Engagement	N/A	<p>Multiple donors have been providing assistance in line with BIR's Strategic Plan. ADB is providing TA on BEPS, mainly legislation for DOF.</p>	<ul style="list-style-type: none"> To BIR: Donor coordination is necessary to find possible cooperation and collaboration among development partners. To JICA: first assess available resources and expertise in Japan when providing technical assistance to the BIR in the future, and then explore the possibility of future collaborations with active donors. All development partners should actively participate in and cooperate with the BEPS related initiatives undertaken at the Asia Pacific Tax Hub.
13	TP Training Proposal	N/A	<p style="text-align: center;">Recommendations</p> <ul style="list-style-type: none"> Training modules for TP basic training need to be in accordance with <ol style="list-style-type: none"> the fundamental principles of BEPS promoted by the OECD, related laws and regulations on TP audits and related procedures of MAP and APA in the Philippines, and other key documents such as TP guidelines and TP audit guidelines Additional tools such as audio materials should be included as they are useful <ol style="list-style-type: none"> To learn the modules in the gap time during their busy schedule, and For those who don't have sufficient time to open their own devices to read the materials. The ideas that the BIR has for future training implementation management should be realized and continued. With understanding on pros and cons of each recommended option such as "1. Mass-Approach", "2. Filtering-Approach", and "3. TOT-Approach", the BIR should determine in what way the future training on TP is to be implemented. 	

1. SURVEY OUTLINE

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1-1 BACKGROUND OF THE SURVEY

(1) Current Socio-Economic Situation and Issues

Challenging Issues

- (1) Strengthening the tax base to maintain high economic growth and further development
- (2) Enhancing institutional and operational systems in line with ongoing Tax Reform
- (3) Ensuring fair taxation in accordance with international standards

[Economy]

The Philippines is currently implementing a number of socio-economic policies to attract foreign investment especially in the field of trade and manufacturing services. These policies aim to stabilize macroeconomic activities and promote tax reforms and public investment to accelerate domestic market liberalization and infrastructure development.¹ As a result, the economy is showing steady growth year by year and the average Gross Domestic Product (hereinafter referred to as “GDP”) growth rate between 2010 and 2019 reached 6.4 percent. However, due to the COVID-19 pandemic and the consecutive strict lockdown measures set in place to contain the outbreak, the GDP of the Philippines contracted by an estimated rate of over 9.5 percent in 2020.² In the first quarter of 2021, the Philippine GDP posted a decline of 4.2 percent, mainly attributable to the Construction, Real Estate and Other Services sectors.³ In the second quarter, the GDP increased by 11.8 percent. The primary contributors to the growth were the Manufacturing (23.3%), and Wholesale & Retail Trade; Repairs of Motorcycles (5.4%) sectors.⁴

Domestic inflation has continued to increase as of the beginning of 2021 with a rate of 4.2 for January. The increase in the inflation rate is primarily due to the higher annual increment of heavily weighted food and non-alcoholic beverages at 6.2 percent for January, from 4.8 percent in December 2020.⁵ The inflation rate remained at 4.5 percent for three consecutive months from March to May 2021, before finally slowing down to 4.1 percent in June 2021.⁶ In terms of the unemployment situation in the Philippines, unemployment rates have slightly worsened in February 2021 due to work interruptions and lockdown

¹ After taking office, President Duterte decided to follow the macroeconomic management policy of the previous administration. To revitalize the domestic economy, the Duterte administration established policies and strategies such as the “10-Point Socio-economic Agenda” (State of the Nation (SONA), June 2016), “Ambisyon Nation 2040, for Long-term planning until 2040” (October 2016), “Philippines Development Plan (PDP) 2017-2022, for medium-term planning” (February 2017), “Investment Priorities Plan” (February 2017), and the “Build! Build! Build! Program” (April 2017), etc.

² [SantanderTrade, Philippines \(The\): Economic and Political Outline](#)

³ [PSA, GDP declines by -4.23 percent in the first quarter of 2021](#)

⁴ [PSA, GDP posted double digit growth of 11.8 percent in the second quarter of 2021](#)

⁵ [PSA, Summary Inflation Report Consumer Price Index \(2012=100\): January 2021](#)

⁶ [PSA, Summary Inflation Report Consumer Price Index \(2012=100\): June 2021](#)

restrictions after it recovered from the 17.6 percent contraction in April 2020.⁷ The unemployment rate increased from 8.7 percent in January 2021 to 8.8 percent in February 2021.⁸ It lowered to 7.7 percent in June 2021, owing primarily to an increase in the number of employed persons in the Administrative activities sector.⁹

[Investment]

In addition to the expansion of the consumer market and purchasing power in the Philippines, its abundant labor pool has drawn much attention from foreign investors according to the data on the confirmed amount of foreign investment in the past 5 years. While the amount went down in 2017, it recovered by 2018, and increased in 2019 by 2.1 times compared with that of 2018. In 2020, the confirmed amount of investment had decreased by 11 percent compared with that of 2019 due to the COVID-19 pandemic; however, it recorded the second highest followed by a new record high in 2019.¹⁰ To date, the Philippine economy is highly ranked on three indicators out of eleven in the report published by the World Bank (hereinafter referred to as “WB”) titled “*Doing Business 2020*”; to wit: 1) Business-start up in the country, 2) Dealing with Construction Permits, and 3) Protecting Minority Investors. This raised the ranking of the Philippines from 124 to 95 out of 190 countries. Additionally, in a survey conducted by the Japan Bank for International Cooperation (JBIC) in 2020, the Philippines ranked 7th in terms of being a promising prospect for business operations over the next three years. The Philippines was described as “persistently popular” among Japanese manufacturers and was also chosen as a great country for risk diversification. The survey highlighted the steadily increasing amount of foreign direct investments and the country’s high regard for qualified human resources.¹¹

In May 2021, S&P Global Ratings affirmed the Philippines’ investment grade credit rating of ‘BBB+’ with a stable outlook. S&P noted that the government has enacted effective fiscal policies over the past decades and anticipates the recovery of the national economy once the COVID-19 pandemic is contained.¹² Aside from S&P, Fitch Ratings also gave them a ‘BBB’ rating last January 2021 and expects the GDP to expand by 6.9 percent by the end of 2021. The projection of Fitch incorporated the impact of the Corporate Recovery and Tax Incentives for Enterprises (hereinafter referred to as “CREATE”) Act, which entails the

⁷ [CNN Philippines, Unemployment worsens with 4.2 million jobless in February - PSA](#)

⁸ [PSA, Employment Situation in February 2021](#)

⁹ [PSA, Unemployment situation, June 2021](#)

¹⁰ NNA Asia (2021), ‘*Asia Economic News*’

As for the status of Japanese companies in the country, while new entrants are seen every year, the amount of investment is gradually decreasing in the Special Economic Zones (SEZ) where many Japanese companies move in due to the rationalization of existing investment incentives along with the reduction of corporate income tax, which is also subject to tax reform (Package 2). (Source: Japan External Trade Organization (JETRO) (2019), ‘*Global Trend on Trade and Investment*’)

¹¹ [Tokyo Philembassy, Philippines is 7th most promising county over the mid term for Japanese companies](#)

¹² [BusinessWorld, S&P affirms Philippines’ BBB+ rating](#)

rationalization of fiscal incentives.¹³ In July 2021, however, Fitch revised the Outlook from Stable to Negative. The revision underscores the increasing risks to the Philippines' credit profile brought by the pandemic and the aftermath of policy-making.¹⁴ According to Moody's Investors Services' latest report of July 2020, a 'Baa2' credit rating with a stable outlook was assigned, also emphasizing the government's fiscal position, which provided a buffer against the rise of public indebtedness.¹⁵ In addition, Japan Credit Rating Agency (JCRA) upgraded its rating from 'BBB+' to 'A-' in its latest report from June 2020, recognizing the country's resilience during the pandemic.¹⁶

[Finance]

Tax revenue is a major source of national revenue. While it has increased year by year linking to the increase of the GDP, the tax revenue to GDP remains at 13 to 14 percent, which is lower than that of other neighboring countries in Asia.¹⁷ This calls for further strengthening of tax collection efforts and tax administration. In the Philippines, tax collection is administered by the Bureau of Internal Revenue (hereinafter referred to as "BIR") and the Bureau of Customs (hereinafter referred to as "BOC"). Both agencies are attached to the Department of Finance (hereinafter referred to as "DOF"). The BIR conducts 78 percent of the entire tax collection while the rest is collected by the BOC as well as other government agencies. For the first time in 2019, the total amount the BIR collected reached 2 trillion pesos. This recorded an 11.4 percent increase compared with that of the previous year.¹⁸ In 2020, although the Development Budget Coordination Committee (hereinafter referred to as "DBCC") revised the collection target twice in May and again in July to reflect the economic realities of the domestic and global economic slump caused by the COVID-19 pandemic, the BIR collected 1.800 trillion pesos, which is more than 213.84 billion pesos above the target and equivalent to 12.68 percent above the DBCC revised target.¹⁹

With the BIR's goal of collecting 2.08 trillion pesos in 2021 (an increase of 7.23 percent from the previous target collection), initiatives in improving tax compliance, strengthening its budget management system, speeding up recruitment and promotion of its staff, expanding computerization efforts, and amplifying its enforcement activities have been undertaken by the BIR. In a report by the BIR Commissioner to the Finance Secretary last 2020, the enforcement activities that were intensified for tax collection by the BIR were the Oplan Kandado (Operational Plan "Lock") and *Run After Tax Evaders*

¹³ [FitchRatings, Fitch affirms Philippines at 'BBB'; Outlook stable](#)

¹⁴ [FitchRatings, Fitch revises Philippines' Outlook to Negative: Affirms at 'BBB'](#)

¹⁵ [Moody's, Moody's affirms the Philippines Baa2 ratings; maintains stable outlook](#)

¹⁶ [Tokyo Philembassy, Japan Credit Rating Agency upgrades Philippines' rating to A-](#)

¹⁷ The IMF Government Finance Statistics

¹⁸ [BIR Collection Statistics - BIR](#)

¹⁹ [BIR, BOC overshoot DBCC revenue targets in 2020 | Philippine News Agency \(pna.gov.ph\)](#)

(hereinafter referred to as “RATE”).²⁰ Oplan Kandado aims to strengthen the BIR’s imposition of administrative sanctions for non-compliance with regulatory requirements. The BIR temporarily “padlocks” unregistered businesses to force them to settle their unpaid taxes.²¹ In 2020, over 209 establishments were padlocked due to tax law violations and a total of 607.87 million pesos in tax revenue were collected through that program. Under the RATE program, the BIR investigates entities that violate provisions of the amended National Internal Revenue Code (hereinafter referred to as “NIRC”) and prosecutes them through criminal cases to enhance voluntary compliance and bolster public confidence in the country’s tax system.²² Through this program, the BIR was able to file twenty-four cases with the Court of Tax Appeals (with estimated liabilities reaching 753.75 million pesos) and 157 cases to the Department of Justice (with aggregate liabilities reaching 7.45 billion pesos).

The BIR was able to collect a total of 1.034 trillion pesos from January to June this year. This favorable collection performance can be attributed to the pre-pandemic digitalization program. The comprehensive digitalization program enabled the BIR to collect income taxes through electronic means and allowed the bureau to function despite the lockdowns. In 2020, 86 percent of the collection was done through electronic payment channels and around 94 percent of the tax returns filed were submitted online. The BIR is also set to implement an online registration and update system that will provide an end-to-end process for registration and updating of taxpayer registration information.²³

(2) Challenging Issues in the Tax Administration

The smooth implementation of ongoing tax reforms aiming at promoting further foreign investment to maintain high domestic economic growth as well as prompt correspondence with global trends on international taxation are becoming pressing needs in the Philippines. As such, the BIR has been working on consolidating the foundations of tax administration focusing on three areas:

- a) corresponding to the minimum standard of the Base Erosion and Profit Shifting (hereinafter referred to as “BEPS”) established in 2013;
- b) corresponding to the taxation on the Transfer Pricing (hereinafter referred to as “TP”) to realize fair taxation of domestic and foreign corporations; and
- c) preparing for the taxation of the digital economy of BEPS Action 1, which has been one of the top agenda items in OECD member countries in recent years.

²⁰ PNA, BIR Intensifies enforcement activities to boost tax collection, Rappler, Can I avoid a BIR Audit

²¹ Inquirer, BIR’s ‘Oplan Kandado’ yields P547.9M

²² ManilaTimes, Tax Filing and Rate

²³ Philstar, Changing its image through hardwork

The BIR has already undertaken a phased approach toward preparation of the TP taxation. In January 2013, the BIR provided the TP guidelines. In 2019, it created the TP audit guidelines, making TP documentation mandatory. However, there is no indication that the TP audit is being carried out nor implemented as of writing. Moreover, in September 2014, a draft of the Advanced Pricing Agreement (hereinafter referred to as “APA”) was published, but there has been no further movement or update on this or the Mutual Agreement Procedure (hereinafter referred to as “MAP”) guidelines, as of this date.

Human resource development efforts, however; are progressing favorably, the BIR, in cooperation with Japan International Cooperation Agency (hereinafter referred to as “JICA”) held a BEPS seminar in February 2020. Based on the said seminar, the BIR launched a training program on “Introduction to BEPS” including TP audits on a pilot basis in December 2020. The BIR is now planning to modify the said training course after pilot activities are implemented and will create advanced courses (practical course).

Given the current COVID-19 situation as well as the related geographical conditions in the Philippines, the BIR acknowledged the pressing need to reinforce training activities. To accommodate these needs and implement human resource development activities in a more efficient way, the BIR explored the possibility of establishing e-learning and virtual learning programs in addition to the on-site training.

1-2 PURPOSE OF THE SURVEY

The target of the survey is to identify possible areas for future cooperation with Japan. In order to do so, the Team (hereinafter referred to as “the Team”) will make a proposal on the possible areas for future cooperation in the field of tax administration in the Philippines and collaboration with other development partners in relevant fields through the study and analysis of 1) the current state of the tax system and administration, 2) HR development activities, and 3) support provided by other development partners.

1-3 SURVEY ITEMS

The target areas of the Survey are listed below.

Survey Areas and Survey Items
(1) Law and Regulations
Overall Structure, Formulation of New Regulations
(2) Tax Administration
1) Overall Tax Administration Structure
2) State of legal framework and tax administration in relation to BEPS Minimum Standards: Legal Structure and its Execution 1) Preventing Harmful Tax Practices, 2) Preventing the Granting of Treaty Benefits in Inappropriate Circumstances, 3) Country-by-Country Reporting, and 4) Dispute Resolution Mechanism
3) Current BIR initiatives to implement TP Taxation
4) Current situation and policies on taxation of the digital economy
5) Current state of preparation for Common Reporting Standard (CRS) for Automatic Exchange of Information

(AEOI)
6) Taxpayer viewpoint on issues and perception of tax administration
(3) Human Resource Development
1) Implementation status of the TP basic training course developed by the BIR as well as development status of its advanced training courses
2) Status of the development of a training system utilizing e-learning and virtual learning and its implementation status if any during the COVID-19 pandemic
(4) Engagement of Donors and International Organizations
1) Status of support provided by other development partners

1-4 SURVEY MEMBERS

The Team is formed with the following four members:

Name	Duty Area	Affiliation
(1) Ms. Takako IMAI	Project Manager/Tax Administration	PACSA, Inc.
(2) Ms. Yumiko NAKAMURA	Training Planning	LLC Tekizaitekisho
(3) Mr. Norihiro HORIE	International Taxation (TP)	PACSA, Inc.
(4) Mr. Takashi FUKUDA	International Taxation	KPMG, Japan

1-5 SURVEY SCHEDULE

Based on the contract signed between JICA and PACSA, Inc., the Survey period started in April 2021 and will end at the end of October 2021. Detailed work schedule is shown as follows:

Work Schedule

FY	FY2021										
	Month	4	5	6	7	8	9	10			
I. Making Inception Report and Explanation											
(1) Making Workplan and Submission		▲									
(2) Collecting Information and Analyze											
(3) Formulating hypothesis											
(4) Making Inception Report and Explanation			□	□	▲						
II. Field Survey and Needs Analysis											
(1) Conducting Web Research and Analysis		□	□	□		□		□		□	
(2) Making Questionnaires/Distribution/Collection											
(3) Preparation and Conducting interview (Online)			□	□	□	□	□	□	□	□	
(4) Analyzing information collected			□	□	□	□	□	□	□	□	
III. Making Monthly Report											
(1) Making summaries on schedule, information collected, issues and action points for the next month			▲		▲		▲		▲		
IV. Interim Report/Report Presentation & Discussion											
(1) Making Draft Report					□	□					
(2) Reporting the progress and Exchange opinions							△-△				
V. Making Draft Final Report/Report Presentation & Discussion											
(1) Making Draft Report								□	□	▲	
(2) Reporting to CG of BIR, Exchange of Opinions (including Donors)									△-△		
(3) Summarizing Discussion Points and Additional Survey Items								□		□	
VI. Making Final Report/Report Presentation & Discussion											
(1) Report Writing									□	□	
(2) Submission of the Report										▲	

■ Field Survey in the Philippines □ Work in Japan △-△ Report Presentation ▲ Outputs

2. SURVEY POLICIES

2. SURVEY POLICIES

To collect qualitative and quantitative data and information regarding the survey item mentioned above, the Team will conduct a survey on site as well as on-line utilizing methodologies including a questionnaire, interviews, and document reviews based on the schedule and policies agreed upon between the BIR and the Team.

2-1 LAWS AND REGULATIONS

[Survey Item-1]

Structure of tax laws and regulations. Organization for planning, drafting and execution of tax law

- Conduct a comprehensive survey covering everything from the law drafting stage to promulgation. The survey will also focus on the status of coordination and collaboration between the BIR and the DOF in legislation.
- Pay close attention to the level of administrative capacity of the legal officers of the BIR who are in charge of developing rules and regulations for the relevant areas of tax audits.

2-2 TAX ADMINISTRATION

[Survey Item-1]

Current organizational settings under the BIR as well as the DOF

- Review overall organizational structure, functions of departments concerned, and staff allocations.

[Survey Item-2]

Situation of the legal framework and tax administration as it relates to BEPS minimum standards: Legal Structure and its Execution (1) Preventing Harmful Tax Practices, 2) Preventing the Granting of Treaty Benefits in Inappropriate Circumstances, 3) Country by Country Reporting (hereinafter referred to as “CbCR”), and 4) Dispute Resolution Mechanism.

- Thoroughly study the areas from legislation and the operation of laws and regulations to the execution process to understand the whole picture of tax administration.
- Adopt a macro perspective in analyzing the situation in the Philippines. To do so, collect and analyze information collected regarding global movement toward BEPS project including actual cases in other neighboring countries,
- Analyze the situation from various viewpoints referring to voices from the private sector including Japanese corporations and other development partners.

[Survey Item-3]

Current BIR's initiatives to implement TP taxation

- Thoroughly study the areas from legislation and the operation of laws and regulations to the execution process to understand the whole picture of tax administration.
- Collect information from several stakeholders to grasp the current implementation status of the TP taxation and to identify bottlenecks.
- Explain the definition and discussion in the Organisation for Economic Co-operation and Development (hereinafter referred to as "OECD")/Group of Twenty (hereinafter referred to as "G20") Inclusive Framework and peer review on minimum standards. Summarize measures and situation in Japan and the Philippines.

[Survey Item-4]

Current situation and policies on taxation of the digital economy

- Given the status of affairs including support provided by other development partners, understanding the current situation on taxation of the digital economy is a top priority.
- Identify issues, both in the area of policy making but also on the operation of the tax administration based on the information collected above.

[Survey Item-5]

Situation for preparing Common Reporting Standards (hereinafter referred to as "CRS") for Automatic Exchange of Information (hereinafter referred to as "AEOI")

- Explain definitions and conduct discussions in the Inclusive Framework. Summarize measures and the situation in Japan and the Philippines.

[Survey Item-6]

Taxpayer viewpoint on issues and perception of the tax administration

- Capture the voice of foreign related taxpayers in the Philippines.

2-3 HUMAN RESOURCE DEVELOPMENT

[Survey Item-1]

Implementation status of the TP basic training course developed by the BIR as well as the development status of its advanced training courses

- Thoroughly understand the situation regarding the BIR content development on TP referring to 1) JICA's engagement in the past in the relevant field; and 2) BIR's own initiatives to establish the new training course on TP from 2021 onward.
- At the time of the situation analysis, conduct a wide range of surveys focusing not only on content development status but also on its implementation and operation status of relevant training projects through document reviews and interviews of stakeholders concerned.
- Refers to lessons learned in other countries in establishing TP training courses to draw viable proposals for upgrading existing training programs.

[Survey Item-2]

Status of the development of a training system utilizing e-learning and its implementation status if any during the COVID-19 pandemic

- Conduct a detailed review of changes in the training system that occurred due to Covid-19 if any as well as the current situation.
- Clarify issues identified through the Survey into issues particular to the Philippines and global issues to draw a viable proposal on enhancing the effectiveness of e-learning and virtual learning.

2-4 ENGAGEMENT OF DONORS AND INTERNATIONAL ORGANIZATIONS

[Survey Item-1]

Status of support provided by other development partners

- To consider the areas and direction of JICA's support in the future, collect comprehensive information including background information and records of other development partners' supporting areas and activity details.

3. SURVEY RESULTS AND FINDINGS

3. SURVEY RESULTS AND FINDINGS

3-1 LAWS AND REGULATIONS

(1) Structure of Tax Laws and Regulations

In the Philippines, tax law covers national and local taxes. The NIRC (Republic Act No. 8424 (“The Tax Reform Act of 1997”)) is the principal tax code administered by the BIR. It consists of 1) Organization and Function of the BIR, 2) Tax on Income, 3) Estate and Donor’s taxes, 4) Value Added Tax (hereinafter referred to as “VAT”), 5) Other Percentage Taxes, 6) Excise Taxes on certain goods and services, 7) Documentary Stamp Tax, 8) Remedies and so on.

Under the NIRC, there are administrative issuances, i.e. Revenue Regulations (hereinafter referred to as “RRs”), Revenue Memorandum Orders (hereinafter referred to as “RMOs”), Revenue Memorandum Rulings (hereinafter referred to as “RMRs”), Revenue Memorandum Circulars (hereinafter referred to as “RMCs”), Revenue Delegation Authority Orders (hereinafter referred to as “RDAOs”), Revenue Administrative Orders (hereinafter referred to as “RAOs”), BIR Rulings, and Revenue Audit Memorandum Orders (hereinafter referred to as “RAMOs”).²⁴ The Commissioner of Internal Revenue has the power to interpret the tax code and the Secretary of Finance ensures its correct application by review. Additionally, the Philippines has signed forty-three tax treaties to date. The original Tax Treaty between Japan and the Philippines was enacted in 1980 with the revision becoming effective in 2009.

(2) Formulation of New Regulations

The President provides policy for carrying out principles of the Constitution by signing Republic Acts for special treatment on taxes, e.g., tax amnesty.²⁵ The NIRC amendment process is, 1) the DOF drafts a proposal, 2) Congress deliberates and approves, and 3) the Secretary of Finance signs the new bill to authorize it.

Drafting tax bills is led by the Strategy, Economics, and Results Group of the DOF (Project Team) with support from other units such as the Revenue Operations Group to review draft tax regulations submitted by the BIR and other offices. The Strategy, Economics, and Results Group consists of two Undersecretaries, two Assistant Secretaries, seven Directors and eleven officials. They are experienced, as 45 percent of them have been serving in the group for more than a decade and there is no official with less than three years of experience. They have various backgrounds, including a former BIR officer, Senate member, some with a background in economics, etc. The organization chart of the DOF is shown in Appendix-1, 2, and 3.

The DOF collects public opinion through the internet, public hearings, as well as by writing. BIR officers join their technical working discussions and participate in public hearings to offer its administrative

²⁴ Guide to Philippines Tax Law Research – BIR (bir.gov.ph)

²⁵ RA 11494 signed in September 2020 allows extension of statutory deadlines due to COVID-19.

expertise and opinions. After the approval of drafted law and regulations within the DOF, a Memorandum for the President to facilitate the signing of the measure is prepared. As for regulations, the DOF transmits the signed copies for publication.

For other regulations and issuances, the Law and Legislative Division of the Legal Group in the BIR mainly prepares drafts following the workplan approved by the Commissioner and authorization procedures are decided according to their significance. TP related guidelines are drafted by Operation Group and offices in charge of large taxpayers. For example, RRs, which prescribe amendments and a framework for the NIRC, are prepared by a team of three or more, submitted to the Commissioner, and approved by the Secretary of Finance. RMOs and RMCs are signed by the BIR Commissioner.

Table 1 Authorization Structure of laws and regulations

Title	Purpose	Ratified by	e.g.,
Constitution	Sets limitations on the exercise of the power to tax.	President	
RA (NIRL)	Provides policy for carrying out principles of the constitution.	President	RA No. 8424 ("The Tax Reform Act of 1997")
	Stipulates the organization and function of the BIR and tax articles.	Secretary of Finance Proposed by Commissioner of BIR	
Tax treaty	Avoids double taxation on Income.	President ²⁶	
RRs	Defines enforcement rules prescribed within the NIRL and related statutes.	Secretary of Finance	T/P guidelines No.2-2013,
		Recommended/approved by Commissioner of BIR	New form 1709 for T/P transactions No. 19-2020
RMOs	Provides directives and guidelines for the BIR administration (except for auditing).	Commissioner of BIR	BIR collection goal allocation (7-2021)
RMRs	States opinions and interpretations of NIRL.	Commissioner of BIR	(Not on the BIR website)
RMCs	Gives interpretations of laws, rules, regulations, and precedents issued by the BIR and other agencies/offices.	Commissioner of BIR	Guidelines in the filing of tax returns (4-2021)
RDAOs	Announces orders to delegate authority for specific tasks in the BIR.	Commissioner of BIR	Revenue delegation authority order (1-2020)
RAOs	Provides the BIR permanent administrative set-ups.	Commissioner of BIR approved by Secretary of Finance	Function of offices of the deputy commissioners of BIR
BIR Rulings	Announces official provisions of tax treatment on specific queries raised by taxpayers.	Commissioner of BIR	BIR Ruling NO. VAT-001-21
RAMOs		Commissioner of BIR	

²⁶ Tax treaties are signed by the Secretary of Foreign Affairs

Title	Purpose	Ratified by	e.g.,
	Provides directives and guidelines of audit programs.	Prepared by Deputy commissioner, BIR etc.	T/P audit guidelines No. 1-2019
RSO		Commissioner of BIR	RSO No. 51-2021

(Source: BIR)

(3) International Tax Policy Technical Working Group and Automatic Exchange of Information Project Team

The DOF renamed the Tax Treaty Negotiation Technical Working Group as the International Tax Policy Technical Working Group (hereinafter referred to as “ITP TWG”) in December 2018. The ITP TWG is the primary policy and technical approving body regarding all international taxation matter. The chairman is Undersecretary of Revenue Operations Group and there are two members, the Undersecretary of the International Finance Group, and the Undersecretary of the Domestic Finance Group. The Revenue Operations Group is designated as the Secretariat for the ITP TWG.²⁷

The AEOI Project Team within the BIR participates in the discussion of ITP TWG of the DOF. In February 2021, a team was established for drafting domestic legislation on AEOI, the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (hereinafter referred to as “MAC”),²⁸ the international agreement which provides all forms of information exchange and the Common Reporting Standard. The team consists of three heads, the Deputy Commissioner of the Legal Group for Legal Matters, the Deputy Commissioner of the Operation Group for Data Utilization and Monitoring, and the Deputy Commissioner of the Information System Group for IT Solutions, Data Matching, Confidentiality, and Data Safeguards.²⁹ Other members are also designated by the Commissioner and are shown in Appendix-4. The AEOI Project Team works closely with the ITP TWG of the DOF.

3-2 TAX ADMINISTRATION

(1) Organizational Settings and Performance of the BIR

[Organization Structure and Personnel]

Under the supervision of the DOF, the BIR has the authority to carry out national tax administration within the scope of the NIRC except for customs: assessment and collection of national taxes and fees, enforcement based on the judgment of the Court of Tax Appeals and other court orders.³⁰ The BIR National Office (hereinafter referred to as “NO”) has three groups directly controlled by the Commissioner: 1) the

²⁷ DOF. Department Order No. 076.2018

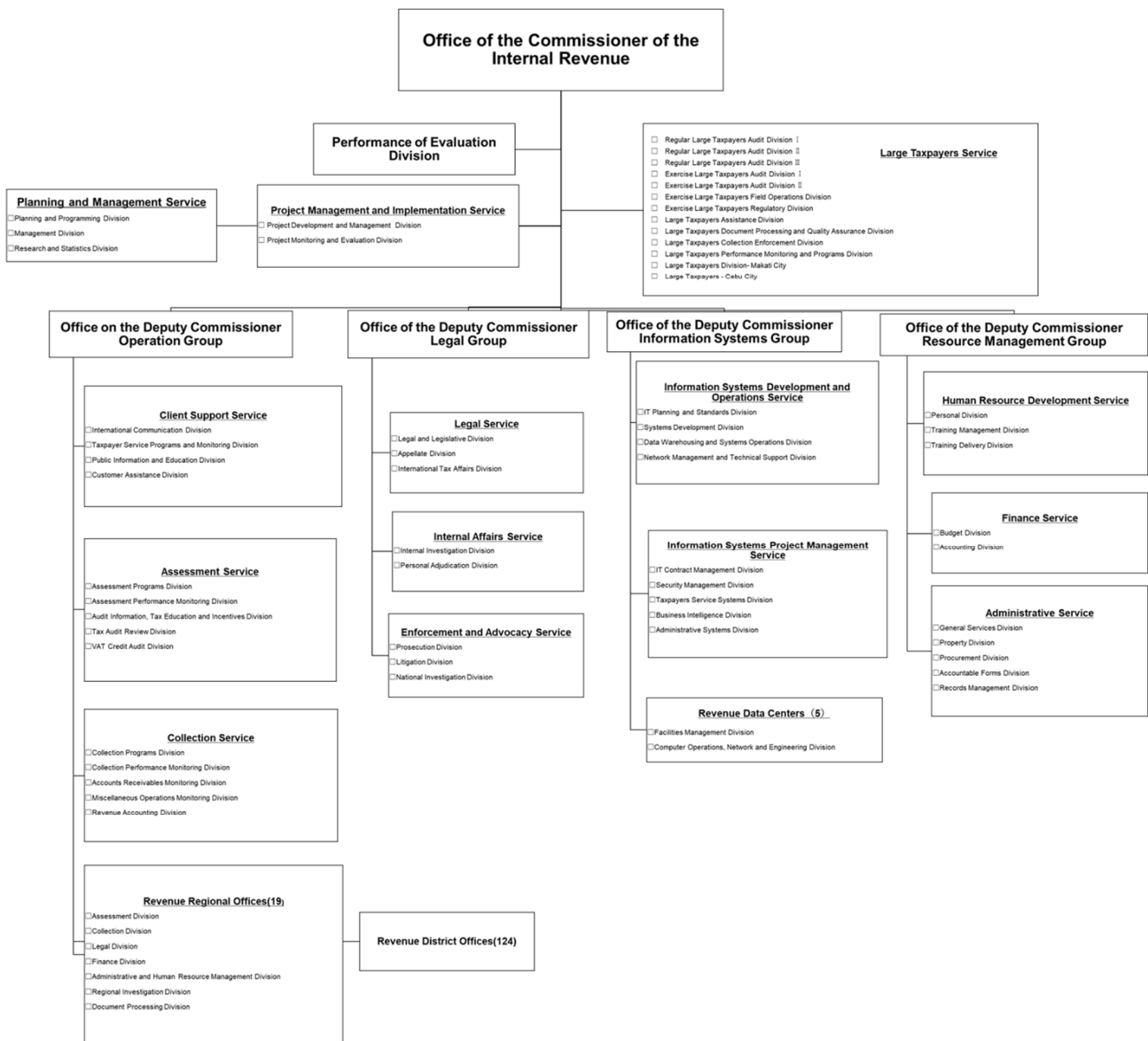
²⁸ The Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC) is also called “the Convention.” OECD. https://www.oecd.org/tax/exchange-of-tax-information/ENG_Convention_Flyer.pdf

²⁹ BIR. Revenue Special Order No. 51-2021

³⁰ Tax Code - BIR (bir.gov.ph)

Planning and Management Service, 2) the Project Management and Implementation Service, and 3) the Large Taxpayers Service (hereinafter referred to as “LTS”). Also, the Performance Evaluation Division reports directly to the Commissioner. Separately, four Deputy Commissioners are managing 1) the Operations Group, 2) the Legal Group, 3) the Information Systems Group, and 4) the Resource Management Group, respectively.

Figure 1 Organization of the NO



(Source: BIR)

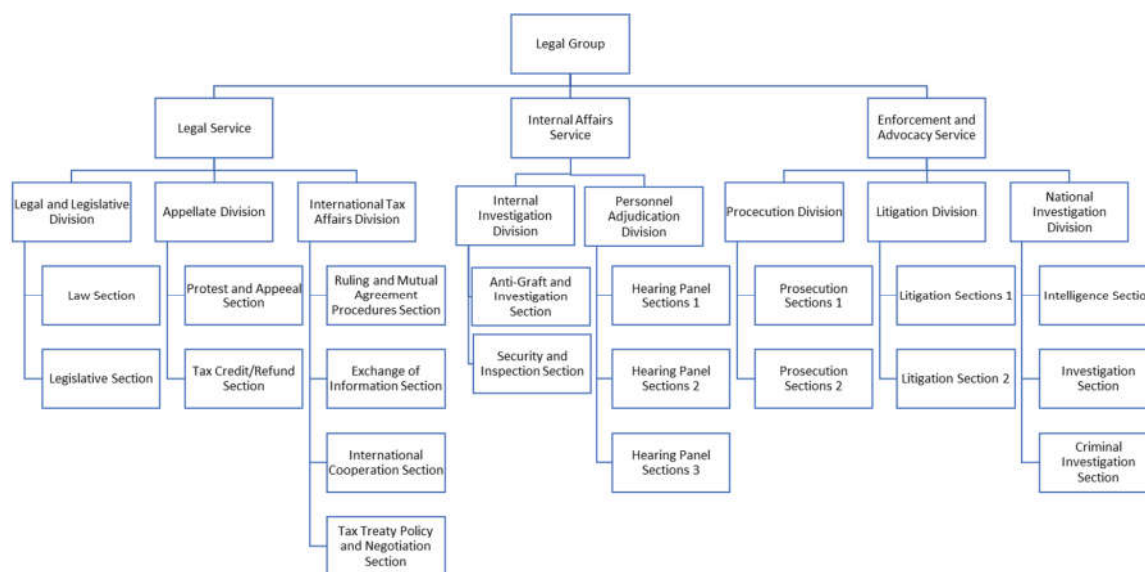


Figure 2 Organization of the Legal Group

Created based on the information extracted from the BIR HP

Under the BIR NO, there are twenty-two Regional Offices (hereinafter referred to as “ROs”), 123 Revenue District Offices (hereinafter referred to as “RDOs”), a NO Data Center, and four Revenue Data Centers as well as a National Training Center (hereinafter referred to as “NTC”). The general function of the RO is to administer taxation within the jurisdiction and to ensure NO’s policies are implemented properly. The office consists of 1) the Legal Division, 2) the Assessment Division, 3) the Collection Division, 4) the Finance Division, 5) the Administrative and Human Resource Management Division, 6) the Regional Investigation Division, and 7) the Document Processing Division. Offices in charge of Legal issues, TP, Exchange of Information (hereinafter referred to as “EOI”), Audits, and human resource development are listed in Appendix-5.

RDOs deal with taxpayers within their respective district providing services, conducting field audits, and collecting taxes. The BIR hired 897 new employees and promoted 1,170 staff since 2016 which made the total number of officials in the BIR 13,135 in 2020.³¹

³¹ DOF. “BIR reports 2020 accomplishments, 2021 goals.” dof.gov.ph. <https://www.dof.gov.ph/bir-reports-2020-accomplishments-2021-goals/> (accessed Apr.20, 2021)

Table 2 Report on Personnel Complement by Function

Group	National Office	Regional Office	Dummy Unit	Total
Management Group	169	446	2	617
Assessment Group	328	3,540	1	3,869
Collection Group	200	3,099		3,299
Document Processing Group	76	452		528
Excise Group	217			217
Taxpayer Assistance Group	77	479		556
Compliance Group		250		250
Information Technology Group	199	16		215
Legal Group	86	259	1	346
Administrative Group	848	2,377	13	3,238
Total	2,200	10,918	17	13,135

(Source: BIR Annual Report 2020)

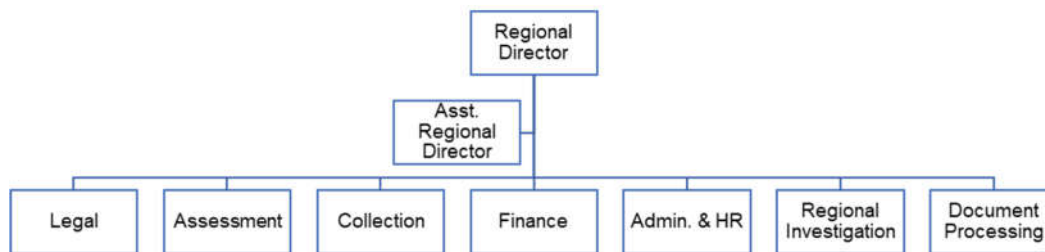


Figure 3 Organization of Regional Office

Created based on the information extracted from the BIR HP

Table 3 Designated Functions of Divisions under Regional Office

Division	Function
Legal Division	Prepares and issues legal opinions based on established precedents; institutes civil and criminal cases/actions to effect collection of taxes and punishment of tax violators within the region's area of jurisdiction and processes claims for tax credit/refund involving erroneous or illegal collection of taxes and protests involving questions of law
Assessment Division	Conducts original investigation of office audit returns under the region's jurisdiction, as well as reviews and evaluates all audit/verification reports except those involving erroneous or illegal collection of taxes and tax fraud criminal prosecution
Collection Division	Monitors collection of internal revenue taxes within the region; enforces collection of delinquent accounts, including collections through summary remedies and issue Tax Clearance Certificates, for domestic purposes
Finance Division	Administers the fiscal operations of the Regional Office and maintains prescribed accounting records and books of accounts
Administrative and Human Resource Management Division	Supervises the general services programs and human resource management of the region and attends to the requisition, distribution, safekeeping as well as disposal and monitoring of all properties and supplies in the region
Regional Investigation Division	Develops criminal tax cases and conducts intelligence operations; investigates and/or recommends reinvestigation of tax fraud cases and conducts surveillance of taxpayers within the region, as well as apprehends tax violators
Document Processing Division	Acts as the central processing office of all tax returns and attachments received from AABs and RDOs under the jurisdiction of the revenue region

(Source: BIR)

[Tax Collection and Administration]

Tax collection data by regions and offices shows the significance of Large Taxpayers' contributions and concentration in the Capital. In 2020, the office of LTS gathered 66.79 percent of the entire BIR collection followed by Makati City (5.32%), South NCR (5.27%), East NCR (3.64%) and Quezon City (3.61%). These offices are within the National Capital Region where collection reached 82.07 percent of the total revenue of the BIR.

Table 4 Tax Revenue Statistics by Region

(in Million Pesos)	2018		2019		2020	
GRAND TOTAL	1,962,642.51		2,186,419.10		1,956,283.75	
BIR OPERATIONS	1,916,695.62		2,132,986.54		1,893,931.19	
NATIONAL CAPITAL REGION (NCR)	1,630,613.40	83.08%	1,805,223.75	82.57%	1,605,599.45	82.07%
7A-Quezon City	142,795.72	7.45%	80,118.43	3.76%	68,395.30	3.61%
7B-East NCR	N/A		75,679.16	3.55%	68,912.15	3.64%
8A-Makati City	190,425.20	9.94%	111,317.59	5.22%	100,727.06	5.32%
8B-South NCR	N/A		106,842.31	5.01%	99,810.92	5.27%
LTS	1,294,920.60	67.56%	1,427,077.06	66.91%	1,264,916.74	66.79%
CORDILLERA ADMINISTRATIVE REGION (CAR)	5,202.10	0.27%	6,440.32	0.30%	5,269.27	0.28%
REGION I (ILOCOS REGION)	12,477.28	0.65%	14,084.05	0.66%	12,806.95	0.68%
REGION II (CAGAYAN VALLEY)	8,283.24	0.43%	8,859.75	0.42%	8,331.99	0.44%
REGION III (CENTRAL LUZON)	40,104.49	2.09%	41,977.43	1.97%	40,860.56	2.16%
REGION IV-A (CALABARZON)	61,866.29	3.23%	71,927.88	3.37%	59,489.15	3.14%
MIMAROPA REGION	5,397.17	0.28%	6,581.81	0.31%	5,822.08	0.31%
REGION V (BICOL REGION)	7,700.24	0.40%	9,090.97	0.43%	8,981.26	0.47%
REGION VI (WESTERN VISAYAS)	9,443.75	0.49%	18,962.28	0.89%	17,633.36	0.93%
REGION VII (CENTRAL VISAYAS)	60,794.70	3.17%	69,400.25	3.25%	60,508.16	3.19%
REGION VIII (EASTERN VISAYAS)	6,222.31	0.32%	7,046.72	0.33%	6,814.00	0.36%
REGION IX (ZAMBOANGA PENINSULA)	4,725.34	0.25%	5,786.09	0.27%	5,556.73	0.29%
REGION X (NORTHERN MINDANAO)	9,214.48	0.48%	11,106.46	0.52%	10,444.16	0.55%
REGION XI (DAVAO REGION)	32,847.99	1.71%	37,618.48	1.76%	31,861.19	1.68%
REGION XII (SOCCSKSARGEN)	6,468.08	0.34%	6,757.15	0.32%	6,475.30	0.34%
REGION XIII (CARAGA)	4,302.73	0.22%	5,143.11	0.24%	4,890.98	0.26%
AUTONOMOUS REGION IN MUSLIM MINDANAO (ARMM)	1,723.16	0.09%	2,664.17	0.12%	2,586.58	0.14%
N.I.R. NEGROS ISLAND Region	9,308.88	0.49%				
NON-BIR OPERATIONS	45,784.93		53,259.13		62,070.94	
NON-TAX REVENUES	161.96		173.44		281.62	

(Source: BIR)

Analysis of individual tax items shows that by far the largest revenue source in the BIR is Income Tax at 53.44 percent in 2020, followed by VAT (17.99%) and Excise Tax on certain goods (15.14%). The increase in tax revenue in recent years is not only due to economic growth but also the continuous effort of the BIR in strengthening its organization and streamlining business processes as illustrated in the BIR Strategy Roadmap as shown in the figure.

In August 2020, the BIR announced, "The BIR Digital Transformation Roadmap 2020-2030,"³² in which the BIR commits to promoting Digital Transformation (hereinafter referred to as "DX") in accordance with the following principles, 1) adopting a people-first approach, 2) instituting a process perspective, and 3) embracing digital technology. Non-paper filing has significantly increased due to the high volume of online

³² RMO 27-2020

services and apps usage. In 2020, 21,481,994 returns were filed electronically which represent 94 percent of the total returns submitted to the BIR and 86 percent of the total taxes were paid through electronic payment channels.³³ The BIR website, social media platforms, publications, and campaigns are used to promote content development and tools for self-assessment. Tax consultation is provided in person, in writing, by phone, through online FAQs, in chat, and via emails. Taxpayers with queries and concerns can contact the Customer Assistance Division at NO (Hotline; No. 8538-3200 or e-mail; contact_us@bir.gov.ph). Each Regional Office and RDO provides their respective email address and phone number on the BIR website.

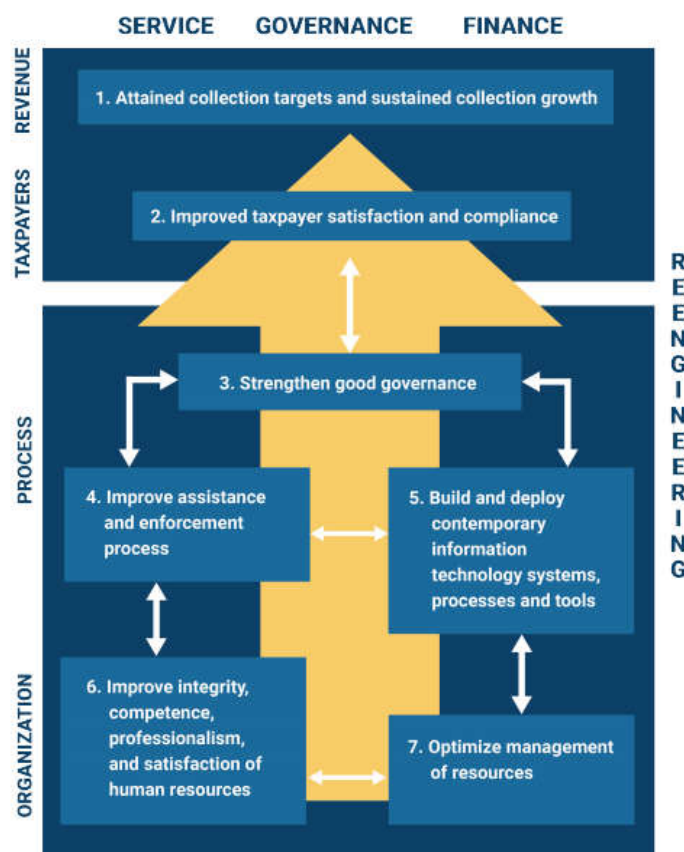


Figure 4 BIR Strategy Roadmap

(Source: BIR Annual Report 2020)

³³ Mayvalin U. Caaraballo, “The BIR commits to digital transformation,” The Manila Times, Jan. 27, 2021, <https://www.manilatimes.net/2021/01/27/business/business-top/bir-commits-to-digital-transformation/833227/> (accessed Apr. 20, 2021).

The BIR has implemented a survey feedback system to identify and measure taxpayer's satisfaction in frontline services in order to improve frontline taxpayer services. However, it does not cover other core operation functions such as audits, collection and VAT refunds, and the results are not disclosed to the public. The cooperation mechanism with third parties such as tax accountants to promote the self-assessment system has not been established.

The BIR is implementing enforcement programs to tackle malicious taxpayers and conduct strict tax audit and collection activities to increase taxpayer compliance. Access Control List (ACL) software is used for managing taxpayers' basic information and is also used taxpayer risk analysis. The main compliance programs of the BIR are "Run After Tax Evaders (RATE)"³⁴ and Oplan Kandado. Also, as the table below shows, tax audits and investigations are carried out by 123 RDOs, selected ROs (with the VAT audit section), National Investigation Division, and LTS. Another important measure to enhance taxpayer compliance has been to widen the tax base by visiting business establishments to find non-filers. As a result of all these activities, the BIR achieves its collection target each year.

Table 5 The Result of Compliance Programs (2018-2020)

Program		2018		2019		2020	
		Cases	Tax amount (million P)	Cases	Tax amount (million P)	Cases	Tax amount (million P)
RATE	Department of Justice	197	15,020	309	19,077	157	7,447
	Court of Tax Appeals			38	4,940	25	754
Oplan Kandado	Closure of establishment	233	799	755	1,944	247	657
Tax audit	Implementing offices (21 offices)				24,067		16,206
	LTS				33,898		17,638
Visit business establishment		211,037	352	197,115	244	62,635	69

(Source: DOF and BIR)

As for the tax arrears' collection, the BIR has implemented centralized management of Accounts Receivable/Delinquent Accounts in the ROs. Tax auditors and officials in charge of collection share taxpayers' information to tackle delinquent taxpayers. The collection activities include inviting delinquent taxpayers to make payment arrangements, sending demand letters, confiscating assets, and filing civil and/or criminal cases. The BIR makes efforts to find properties owned by delinquent taxpayers by requesting information from third parties. Total collection of tax arrears was 5.48 billion pesos in 2020.³⁵

VAT refunds are processed by the VAT Credit Audit Division in the NO for direct exporters pursuant to

³⁴ RATE is conducted by Large Taxpayers Service, National Investigation Division (Legal Group) and Regional Office (RAO No. 1-2019).

³⁵ BIR. "Annual Report 2020," p20 https://www.bir.gov.ph/images/bir_files/annual_reports/annual_report_2020/BIR/BIR2020.pdf

Section 112(A) of the tax code. RDOs and the Large Taxpayers Audit Division (LTAD) process claims by other VAT zero-rated taxpayers within their jurisdictions and the claims of taxpayer-claimants whose VAT registration has been cancelled pursuant to Section 112(B) of the Tax Code. The procedure is prescribed in RMC No. 47-2019 and RMO No. 25-2019 for claims filed prior to January 19, 2021, and in RMO No. 47-2020 for claims filed on or after January 19, 2021. The timeframe to grant claims for VAT refunds is ninety days from the date of submission of the application to the office in charge. The cost of tax collection per 100 pesos was 0.49 pesos which was 0.05 pesos higher than the year before.³⁶

(2) BEPS Minimum Standard: Legal Structure and its Execution

The OECD initiated the BEPS project for tackling international tax avoidance for the G20 in 2013. Member countries have been working together on monitoring progress and impacts based on the 15 Action Plans. In 2015, the OECD/G20 Inclusive Framework was established for non-members' tax administrations to work together and became functional the following year.

The Philippines is not a member of the Inclusive Framework but has been preparing to join in the near future. The Philippines participates in peer reviews of the four minimum standards (Action 5, 6, 13 and 14) and has committed to its implementation as a priority. All participating countries are required to follow an agreed set of criteria as stipulated in the Terms of Reference (hereinafter referred to as "ToR") designed to monitor each country's implementation status.

1) Action 5: Preventing Harmful Tax Practices

[Definition and discussion in the Inclusive Framework]

The Forum on Harmful Tax Practices (hereinafter referred to as "FHTP") was set up to improve transparency and eliminate harmful tax treatment by peer review. The first report of the BEPS Action 5 was issued in September 2014, which included three issues; 1) elaborating a methodology to define a substantial activity requirement in the context of intangible regimes, 2) improving transparency by making it compulsory to exchange rulings related to preferential regimes spontaneously, and 3) providing progress reports of peer reviews.³⁷ In the final report of 2015, the following six categories of ruling became subjects of information exchange; 1) rulings relating to preferential regimes, 2) unilateral APAs or other cross-border unilateral rulings in respect of TP, 3) cross-border rulings providing for a downward adjustment of taxable profits, 4) Permanent Establishment (PE) rulings, 5) related party conduit rulings, and 6) any other type of ruling agreed by the FHTP that in the absence of spontaneous information exchange gives rise to BEPS

³⁶ BIR. "Annual Report 2020," p66

³⁷ OECD. 2014. "Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance," OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing. <http://dx.doi.org/10.1787/9789264218970-en>

concerns.³⁸ Minimum standards were introduced to determine harmful tax practices. If the Intellectual Property (hereinafter referred to as “IP”) Regime chooses patent box taxation, taxable income for IP will be non-taxable. With the application of a “Nexus-approach,” tax authorities can verify actual business activities and apply the same method to judge whether the preferential tax regime is harmful or not.³⁹ Since April 2016, once a country issues a tax ruling related to Action 5, the tax authority must exchange information spontaneously with the other jurisdictions within three months from the issuing date. In November 2020, the OECD reported the result of its peer review after collecting data from 295 preferential tax regimes. The report indicated that the progress on the measures was on track. It also reported that almost 30,000 information exchanges among tax authorities occurred relating to this action.⁴⁰ In February 2021, the Inclusive Framework on BEPS approved the latest report which contains, 1) the ToR⁴¹ and 2) the methodology for the conduct of the peer review for the 2021-2025 period (same since 2017).

[Situation in the Philippines]

Regarding the Philippines’ past rulings, all potential exchange jurisdictions met all the ToR of peer reviews, except for identifying potential exchange jurisdictions for all past rulings in the relevant categories including the ultimate parent company. The Philippines has not introduced a spontaneous EOI, which is crucial for sending information on preferential rulings to concerned countries due to the non-existence of the domestic legal framework. In the 2019 report, there are four recommendations as mentioned below:

³⁸ OECD. 2021. “BEPS Action 5 on Harmful Tax Practices – Transparency Framework: Peer Review Documents,” OECD, Paris, www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-reviewtransparency-framework.pdf

³⁹ OECD. 2015. “Action 5: Agreement on Modified Nexus Approach for IP Regimes,” OECD/G20 BEPS Project

⁴⁰ OECD. 2020. “OECD/G20 Inclusive Framework on BEPS: Progress Report July 2019-July 2020”, pp.16

⁴¹ Four elements of ToR: (1) the information gathering process, (2) the EOI, (3) confidentiality of information received, (4) statistics

Table 6 Summary of recommendations on implementation by Peer Review in 2018

Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
The Philippines does not currently collect information on all potential exchange jurisdictions, particularly the ultimate parent company for past rulings.	The Philippines is recommended to apply the "best efforts approach" to identify potential exchange jurisdictions for all past rulings.
The Philippines does not currently collect information on all potential exchange jurisdictions, particularly the ultimate parent company for future rulings.	The Philippines is recommended to ensure that all potential exchange jurisdictions are identified swiftly for all future rulings.
The Philippines does not have a review and supervision mechanism in place to ensure that all relevant information on the identification of rulings and potential exchange jurisdictions is captured adequately.	The Philippines is recommended to have in place a review and supervision mechanism to ensure that the information gathering process is working effectively.
The Philippines does not yet have the necessary domestic legal framework in place for exchanging information on rulings or a process in place to ensure the timely exchange of information on rulings in the form required by the transparency framework.	The Philippines is recommended to continue to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and to ensure the timely exchange of information on rulings in the form required by the transparency framework.

(Source: OECD (2019), "Harmful Tax Practices-2018 Peer Review Reports on the Exchange of Information on Tax Rulings")

These four (4) recommendations were addressed by the DOF, and BIR as follows:

Recommendations	Actions Done by the DOF and the BIR After the Last Review
to apply the "best efforts approach" to identify potential exchange jurisdictions for all past rulings	<p>To address this recommendation, the BIR has drafted a Data Sharing Agreement (DSA) with the Securities and Exchange Commission, the company register of the Philippines, which would allow the BIR to obtain information from the latter, including, but not limited to, the legal and beneficial ownership of a particular taxpayer, even in absence of a prior request from a treaty partner.</p> <p>The BIR will likewise check the ruling file of a taxpayer to determine the potential exchange jurisdictions.</p>
to ensure that all potential exchange jurisdictions are identified swiftly for all future rulings	<p>Rulings on the taxability of business profits derived by nonresident enterprises from the Philippines constitute the BIR's PE rulings. When RMO No. 72-2010 was still in effect, BIR Form No. 0901-P did not require the disclosure of the ownership structure of the foreign enterprise.</p> <p>On March 31, 2021, RMO No. 14-2021 took effect and amended RMO No. 72-2010. Pursuant to the new RMO, BIR Form No. 0901-P, an application form attached to the withholding agent's request for confirmation or the non-resident income recipient's tax treaty relief application with respect to business profits, was totally revised. The nonresident income recipient is now obliged to supply the following details:</p> <ol style="list-style-type: none"> i. Name of the multinational enterprise group to which it belongs ii. Name of the Immediate Parent Company, its Taxpayer Identification Number (TIN), commercial register number, complete address (street, post code, city, country); and iii. Name of the Ultimate Parent Company, its Taxpayer Identification Number (TIN), commercial register number, complete address (street, post code, city, and country).

Recommendations	Actions Done by the DOF and the BIR After the Last Review
	Through such information, the BIR would know the potential exchange jurisdictions for PE rulings.
to have in place a review and supervision mechanism to ensure that the information gathering process is working effectively	The Rulings and MAP and the EOI Sections of the International Tax Affairs will ensure that information gathering process is working effectively.
to continue to put in place a domestic legal framework allowing spontaneous EOI on rulings and to ensure the timely EOI on rulings in the form required by the transparency framework	<p>The EOI provision of Philippine tax treaties mandates the competent authorities of the contracting states to exchange such information as is necessary for carrying out the provisions thereof or of the domestic laws of the Contracting States concerning the taxes to which the tax treaty applies.</p> <p>The EOI provision includes all types of exchanges, be it upon request, automatic or spontaneous.</p> <p>In <i>Pharmaceutical and Health Care Association of the Philippines vs. Health Secretary Francisco T. Duque III, et al.</i>,⁴² the Supreme Court held that:</p> <p>Under the 1987 Constitution, international law can become part of the sphere of domestic law either by transformation or incorporation. The transformation method required that an international law be transformed into a domestic law through a constitutional mechanism such as local legislation. The incorporation method applies when, by mere constitutional declaration, international law is deemed to have the force of domestic law.</p> <p>Treaties become part of the law of the land through transformation pursuant to Article VII, Section 21 of the Constitution which provides that "[n]o treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the members of the Senate." Thus, treaties or conventional international law must go through a process prescribed by the Constitution for it to be transformed into municipal law that can be applied to domestic conflicts.</p> <p>On the other hand, Section 2, Article II of the 1987 Constitution, to wit:</p> <p>SECTION 2. The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations. (Emphasis supplied)</p> <p>embodies the incorporation method.</p> <p>Following ratification by the Senate, no further action, legislative or otherwise, is necessary. Thereafter, the whole of government—including the judiciary—is duty-bound to abide by the treaty, consistent with the maxim <i>pacta sunt servanda</i>.⁴³</p> <p>Therefore, the Philippines will explore on the EOI provisions of the tax treaties, in relation to Article II, Section 2 of the Philippine Constitution, to serve as domestic legal framework allowing exchange of rulings with treaty</p>

⁴² G.R. No. 173034, October 9, 2007, citing Joaquin G. Bernas, S.J., Constitutional Structure and Powers of Government (Notes and Cases) Part I (2005).

⁴³ David vs. Senate Electoral Tribunal, G.R. No. 221538, September 20, 2016

Recommendations	Actions Done by the DOF and the BIR After the Last Review
	partners. This will be implemented thru the issuance of Revenue Regulations which will serve as the administrative framework for the exchange of rulings.

The Philippines received the recommendations in the previous review; however, they were not addressed until the 2018 review.⁴⁴

In March 2021, the bill of CREATE⁴⁵ was passed and approved by the President. It includes the measure for the Regional Operating Headquarters (hereinafter referred to as “ROHQ”) to be subject to regular corporate income tax rates from two years after the enactment of CREATE. In August 2021, the ROHQ was reported as “Potentially harmful but not actually harmful. From 1 January 2022: Abolished.”⁴⁶

As for the MAC, the Philippines already signed it in September 2014. However, it is still pending in the Senate today. The International Tax Affairs Division (hereinafter referred to as “ITAD”) has forwarded the draft of the RR on the Spontaneous Exchange of Rulings to the DOF in June 2021 and upon the approval of the secretary of the DOF, it will become effective. The draft stipulates that the EOI exchanges occur in accordance with international EOI agreements, such as Double Taxation Agreements (hereinafter referred to as “DTAs”), Tax Information Exchange Agreements (hereinafter referred to as “TIEAs”) or the MAC. When the legal framework of the EOI becomes ready, the BIR will be required to send the information in accordance with the current OECD XML⁴⁷ Schema User Guide.

[Situation in Japan]

When the first peer review was done, Japan met all conditions of the ToR, and no recommendation was made. According to the peer review reports issued so far, Japan spontaneously sent information on rulings to nine jurisdictions.⁴⁸

2) Action 6: Preventing the Granting of Treaty Benefits in Inappropriate Circumstances

[Definition and discussion of the Inclusive Framework]

To prevent third country residents from abusing and enjoying treaty benefits, members agreed to include anti-abuse provisions in their tax treaties, including a minimum standard to counter treaty shopping, and some flexibility in the implementation of the minimum standard is required as these provisions need to be applied to each country’s specific circumstances as well as to the circumstances related to the negotiation

⁴⁴ OECD. 2019. “Harmful Tax Practices-2018 Peer Review Reports on the EOI on Tax Rulings,” p331-334

⁴⁵ RA No. 11534

⁴⁶ OECD. 2021. “Harmful Tax Practices-Peer Review Results” <https://www.oecd.org/tax/beps/harmful-tax-practices-peer-review-results-on-preferential-regimes.pdf>

⁴⁷ XML: Extensible Mark-Up Language

⁴⁸ <https://www.oecd.org/tax/beps/beps-actions/action5/>

of bilateral conventions.⁴⁹ The 2015 report announced that all peer review participating countries agreed to the minimum standards of Action 6. They are:

“A. An express statement that the common intention of the parties to the treaty is to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance, including through treaty shopping arrangements. This should generally be done by including the following in the preamble of the relevant tax treaties: Intending to conclude a Convention for the elimination of double taxation with respect to taxes on income and on capital without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third States)”

“B. Treaty provisions that will implement the common intention and that will take one of the following three forms:

- i. the Principal Purposes Test (PPT) rule included in paragraph 26 of the Report together with either the simplified or the detailed version of the Limitation-on-benefits (LOB) rule that appears in paragraph 25 of the Report, as subsequently modified, or*
- ii. the Principal Purposes Test (PPT) rule included in paragraph 26 of the Report, or*
- iii. the detailed version of the Limitation-on-benefits (LOB) rule that appears in paragraph 25 of the Report, as subsequently modified, together with a mechanism (such as a treaty rule that might take the form of a PPT rule restricted to conduit arrangements, or domestic anti-abuse rules or judicial doctrines that would achieve a similar result) that would deal with conduit arrangements not already dealt with in tax treaties.”⁵⁰*

The report also states that the OECD model tax convention includes 1) a specific anti-abuse rule, 2) a Limitation-on-benefits (hereinafter referred to as “LOB”) rule, and 3) a more general anti-abuse rule (hereinafter referred to as “GAAR”) based on the Principal Purposes Test (hereinafter referred to as “PPT”). Furthermore, the report indicates specific issues concerning interactions between treaties and specific domestic anti-abuse rules, such as “exit or departure taxes.” More than 100 countries concluded negotiations on the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS

⁴⁹ OECD. 2015. “Preventing the Granting of Treaty Benefits in Inappropriate Circumstances, Action 6 - 2015 Final Report,” OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264241695-en>

⁵⁰ OECD. 2017. “BEPS Action 6 on Preventing the Granting of Treaty Benefits in Inappropriate Circumstances – Peer Review Documents,” OECD/G20 Base Erosion and Profit Shifting Project, OECD, Paris. www.oecd.org/tax/beps/beps-action-6-preventing-the-granting-of-treaty-benefits-in-inappropriatecircumstance-peer-review-documents.pdf

(hereinafter referred to as “MLI”), products of BEPS Action 15 in 2017 and it entered into force in July 2018. In the first peer review conducted in the same year, it was discovered that many jurisdictions started to tackle this issue by seeking the application of the MLI, rather than negotiating each existing bilateral treaty. About 300 agreements in the world were modified in accordance with the minimum standards by May 2020.⁵¹ Since the introduction of the MLI, it has been playing a significant role, ninety-five countries and regions signed it by June 2021, and it covers over 1,700 bilateral tax treaties.⁵²

[Situation in the Philippines]

The Philippines concluded a tax treaty with forty-three countries and regions, including Japan. The provision of a model tax treaty in the Philippines contains the LOB rule and PPT. However, the current NIRC does not contain GAAR, which includes LOB and PPT.⁵³ The Philippines has not deposited their instruments of ratification with the OECD for the MLI. The DOF acknowledges the efficiency of signing the MLI and is working on the said issue with the assistance of the Asian Development Bank (hereinafter referred to as “ADB”). In the BIR, the Rulings and MAP Section of the ITAD is in charge of BEPS Action 6. They are preparing to draft GAAR to convince legislators to include them in the tax code and there is a request from the BIR to assist in its drafting.⁵⁴

[Situation in Japan]

Japan signed seventy-nine tax treaties with 143 countries and regions as of April 2021. Japan signed the MLI in 2017, which became effective in January 2019, as well as a bilateral compliance instrument with some countries. At the time of the first peer review conducted in 2018, four treaties were acknowledged as being in compliance with the Minimum Standards which included the LOB and the PPT.⁵⁵ Prior to the review, in relation to Action 6 of the BEPS, Japan introduced an “Exit Tax” on individuals and it became effective in July 2015 to tackle wealthy individuals moving out of Japan.⁵⁶ Worldwide assets such as securities, bonds, and some financial instruments, are subject to taxation with a threshold of 100 million yen and taxable persons having stayed in Japan for more than five out of the previous ten years when exiting.

⁵¹ OECD. 2020. “OECD/G20 Inclusive Framework on BEPS: Progress Report July 2019-July 2020.” pp.19

⁵² OECD. “Signatories and Parties to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.” <https://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf>

⁵³ Marissa O. Cabreros. 2020. BIR, “BEPS in the Philippines.” Presentation, NTC, BIR NO, Manila.

⁵⁴ GAAR was first introduced in S. 50 of CITIRA bill, approved in Sep. 2019. However, the bill was replaced by the CREATE, approved in Mar. 2021 and GAAR was eventually deleted from the bill.

⁵⁵ OECD. 2019. “Prevention of Treaty Abuse - Peer Review Report on Treaty Shopping: Inclusive Framework on BEPS: Action 6, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris.” <https://doi.org/10.1787/9789264312388-en>

⁵⁶ KPMG. 2015. Japan Tax Newsletter: “Introduction of Exit Tax” <https://assets.kpmg/content/dam/kpmg/pdf/2016/03/jp-en-exit-tax-20150420.pdf>

3) Action 13: Country-by-Country Reporting (CbCR)

[Definition and discussion in the Inclusive Framework]

“Action 13: Guidance on Transfer Pricing Documentation and Country-by-Country Reporting (CbCR)” takes into account a reporting system of information of Multinational Enterprises (hereinafter referred to as “MNEs”) according to a common template and requires documentation of the TP tax system to report to tax administrations. It recommends that MNEs prepare the following reports applying the standardized approach to TP documentation; 1) a master file that is a business overview report, 2) a local file containing information on each controlled transaction, and 3) a CbCR containing certain information such as the amount of revenue, profit, income tax paid, and economic activities in each country.

CbCR filled by the parent entity of MNEs and submitted to tax administrations are shared with other tax authorities for the use of TP and BEPS risk assessments. Therefore, members of the OECD/G20 Inclusive Framework on BEPS have announced that they would review the minimum requirements for CbCR by the end of 2020.⁵⁷ The methods for sharing CbCR between countries are based on; 1) the MAC, 2) bilateral tax conventions, or 3) TIEAs. Today, ninety countries/regions have completed legislating a CbCR filing obligation. Moreover, the implementation of CbCR requires an agreement among competent authorities.

[In the Philippines]
[Status Quo]

CbCR has not been implemented due to the lack of having implemented a domestic legal framework, having yet to ratify MAC, and the absence of a Multilateral Competent Authority Agreement. Revenue Regulations (RR) No. 19-2020 regarding transfer pricing documentation were published on July 10, 2020. These RR have mandated all taxpayers with related party transactions to submit BIR Form No. 1709 or the Related Party Transaction Form,⁵⁸ and transfer pricing documentation, among others, as an attachment to the Annual Income Tax Return. On December 23, 2020, RR No. 34-2020 took effect and amended related provisions of RR No. 19-2020. Under the new RR, the taxpayers who are required to submit BIR Form No. 1709 have been limited to large taxpayers, those who are enjoying fiscal incentives, those with losses for the current year and the last two immediately preceding taxable years, and those with transactions with the aforementioned taxpayers. The TP documentation and all other documents previously required under the old RR are no longer required to be submitted together with BIR Form No. 1709, however, and should only be presented during an audit. The information contained in BIR Form No. 1709 will be used by the examiners in conducting a TP risk assessment and making an informed decision as to whether or not to

⁵⁷ <https://www.oecd.org/tax/beps/beps-actions/action13/> accessed in September 2021

⁵⁸ Form 1709 and the Related Party Transaction Form have the same meaning in the BIR Interview.

conduct a thorough audit of a particular taxpayer. Hence, the BIR will devote and allocate its limited resources to the most important TP issues.⁵⁹

As for taxpayer services related to the above, the BIR has published a FAQ regarding the preparation and submission of BIR Form No. 1709 through RMC No. 76-2020 and 54-2021. Also, taxpayers may always send their questions to the official email address of the ITAD or may call ITAD for assistance.

[Issue]

Currently, BIR's issue is on the utility of the submitted BIR Form No. 1709. In other words, it's how the examiners conduct their TP risk assessments and TP audit by exploiting Form 1709. The rationale for requiring the submission of BIR Form No. 1709 is to make an informed decision at an early stage, as to whether to conduct a TP audit of a particular taxpayer. The BIR considers that they should select only the taxpayers who are really exposed to TP risks to be required to undergo a thorough TP audit by reason that TP audits require so much time as opposed to the regular audits conducted by the examiners.

The BIR has not yet implemented Action 13 of the BEPS project. The preparation of BIR Form 1709 and TP documentation has already placed undue hardship on the concerned taxpayers considering the pandemic.

[Situation in Japan]

In Japan, these rules were put into place in the 2016 tax reform. It is now required for MNEs with 100 billion yen or more of their total consolidated income over the previous fiscal year to prepare these documents. Considering the burden on taxpayers developing these documents, the National Tax Agency (hereinafter referred to as "NTA") supports the development of local files and others. In July 2017, the Regional Taxation Bureau set up a consultation desk for individual inquiries corresponding to TP documentation to support preparation of the documentation and maintain and improve taxpayer compliance. Furthermore, Regional Taxation Bureau conducted company visits to confirm the development status of local files and to give advice. In June 2020, the NTA published a collection of best practices on developing local files to achieve further convenience for taxpayers. As for the CbCR, the NTA provided information in 2019 on 844 companies in fifty-two countries under the framework of automatic exchange of information and received information on 1,751 companies from forty-four countries.

4) Action 14: Dispute Resolution Mechanism

[Definition and discussion in the Inclusive Framework]

"Action 14: Making Dispute Resolution Mechanisms More Effective" considers more effective MAP for resolution of disputes based on tax treaties. Many tax treaties, including Article 25 of the OECD Model

⁵⁹ Results of the questionnaire survey on BEPS Minimum Standards.

Convention, provide articles for MAP between tax authorities to eliminate double taxation caused by TP audits. Those articles require that taxpayers have access to MAP and that tax administrations should complete MAP within a certain period. The comprehensive framework requires peer reviews to evaluate the introduction status of mutual agreements and statistical reports of mutual agreements. Cases of forty-five countries/regions have already been reviewed, and 990 proposals have been made in line with the minimum standards. According to the statistics of mutual agreements during 2019, 7,086 cases were carried over from the previous year. The number of cases completed was 2,821, and the number of unloaded items was 5,955. Although the process has progressed, it requires a long time (an average of 30.5 months) to discuss TP cases.

[In the Philippines]
[Status Quo about MAP]

The tax treaty signed by the Philippines provides regulation on MAP following the OECD or the UN model. The TP guidelines also include its use. Since 2013, the BIR has started dealing with MAP cases with other jurisdictions even in the absence of MAP guidelines. However, there have been no cases with Japan. The MAP statistics of the BIR are as follows:

Table 7 The MAP statistics of the BIR

Year	Country	Number of MAP Cases Received
2013	Netherlands	1
	Singapore	1
2014	Germany	1
2015	China	1
	USA	1
2017	Finland	1
2019	Korea	1
	Indonesia	1
2020	Switzerland	1
2021	Norway	1
TOTAL		10

(Source: BIR International Tax Affairs Division)

The BIR is now drafting its MAP guidelines. However, the Rulings and MAP Section of ITAD is currently handling MAP cases as mentioned the above. Also, the ITAD's recommendations must undergo a series of reviews by the Assistant Commissioner of Legal Service, Deputy Commissioner of Legal Group and by the Commissioner who acts as the Competent Authority.

[Issue about MAP]

The BIR does not have adequate resources (training, budget, or manpower) to conduct MAP and will tap its Personnel Division to revisit the organizational structure and staffing pattern of ITAD to enable it to resolve MAP cases in an effective and timely manner. In other words, the ITAD is undermanned, and the current personnel don't have the necessary training on how to deal with MAP cases, especially if the MAP cases relate to TP adjustments and the like. The BIR has recognized that the MAP team should likewise undergo training and seminars related to the terms of the procedure as well as transfer pricing taxation and the report line should be well organized.

[Status Quo about APA]

The BIR is currently revisiting the previous draft of APA guidelines so as to ensure that it is still aligned with the standards.⁶⁰

[Issue about APA]

The BIR must have a dedicated team that will focus on the conclusion of APA and finalize the APA guidelines. Also, the APA team must be well trained to analyze APA cases for preparing MAP.

[Situation in Japan]

In Japan, more than 60 tax treaties contain provisions on the MAP. During the 2019 operation year, the NTA received 200 MAP requests. Of these, 148 cases (74%) were related to Bilateral APA, 52 cases (26%) were related to TP adjustment and others, and 186 cases (99% compared with the previous operation year) were resolved. The average processing time for each case was 29.4 months (34.1 months in the 2018 operation year). The number of persons in charge of MAP at the NTA increased from 31 in the 2009 operation year to 46 in the 2019 operation year. APA have currently been implemented by the NTA in the system introduced in Japan in 1987 ahead of other countries, followed by the United States (1991), Canada (1994), Australia (1995), Korea (1996), and China (1998), and has now been introduced in more than 30 countries.⁶¹ The five-year strategic plan also prioritizes the establishment of MAP guidelines.

⁶⁰ Results of the questionnaire survey on BEPS Minimum Standards.

⁶¹ NTA. "Mutual Agreement Procedures Report 2019." nta.go.jp. <https://www.nta.go.jp/english/MAP-Report/2019.pdf>

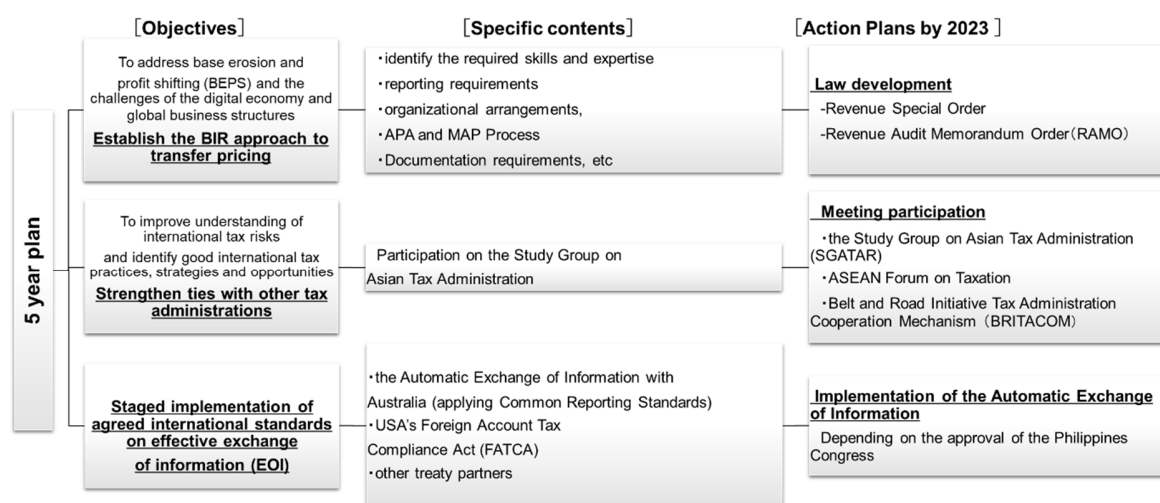


Figure 5 Digest of 5-year Plan of the BIR

(Source: BIR HP)

(3) Transfer Pricing (TP): Tax Structure and Execution

[Status Quo]

The BIR already has RR No. 2-2013, which prescribes the TP guidelines and RAMO No. 1-2019 (TP audit guidelines). These Regulations seek to provide guidelines in applying the arm's length principle for cross-border and domestic transactions between associated enterprises and are largely based on the arm's length methodologies as set out under the OECD TP Guidelines.

RAMO 1-2019 provides a framework and guide for TP audit and 3 phases of the TP audit procedures, namely: 1) preparation for TP audit, 2) implementation of TP audit, and 3) preparation of TP audit report. The guidelines are applicable controlled transactions including sale, purchase, transfer and utilization of tangible and intangible assets, provision of intra-group services, interest payments, and capitalization among others, between related/associated parties, where at least one party is assessable and may be charged taxes in the Philippines and also are applicable by analogy, in relation to transactions between a permanent establishment and its head office or other branches.

The current treaty model of the Philippines adopts the Authorized OCED Approach (AOA) regarding Permanent Establishment taxation. However, none of the existing treaties contains AOA.⁶²

⁶² Results of the questionnaire survey on Permanent Establishment.

[Issue]

The BIR lacks a dedicated division or team for TP audits as well as some necessary software⁶³ for the benchmarking analysis for screening comparable transactions. The BIR plans to form a division that will focus on TP audits only, to capacitate the personnel under this division, and to have software for screening comparable transactions.⁶⁴

The BIR has released a five-year strategic plan in January 2019, which spells out policies and strategic plans for TP, an international taxation system and law enforcement.⁶⁵

Table 8 Related Laws and Regulations Issued (1998-2021)

Date	Tax Laws / Circulars	Overview of legal system
1998	Revenue Memorandum Order (RMO) NO.1-1998	Prescribes transactions between related parties and the compliance of OECD Guidelines.
1999	RMO NO.63-1999	Prescription on inter-company loans and the compliance of US Domestic Revenue Act Article 482
2010 March	Republic Act No. 1405	Reform of Bank Secrecy Law caused an EOI based on tax treaty to be an obstacle. ⁶⁶
2011 September	E.O. No. 56	Regulating approval power entrusted from the President to The Secretary of the Department of Finance for disclosure of tax returns based on EOI. ⁶⁷
Before 2013	IRC Section 50	Regulating the authority of the Commissioner of the BIR to prevent tax evasion through TP among related parties.
2013 January	RR NO.2-2013	Release of TP guidelines ⁶⁸ , regulating documentation of information return with controlled transactions (F1702H) and subject to domestic controlled transactions.
2019 May	RMO No. 21-2019	Release of the BIR's 5-year strategic plan. The priorities go to TP audit, APA, the development of MAP.

⁶³ For example, Orbis (Bureau Van Dijk), Compustat, Margaret online.

⁶⁴ Results of the questionnaire survey on TP audit.

⁶⁵ BIR (2019) five-year strategic plan

⁶⁶ The Philippines was previously blacklisted by OECD as one of the countries that did not meet the standards for tax transparency but was removed from the list by an amendment of the law. (Murata (2013) Tax administrations and systems in the Philippines, Journal of National Tax College)

⁶⁷ This simplified the paperwork related to information disclosure.

⁶⁸ There is no evidence of revision to date. The OECD peer review (Phase 2) on the BIR in March 2013 examined the implementation status of EOI. The evaluation was “generally compliant” as in the 2011 evaluation.

Date	Tax Laws / Circulars	Overview of legal system
2019 June 2020 July	RDAO No. 2-2019 RDAO No. 3-2020	The authority to approve and/or sign specified EOI documents was delegated by the Commissioner to the following officials: i. Deputy Commissioner, Legal Group ii. Assistant Commissioner, Legal Service iii. Chief, International Tax Affairs Division
2019 August	RAMO NO.1-2019	Release of TP audit guidelines, regulating the techniques and process of TP audits.
2020 July	F1709 (RR NO.19-2020)	Regulating submission of information return with domestic and cross-border controlled transactions (F1709) and attachments on filing tax returns.
Ibid	Q&A (RMC No. 76-2020)	RR NO.19-2020 Questions and Answers
2020 December	RR NO.34-2020	Reform of RR NO.19-2020
August 11, 2020	RMO No. 26-2020	Prescribed the use of the revised EOI Working Manual, amending for this purpose RMO No. 2-2013 and 3-2013.
2021 April	Q&A (RMC No.54-2021)	RR No.34-2020 Questions and Answers

(4) Taxation of the Digital Economy: Its' Policies and Current Situation

[Definition and discussion in the Inclusive Framework]

To improve fairness in the taxation of the digital economy, the OECD proposed the following two pillars in 2019; Pillar-1: “A Unified Approach to give countries the right to tax the profits of international businesses (regardless of whether they have a base in the country or not),” and Pillar-2: “Proposals to counter profit-shifting by multinationals who are subject to low or zero taxation, by imposing a global minimum tax, applied at the level of the taxpayer rather than the level of the country”. The OECD/G20 Inclusive Framework on BEPS approved the Two Pillar Approach in January 2020.⁶⁹ In the statement of the Inclusive Framework in October 2020, the deadline to reach consensus among participating countries on addressing the issue was set at the end of 2020. However, it has been extended to mid-2021.⁷⁰ Some

⁶⁹ OECD. 2020. “Statement by the OECD/G20 Inclusive Framework on BEPS on the Two-Pillar Approach to Address the Tax Challenges Arising from the Digitalization of the Economy – January 2020,” OECD/G20 Inclusive Framework on BEPS, OECD, Paris. www.oecd.org/tax/beps/statement-by-the-oecd-g20-inclusive-framework-on-beps-january-2020.pdf

⁷⁰ OECD/G20 Inclusive Framework on BEPS. “Cover Statement by the Inclusive Framework on the Reports on the Blueprints of Pillar One and Pillar Two.” [tps://www.oecd.org/tax/beps/cover-statement-by-the-oecd-g20-inclusive-framework-on-](https://www.oecd.org/tax/beps/cover-statement-by-the-oecd-g20-inclusive-framework-on-)

reasons for the extension include the COVID-19 pandemic as well as the controversy between the US over its proposed framework of the digital economy as a “safe harbor” and some European countries that want to strengthen taxation through unilateral taxation such as a “minimum tax.” Another reason is that negotiation is still in progress among many countries that introduced preferential tax treatments to promote Foreign Direct Investment (FDI) of MNEs. In the United States, changes in policy have been seen due to the change of government and the United States proposed the creation of a rule to introduce the global minimum corporate tax rate at the G20 on April 7, 2021. Moreover, they are advocating a plan to tax mechanically, based on the sales and profit margins of MNEs.

The rapidly growing digital economy has brought severe challenges to traditional tax approaches. As many MNEs operate freely without borders, they can generate significant revenue in countries where they do not have employees, assets, or a physical presence. The businesses are comprised of many forms of e-commerce, online payment services, app stores, online advertising, cloud computing, participative networked platforms, and high-speed trading.⁷¹ This trend is making the principle of “No taxation without PE” redundant. Therefore, taxing rights among different jurisdictions, especially taxing intangibles, and indirect taxes such as VAT have become a controversial issue.

[Situation in the Philippines]

Especially during the COVID-19 pandemic, the digital economy in the Philippines has increased its presence. The inter-agency task force technical working group for anticipatory and forward planning has issued a report, “We recover as One 2020” and it included a plan for establishing a framework of digital taxation.⁷² In August 2020, House Bill No. 7425 on Imposition of VAT on Digital Transactions was submitted to the House of Representatives.⁷³ It was passed to the Senate on 23rd September 2021. The bill is to impose VAT on digital service providers whether resident or non-resident, on their sales of goods or properties which are digital or electronic in nature and those electronically rendered services in the Philippines. The BIR requires all online businesses in the Philippines to pay taxes for their e-commerce transactions. The Law and Legislative Division is in charge of drafting revenue issuances to align with digital taxation as well as their DX Program.

As for the measure to tackle the digital economy, the BIR issued RMC No. 55-2013 reiterating taxpayer’s obligations in relation to online business transactions in 2013. While the enhancement of

beeps-on-the-reports-on-the-blueprints-of-pillar-one-and-pillar-two-october-2020.pdf

⁷¹ OECD. 2014. “Addressing the Tax Challenges of the digital economy,” OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing. <http://dx.doi.org/10.1787/9789264218789-en>

⁷² Interforce Taskforce Technical Working Group (2019), “We recover as One”, pp.42, <https://www.neda.gov.ph/wp-content/uploads/2020/05/We-Recover-As-One.pdf>

⁷³ “House Bill No. 7425 on Imposition of VAT on Digital Transactions,” BDB Advisory, Sep. 3, 2020, http://www.bdblaw.com.ph/images/publications/laws/36_House_Bill_No_7425_VAT_on_Digital_Transactions.pdf

infrastructure for the BIR to strengthen its capability to capture the digital economy is needed, there is no designated team to capture such transactions within the organization.

[Situation in Japan]

The Japanese government has considered preparing and introducing unilateral taxation on the digital economy as has been done in some European countries. As the chair of the 2019 G20 Summit, Japan approved the OECD roadmap at the G20 Finance Ministers and Central Bank Governors' Meeting in Fukuoka and the G20 Summit in Osaka in June.⁷⁴ The Japanese government is in a position to promote international cooperative action, which is different from the digital service tax in France, Britain, and other leading European countries. As for Consumption tax, Japan revised its tax law to start taxing cross-border supplies of services. This became effective in 2015.⁷⁵ Here, non-resident taxpayers are required to appoint tax agents and must report to the NTA.

Rather than trying to introduce unilateral taxation on direct tax, the NTA is striving to fairly tax domestic digital transactions. As a measure to capture the “Sharing Economy,”⁷⁶ the NTA has been collecting information on e-commerce transactions by establishing a Professional Team for E-Commerce Taxation (PROTECT) since July 2019. Aiming to enhance taxpayer compliance, the NTA is 1) developing an environment for appropriate filing in the sharing economy, 2) broadening its collection of information, and 3) providing administrative guidance and proper tax auditing. In January 2020, the National Tax General Law (Article 74-7-2-1) was revised, and it enabled the NTA to request information on any customers who gained considerable profit from e-commerce transactions from enterprises, and should they fail to provide the information, the enterprises will be subject to penalties.

(5) Exchange of Information and Common Reporting Standard

[Definition and discussion in the Global Forum]

The Global Forum on Transparency and EOI for Tax Purposes⁷⁷ was created to implement international standards for EOI in 2000 and grew to 162 members and nineteen observers including the ADB, the International Monetary Fund (hereinafter referred to as “IMF”), and the WB as of February 2021.⁷⁸ In 2002,

⁷⁴ Ministry of Foreign Affairs of Japan. “Osaka Declaration on Digital Economy.” mofa.go.jp. https://www.mofa.go.jp/mofaj/gaiko/g20/osaka19/pdf/special_event/en/special_event_01.pdf

⁷⁵ NTA. “Revision of Consumption Tax on Cross-border Supplies of Services.” nta.go.jp. https://www.nta.go.jp/english/taxes/consumption_tax/cross-kokugai-en.pdf

⁷⁶ The term is used as a collective term for sharing businesses and services, transactions of crypto assets (virtual currencies), online advertising (affiliate etc.), digital content, online shopping and auctions and new other economic transactions. Source: NTA (2020), “Annual Report 2020”, pp.37, https://www.nta.go.jp/english/Report_pdf/2020e.pdf

⁷⁷ The Global Forum has an independent dedicated Secretariat, based in the OECD’s Centre for Tax Policy and Administration, <https://www.oecd.org/tax/transparency/who-we-are/secretariat/>

⁷⁸ OECD. Global Forum on Transparency and Exchange of Information for Tax Purposes. “Putting an end to offshore tax evasion”.

the Global Forum Working Group developed models for TIEAs to improve effectiveness in tackling harmful tax practices and proposed; 1) the Exchange of Information on Request (hereinafter referred to as “EOIR”), and 2) Automatic Exchange of Financial Account Information. In 2009, after the financial crisis, the leaders of the G20 declared an end to bank secrecy to combat offshore tax evasion. In the same year, all OECD countries accepted Article 26 of the OECD Model Tax Convention, in which “Improving Access to Bank Information for Tax Purposes” was included in 2005, and some countries started to amend their domestic legislation to comply with the standards.

In June 2015, the model protocol for TIEAs was approved by the OECD Committee on Fiscal Affairs (CFA), and enabled tax authorities to bilaterally agree on automatic EOI by using the CRS.⁷⁹ As of September 2020, 141 jurisdictions participate in the MAC.⁸⁰ In December 2020, the OECD reported that the number of CRS active bilateral exchange relationships has exceeded 4,400. As of March 2021, more than 100 tax authorities have committed to exchange CRS on the basis of the MAC, the CRS Multilateral Competent Authority Agreement (hereinafter referred to as “CRS MCAA”), or on a bilateral basis such as via tax treaties and TIEAs.⁸¹ The exchanges of CRS between activated jurisdictions will take place at the end of September each year.⁸² The Global Forum is committed to promoting the use of CRS and AEOI, especially in developing countries. Therefore, they are extending assistance for the adaption. The Co-ordinating Body of the MAC, responsible for monitoring the implementation and reviewing the status of the countries that have already signed the MAC but not yet ratified it, is formed by the participating competent authorities. The Co-ordinating Body is accepting countries wishing to ratify MAC as observers to their meeting.⁸³

[Situation in the Philippines]

To date, the Philippines has not implemented an AEOI of financial information or signed a CRS MCAA. In the absence of the domestic legal framework of AEOI and existence of the Bank Secrecy Law, the Philippines is currently unable to exchange CRS. Especially due to the law, the BIR is allowed to obtain financial information solely for the EOIR. However, Australia has been sending financial information to the BIR unilaterally since 2015.

<https://www.oecd.org/tax/transparency/> (accessed Apr. 20, 2021)

⁷⁹ OECD. “Tax Information Exchange Agreements (TIEAs).” OECD.org. <https://www.oecd.org/ctp/exchange-of-tax-information/taxinformationexchangeagreementstieas.htm> (accessed Apr. 20, 2021)

⁸⁰ OECD. 2020. <https://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm>

⁸¹ OECD Automatic Exchange Portal. <https://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/> (accessed Sep 2021)

⁸² OECD Automatic Exchange Portal, “ACTIVATED EXCHANGE RELATIONSHIPS FOR CRS INFORMATION.” Dec. 2020, <https://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/exchange-relationships/>

⁸³ OECD. 2019. Fryer of MAC. https://www.oecd.org/tax/exchange-of-tax-information/ENG_Convention_Flyer.pdf

Aiming to join the Inclusive Framework of BEPS and meet international standards, the Philippines has signed the MAC in September 2014 but to date, it has been still pending in the Philippine Senate for concurrence since June 2018. Although the Coordinating Body of the MAC accepts observers for countries in this situation, the Philippines does not participate in the meeting as an observer.

In a letter to the DOF dated 23 March 2018, the BIR recommended updating the existing and effective DTAs through the signing of bilateral TIEAs with other jurisdictions following the TIEA Model of the OECD. The top ten countries with which the Philippines should negotiate TIEAs were recommended by the BIR based on the following: 1) the Top fifty Trade and Investment Partners Report by the Department of Trade and Industry; 2) Recommendations made by the Global Forum during the first round of peer reviews; and 3) the Status of effective Philippine DTAs. In the same letter, the BIR also requested policy guidance on whether the Philippines should enter into TIEAs with its treaty partners so as to update the EOI provision of its existing treaties, in compliance with the Global Forum's recommendation to adhere to international standards. However, to date, the BIR has not yet received a reply from the DOF.

Among three EOI mechanisms, so far, the Philippines only implemented EOIR based on tax treaties after the issuance of RA No. 10021 in March 2010. When the Global Forum on Transparency and EOI for Tax Purposes assessed each country's situation on bank secrecy in 2009, the Philippines was blacklisted as a tax haven by the OECD. The issue prompted the country to react. The President signed RA No. 10021, amending the NIRC, in March 2010 for the BIR to enable obtaining specific taxpayers' information from banks. The revised NIRC stated that the BIR is to inform taxpayers within sixty days from the day it received a request from another competent authority and included an article on punishment for non-compliant financial institutions. The Philippines was delisted from the OECD Blacklist in the month following the issuance of RA No. 10021, so that the country was prepared for Phase 1 of the peer review in 2011. Since then, the Philippines has been acknowledged as "Largely Compliant" with EOIR mechanisms.

Six months after the issuance of RA No. 10021, RR No. 10- 2010 (EOI guideline), which is only for EOIR issued by the BIR Commissioner, and two years and four months later, in February 2013, RMO No. 2-2013, the guidelines for EOIR, based on RA No.10021/RR No.10-2010, was issued. With these issuances, ITAD finally gained power to practice EOIR.

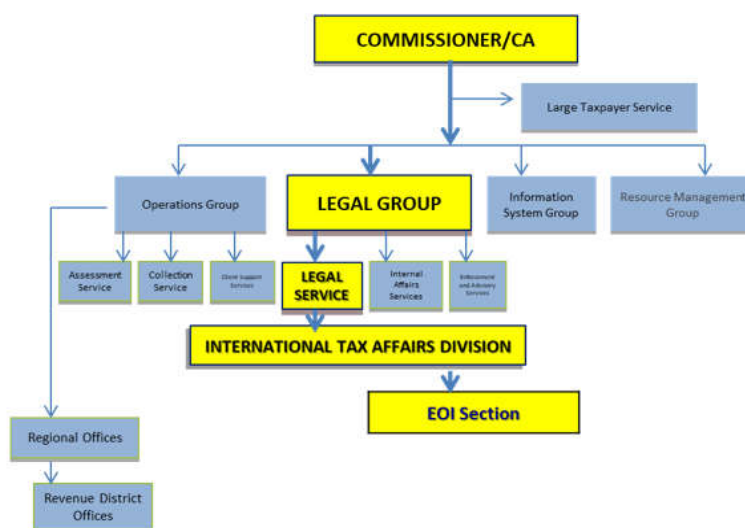


Figure 6 Organization of EOI

(Source: BIR)

As to the usage of the EOIR during audits, examiners are facing a dilemma as to whether to ask for information from a treaty partner considering the time within which to close an investigation, what the target collection that they have to achieve is, and what the amount of time needed to request and obtain information from the treaty partners is. This is the reason that the outbound case of EOIR in the table below remains very low.

Table 9 Number of EOIR

	2018		2019		2020		2021			
	Inbound	Outbound	Inbound	Outbound	Inbound	Outbound	Inbound	Outbound		
Norway	7		Japan	9	1	Norway	5	Australia	1	
Japan	6		Norway	9		Australia	1	Belgium	2	
USA	4	1	Indonesia	5		Belgium	1	Indonesia	1	
France	2		Belgium	3		France	1	Germany	2	
India	2		Finland	3		Germany	3	Russia	1	
Belgium	1		France	2		Japan	1	1	Japan	1
Finland	1		Singapore	2	1	Korea	1		Korea	1
Indonesia	1		USA	2	1	UK	1			
Korea	1		Germany	1		Vietnam	2			
Singapore	1		India	1		USA		1		
UK	1		Korea	1						
			Netherlands	1						
			Vietnam	1						
			Switzerland		1					
Total	27	1		40	4		16	2	8	1

(Source: BIR)

In response to the recommendation of the Global Forum, exchanging information in a timely manner, RMO No. 2-2013 was amended by RMO No. 26-2020 on August 11, 2020, for revising the EOI working manual to streamline the process. The working manual includes not only EOIR but also Spontaneous EOI. With this amendment, the requested office or taxpayers are given thirty days to submit the information to the BIR. Another measure initiated by the BIR is drafting Data Sharing Agreements (hereinafter referred to as “DSAs”) with different agencies in order to smoothly obtain necessary information. Upon its approval by the Commissioner, these will be transmitted to the concerned agencies for comments and/or agreement. The BIR expects that with the conclusion of these DSAs, the government agencies would provide the requested information to other competent authorities in a timely manner, without any question on the taxpayer’s data privacy.

As for the AEOI, after ratification of the MAC or passage of a primary domestic legislation in lieu of the MAC, revenue issuance must be issued to implement AEOI. Also, the BIR needs to solve the issue of obtaining financial information for AEOI.

Regarding the Agreement between the Government of the United States of America and the Government of the Republic of the Philippines to improve International Tax Compliance and to implement the Foreign Account Tax Compliance Act (FATCA), it has been pending in the Philippine Senate for concurrence since December 2016.

[Situation in Japan]

Japan exchanges information with treaty partners by AEOI, EOIR and Spontaneous EOI. Due to the tax reform in 2015, financial institutions are required to submit non-residents’ account information to the NTA by end of April each year, and the law took effect in January 2017. The information in CRS is sent to other treaty partners by end of September. Japan participated in the first exchange of CRS in 2018 and continues to comply with the standard. As of October 2018, Japan received information about roughly 550 thousand accounts (52.8% from Asia and the Pacific) and provided information about 89.2 thousand accounts (83.2% to Asia and the Pacific).⁸⁴

(6) Additional Information Captured through the Survey

[Customer satisfaction survey conducted by the BIR]

The BIR has been conducting customer satisfaction surveys targeted for each frontline service available to comply with the Ease of Doing Business and Efficient Government Service Delivery Act of 2018. While the manual survey was started in 2016, the feedback is collected online since June 2021 according to the

⁸⁴ NTA, “Syouraizo, Recent measures on future of tax administration –Towards Smart Tax Administration (Japanese only).” Jun. 21, 2019, https://www.nta.go.jp/information/release/kokuzeicho/2017/syouraizou/pdf/syouraizo_r0106.pdf

RMC No. 44-2020 and RMC No. 16-2021. The Client Support Unit Head of each RO processes the survey results monthly and reports to the Taxpayer Service Programs and Monitoring Division in the NO by email.⁸⁵ The collected results are further analyzed, and an action plan is made each year to continually improve the service. The survey items are 1) Business Registration, 2) Taxpayer Identification Number (TIN) Issuance, 3) Authority of Print, 4) Books of Accounts, and 5) Other similar services categorized as frontline services. In addition, the total client's experience, expectations, and satisfaction in the delivered public service are captured. In 2020, there were 22,562 respondents with good feedback, e.g., average rating was 4.41 for business registrations (1: very dissatisfied to 5: very satisfied) and 58.12 percent of the process was completed in less than one hour.⁸⁶ The report and action plan are not disclosed to the public.

[Taxpayer perception survey and interview conducted by the Survey Team]

The Team conducted a taxpayer perception survey, and 114 Japanese companies responded, followed by some interviews. The survey included feedback on overall impressions of the BIR and tax officers' work with their reasons, VAT refunds and tax audit experiences, and requests to the BIR. About 34 percent of respondents have requested VAT refunds so far, 47.2 percent of them have not received a refund and 48.4 percent waited more than a year to get a refund. As for the tax audit, about 28 percent of total respondents are receiving the officers' visit every year and 18 percent are facing an audit once every two years. Respondents that expressed higher satisfaction with the BIR and officers' performance received less frequent tax audits and never claimed a VAT refund. Many respondents requested that the BIR enhance compliance, ensure fairness, and process faster/on time.

As for the law, taxpayers asked for the early announcement of the content and status of deliberation of laws and regulations, and expressed the need to have enough time to adjust to the changes before their implementations. For example, RR 09-2021 issued on 12th June became effective on 27th June, and taxpayers were given only fifteen days to adjust to the change. Taxpayers were worried that the BIR would penalize those unable to comply to the sudden change.

Regarding VAT refunds, taxpayers request speed and consistency, following clear unified rules to process refunds. As for tax audits, taxpayers are commenting on the high cost of compliance. They demanded the BIR conduct audits strictly by complying with the law and regulations and submit initial audit results based on clear evidence. Also, they commonly requested shortening the duration of audits. Many respondents claimed that proving explanations against tax auditors' findings is time consuming and expensive, given the need for professional accountants.

⁸⁵ BIR, "Customer feedback system of client support service (CSS)"

⁸⁶ BIR, "Citizen/Client Satisfaction Report"

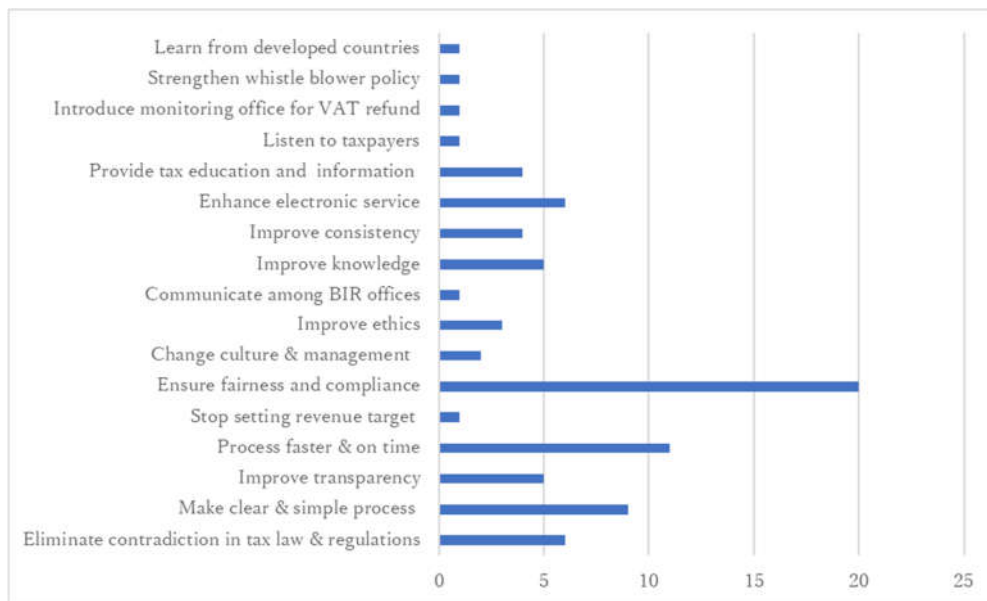


Figure 7 Request for the Improvement of Tax Administration

(Source: Taxpayer perception survey)

3-3 HUMAN RESOURCE DEVELOPMENT⁸⁷

(1) Human Resource Development Policy and Plan

According to the BIR's Five-year Strategic Plan (2019-2023) (hereinafter referred to as "the Plan"), the following activities are planned to be conducted annually for the purpose of enhancing the capacity of tax officials and employees; 1) Training Needs Analysis (hereinafter referred to as "TNA"), 2) briefings/seminars/training on current regulations and laws for revenue officers, and 3) in-depth and periodic training and seminars on tax investigation and the BIR processes. Also, the Plan indicates that 1) modification of the training modules on the Internal Revenue Integrated System (IRIS), 2) development of online supplementary documents as job aids, 3) utilization of the existing in-house training course and modules on tax fraud, and 4) a review of the training materials and Training of Trainers (herein after referred to as "TOT") on IRIS courses (taxpayers registration system, collection and bank reconciliation, and document processing) are to be carried out when the need arises.⁸⁸ Moreover, the Plan highlights the importance of introducing e-learning to a greater degree to cope with the changing socio-economic

⁸⁷ In the [BIR, "2020 Annual Report,"](#) it was reported that the "Civil Service Commission (CSC) awarded the PRIME-HRM Bronze Award to the BIR in recognition of its excellence in human resource management systems, practices and competencies in the four-core human resource management areas, namely Recruitment, Selection and Placement, Performance Management, Regards and Recognition. (BIR (2020),

⁸⁸ BIR (2019), Annex A-S06 of the Strategic Plan (2019-2023), pp.27

environment as well as to secure the BIR’s human resource development activities in a self-sustainable way.⁸⁹

For smooth and effective implementation of the human resource development activities through training, the Human Resources Development Services (hereinafter referred to as “HRDS”) of the BIR developed a matrix called “Curriculum Building” based on the results of the Strategic TNA held in 2019.⁹⁰ The matrix is classified into three categories, namely “Organizational,” “Technical,” and “Leadership.” Training menus, target level of the trainees, and years of working experience of the training target are listed as seen in the figure below.

ORGANIZATIONAL			TECHNICAL				LEADERSHIP				
New entrants Less than 1 month - 1 year	1st Level More than 1 - 5 years	2nd Level More than 1 - 5 years	2nd Level				MIDDLE Management (2nd Level)			EXECUTIVE Management (3rd Level)	
	1st level non-officer (not technical office/admin)	2nd level officer	Revenue Officer & Attorney Positions				Group Supervisor, Unit Head, Section Chief, Assistant Division Chief, & Division Chiefs			Director I-V (ARD, HREA, RD, ACR, DGR, DR)	
All Positions	Non-Office Positions	Officer Positions	Inexperienced (RO-1)		Developing (RO-2, 3-5 yrs)	Accomplished (RO-3)	Mastered (RO-4)	Inexperienced	Developing	Accomplished	Mastered
			Pre-requisite Courses								
Personal Orientation Course (POC)	SS in Workplace	Tax Reform for Acceleration and Adoption (TRA)	General Course for Revenue Officers (GRCO)	Introduction to Basic Economics and Profit ability (BEP)	Make Decision Mechanisms more effective	Prevent Treaty Abuse	Technical Competence Course	Basic Management Course (BMC)	Leader's Future Trends Technology	Governance	Executive & Leadership Development Programs
Information Security Awareness Briefing Lesson	Corporate Recovery and Tax Incentives for Investment (CRCTI)	Advanced Topics and Techniques in Taxation	Advanced Topics and Techniques in Taxation	BEPS 15 Action Plans	Success stories on Prevention	Success stories on Prevention	BEPS International	Middle Managers Course (MMC)	Mentoring Program Exposure to Executive Level	Mentoring Program Serving as mentor to Executive Level	Mentoring Program Mentoring on leadership

Figure 8 Curriculum Building Matrix
(Source: BIR’s provided document)

As of August 2021, a total of twenty-four training courses are listed in the matrix under the category of “Organizational” targeting both officers and non-officers including those who are 1) new entrants with less than one year working experience; 2) with one to five years’ working experience, and 3) with more than five years’ working experience. In addition, under the “Technical” category, fifty-three training courses including BEPS related training courses that are listed in accordance with designated functions in the tax administration such as assessment, collection, tax assistance, and document processing, among others.⁹¹ These are targeting revenue officers between RO1 and RO4 and lawyers. Moreover, under the “Leadership” category, middle management and executive management officers’ levels are targeted and in which forty-four training courses are listed in total.⁹² Out of a total of 121 training courses, some have been developed and offered already, and others will be designed and developed in the future.

⁸⁹ BIR (2019), Annex A-S06 of the Strategic Plan (2019-2023), pp.28

⁹⁰ This curriculum is submitted to the Civil Service Commission and will be enhanced if needs arise. Ideally TNS would be conducted during the last quarter of the financial year, however, in practice it is conducted when need arises (Source: Result of interview to HRDS conducted on 11 June 2021).

⁹¹ Required working experience from RO 1 to RO 4 is as follows: non required (RO-1), two years of relevant experience (RO2 and 3), three years of relevant experience (RO4) (Source: Updated BIR Qualification Standards as of 2019 Approved by the Civil Service Commission).

⁹² As of June 2021, some training courses were already developed, however others are under development or are planned to be designed in the near future (Source: Results of interview to HRDS conducted on 11 June 2021).

In addition, the Training Management Division (hereinafter referred to as “TMD”) of the HRDS conducted an online TNA survey in September 2020 and identified urgent training needs for the following courses: 1) a General Course for Revenue Officers, 2) a Basic Tax Administration Course, and 3) an Audit Procedures and Techniques Course, among others (Appendix-6).⁹³

(2) Organizational Settings

1) General Information

Under the current organizational settings of the BIR, HRDS oversees the overall human resource development activities of the agency. There are three division under the HRDS, namely the Personnel Division, the TMD, and the Training Delivery Division (hereinafter referred to as “TDD”), and in which a total of 110 personnel has been deployed as of June 2021: six to HRDS, sixty to Personnel Division, twenty to TMD, and twenty-four to TDD.⁹⁴

The role of developing and evaluating training programs falls under the Subject Matter Experts, process owners and the TMD under the HRDS. Training implementation is handled by the TDD and their counterpart at the ROs of Administrative and Human Resource Management Division. As for the e-learning, the Information System Group at the NO is working closely with the TMD as well as the TDD for the necessary arrangements for online training courses.

Table 10 Division of Work under the HRDS

Function	Relevant Division
Develop and Evaluate Training Program	<ul style="list-style-type: none"> • Training Management Division (TMD) • Subject Matter Experts and Process owners
Training Implementation	<ul style="list-style-type: none"> • Training Delivery Division (TDD) • Relevant division at the regional officers: Administrative and Human Resource Management Division

(Source: BIR (2017), RAO No. 3-2017)

The BIR established the NTC, which is equipped with an IT training room in three cities in Manila, Davao, and Cebu. The NTC is supervised by the TDD under the HRDS and a total of eight officers have been deployed as of 2021: one TDD Division Chief, one TDD Assistant Division Chief, one Information and Communication Technology (hereinafter referred to as “ICT”)/ICT-related Section Chief, four Training

⁹³ [BIR, "2020 Annual Report"](#), pp.56

⁹⁴ Results of the questionnaire survey on HR Development Activities. Also, an interview survey conducted on 11 June 2021 reveals that of 44 officers working for TMD and TDD, five out of forty-four deployed officers, have 1-3 years working experience, fifteen have 3-5 years, and the rest have more than five years working experience.

Officers, and one Administrative aid. The NTC has served 1) as a training venue for regular training courses, ICT-related and training courses on Computer Audit Tools and Technology before the COVID-19 pandemic, 2) as a venue for public consultations, auctions for forfeited assets and command conferences such as CIR meetings with BIR officials from the NO and ROs, and 3) as a dormitory for employees. To date, no dedicated trainer has been assigned to the NTC, and Subject Matter Experts who are nominated based on RMO No. 5-2018 have served as trainers and/or resource persons for the BIR training courses.⁹⁵

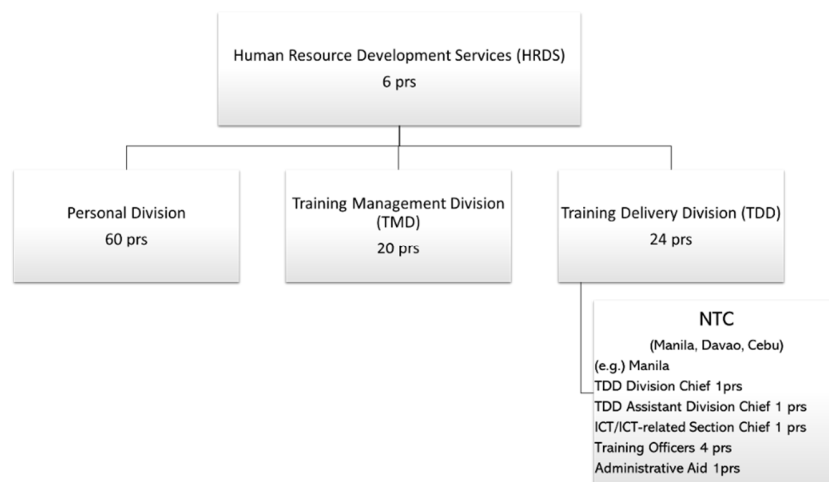


Figure 9 HRDS Organizational Settings and Personnel Deployment

(Source: BIR's provided data)

2) e-Learning Environment

Followed by the ADB's assessment that was conducted in 2015 on the readiness of the organization and employees for online training, the TMD conducted an online TNA survey in September 2020 and verified employee's readiness for online training. The results showed that most of the respondent (95%) are positive and open to e-learning.⁹⁶

Despite the situation in which COVID-19 has prevailed more than a year, the BIR continuously offered capacity-building programs to their employees, utilizing an online platform established at the Philippine Tax Academy (hereinafter referred to as "PTA") called "iLearn" as well as its own temporal e-learning platform.

[PTA iLearn Platform]

The PTA was established under the DOF in February 2019 based on the Republic Act (RA) No. 10143:

⁹⁵ Those who are with sufficient expertise and had undergone TOT are appointed.

⁹⁶ [BIR, "2020 Annual Report"](#), pp.56

“Section 4. Purpose. - The Philippine Tax Academy shall serve as a learning institution for tax collectors and administrators of the government and selected applicants from the private sector. It shall handle all the trainings, continuing education programs and other courses for all the officials and personnel of the Bureau of Internal Revenue (IR), the Bureau of Customs (BOC), and the Bureau of Local Government Finance (BLGF). It shall develop and implement a curriculum which includes those pertaining to: (a) the technical aspects of tax collection, administration, and compliance; and (b) the career orientation and development for civil servants. It shall conduct lectures, seminars, workshops, and other training programs designed to mold, develop, and enhance the skills and knowledge, moral fitness, efficiency and capability of tax collectors and administrators. It shall also perform such other function and duties as may be necessary in carrying out its mandate.

All existing officials and personnel of the BIR, the BOC and the BLGF shall be required to undergo the re-tooling and enhancement seminars and training programs to be conducted by the Philippine Tax Academy. All applicants to the said bureaus shall also be required to pass the basic courses before they can be hired whether on contractual or permanent status.”

The PTA has offered a wide range of training courses on-site (face-to-face) and online through the iLearn platform to the relevant officers from the DOF, BIR, BOC, and Bureau of Local Government Finance (BLGF) in accordance with established policies. By July 2019, the PTA had offered fourteen competency based mandatory online courses required for new employees at the BOC and some refresher courses for existing BOC officers. In addition, 1) twenty-three half-day training courses for regional directors and above from the BIR and the BOC on tax assessment and revenue collection, customs management and administrations, tax administration, international taxation, fiscal policy formulation, and public finance management compliance, and 2) training programs for treasurers of local government units, which is one of the subordinated organizations under the DOF, were conducted.⁹⁷ The iLearn platform is currently utilized by the said four organizations: the DOF, BIR, BOC, BLGF. According to the BIR officers, due to the limited capacity of the platform given to the BIR, there are fewer BIR training content courses compared to those offered by the BOC and the DOF.⁹⁸

⁹⁷ PTA (2019), Tax Academy Offers Online Courses for BOC, BIR execs, employees

⁹⁸ Ditto

iLearn is a platform for self-paced learning that deliver courses completely online. On the PTA website, there is a log-in page for iLearn, and training participants can remotely access training materials through their own computers, tablets and/or smartphones with their ID and password at their own pace, from anywhere at their convenience during the given period.



(Source: PTA Website accessed in June 2021)
<https://doftaxacademy.gov.ph/iLearn/>

[BIR's e-Learning Platform]

The BIR's e-learning platform was developed in 2021 at the BIR as an interim solution to address the situation where e-learning training courses were not able to be conducted on the PTA iLearn platform between March and May 2021 due to technical issues. This platform is just a temporary platform using freeware, the same as PTA-iLearn, for e-learning courses for the BIR officers. Since it is still the pilot platform at the BIR, courses offered on the platform are still limited to the personal orientation course for the officers at the N.O. Also, demarcation between iLearn and this e-learning platform is not clearly defined yet, and the HRDS is currently exploring the possibility of utilizing two different platforms in a more efficient way such as 1) orientations and on-boarding courses are to be offered on the iLearn platform, and 2) technical training courses are conducted on the BIR e-learning platform. Moreover, the HRDS aims to expand the target users to those who work for the RO by the end of third quarter of 2021.⁹⁹

(3) BIR's Recent HR development Initiatives

1) In-Country Trainings (face-to-face and virtual)

In 2019, the BIR offered regular training courses titled "Organizational," "Technical," and "Leadership" as well as others in addition to the ICT-related training courses. Among all of these, a total of 450 officers attended technical training courses such as the "General Course for Revenue Officers," "Audit Procedures and Techniques," the "Seizure Agents Course," and the "Taxpayer Service Excellence Workshop."¹⁰⁰ Due to the COVID-19 pandemic, however, thirty-nine conducts of general training courses were suspended or deferred between March and July 2020. Given the situation, the BIR started offering pilot online courses in August 2020 utilizing the iLearn platform on the following topics: 1) Personal Orientation, 2) Information and Security Awareness Briefing, 3) Briefing on the Data Privacy Act, and 4) Basic Tax Administration. Since then, the training modality has been gradually shifted from face-to-face to online/e-learning, and a total of 25 courses were offered as a result including 11 regular training courses (35 conducts), five other

⁹⁹ Source: Results of interview to the HRDS on 21 September 2021

¹⁰⁰ BIR (2019), "2019 Annual Report", pp 50.

courses (nine conducts), and nine ICT related training courses (39 conducts) in 2020. As for other courses, three training courses out of five were newly developed in 2020.¹⁰¹

Table 11 Regular Courses (2020)

Trainings/Seminars	Number of Conduct
<i>*** Number of suspended/deferred conducts due to COVID-19 pandemic = 39 (March 16-July 31, 2020)</i>	
Personnel Orientation Course (POC)	2
Basic Management Course (BMC)	1
Basic Tax Administration Course (BTAC)	1
Audit Procedures and Techniques Course (APTC)	2
General Course for Revenue Officers (GCRO) Batch 74	3
Presentation Skills Development Workshop (PSDW)	1
Technical Writing Course (TWC)	1
Personnel Orientation Course via PTA iLearn	2
Basic Tax Administration Course via PTA iLearn	2
Personnel Orientation Course via PTA iLearn	8
Basic Tax Administration Course via PTA iLearn	12

Table 12 Other Courses (2020)

Trainings/Seminars	Number of Conduct
PTA Induction Program	3
PTA Integrity Education Program	3
Introduction to Base Erosion and Profit Shifting (Pilot Conduct)	1
Lean and Agile Methodologies Introductory Course (LAMIC) (Pilot Conduct)	1
Introduction to Gender and Development (Pilot Conduct)	1

Table 13 ICT/CT Training Courses (2020)

Trainings/Seminars	Number of Conduct
Data Privacy Briefing	1
Collection Course-Error Handlers Course (CC-EHC)	2
Regional Computer Audit Tools and Techniques (RCAATTS) Training	3
ACL with Basic Scripting for Revenue Officers (Assessment)	2
Audit of Electronic Sales Journal Using ACL	2
Information Security Awareness Briefing via PTA iLearn	4
Data Privacy Act of 2012 via PTA iLearn	14
Internal Revenue Integrated System (IRIS) - Taxpayer Compliance System (TCS) Storyboard, Scripting, and Recording	2
Information Security Awareness Briefing (Batch 5)	9

(Source: [BIR, "2020 Annual Report"](#))

¹⁰¹ 10 more courses on IRIS are also included as newly developed courses to ensure the rolling out of the system and a web-based system developed to replace the antiquated integrated tax system for BIR's taxpayers registration, payments, returns and other transaction records (Source: [BIR, "2020 Annual Report"](#)).

The following seven training courses offered by the BIR were scheduled to be conducted later in 2021 through the iLearn platform, and “Introduction to BEPS” (Batch 2, 3, and 4) is included.¹⁰² They are courses for independent learning and participants can access training materials anytime at their own pace and from anywhere at their convenience during the given period.

Table 14 Technical Training Available on the iLearn Platform (As of August 2021)

Name of Training	Batch
[Technical Course]	
1. General Course for Revenue Officers (GCRO) (Priority list of Assessment from 2020 TNA Respondents)	Batch 1~7
2. Audit Procedure and Techniques Course	Batch 4
3. Introduction to Base Erosion and Profit Shifting	Batch 2,3, 4
4. Technical Writing Course	Pilot Conduct, Batch 1
[Organizational Course]	
1. Lean and Agile Methodologies Introductory Course	Pilot and Batch 2
2. Introduction to Gender and Development	Pilot conduct, Batch 3
[Others]	
1. Personal Orientation Course	Batch 19

(Source: PTA website accessed in August 2021: <https://doftacademy.gov.ph/iLearn/>)

3) Oversea Trainings

In 2019, a total of twenty-five training courses were offered by development partners such as Japan and OECD; however, the number of donor-funded training courses had decreased to three courses in 2020 due to the COVID-19 pandemic. These training courses include those sponsored by OECD/Japan, the Australian Taxation Office (ATO), and the OECD/Inter-American Center of Tax Administration/Mexico. Since July 2020, training courses that were usually conducted overseas were all implemented online as virtual training and in which TP training courses offered by the OECD in July 2020 is included.

¹⁰² <https://doftacademy.gov.ph/iLearn/>

Table 15 Record of Oversea Trainings (Face-to-Face) (2020)

Course title	Date	Development Partner /Venue
Conducting Financial Investigation (Basic Programme)	February 3 – 14, 2020	Organisation for Economic Co-operation and Development (OECD)/ Japan
Multilateral Partners Program Workshop	February 25 – 28, 2020	Australian Taxation Office (ATO)/ Australia
Interpretation and Application of Tax Treaties (Advanced)	March 2 – 6, 2020	OECD/Inter-American Center of Tax Administrations/Mexico
Blended Learning (MTC Event)		

Table 16 Record of Trainings offered by Development Partners (Virtual) (2020)

Course title	Date	Development Partner
Joint Directorate General of Taxes - Organization for Economic Cooperation & Development (OECD) Virtual Capacity on Transfer Pricing	July 21-23, 2020	OECD
Virtual Workshop: Development of a VAT Digital Toolkit for Southeast Asia	September 9-10, 2020	OECD
Fourth Virtual Conference on the Availability of Beneficial Ownership Information in Asia and the Pacific	September 23-25 2020	OECD

(Source: BIR, “2020 Annual Report”)

The Team also confirmed that there has been a request from the BIR to introduce a “Training Management System” in order to centrally manage information and keep a record of training implementation as well as participation.¹⁰³

(4) BEPS Initiatives

1) BIR's Recent Initiatives

Unlawful tax practices deriving from the digital economy, globalization, and foreign direct investment from multilateral enterprises tend to abuse the ambiguity of various tax rules and double tax treaties. Avoidance strategies enable large enterprises to minimize their tax burden, eroding government revenue bases by strategically transferring profits. Thus, enhancing awareness and understanding on BEPS’ potential risks has become more important in recent years. To cope with these emerging needs, the BIR has dispatched relevant officers to BEPS related training courses and seminars domestically and abroad over the past decade. These training courses include 1) the BEPS conference in Malaysia co-sponsored by the Inland Revenue Board of Malaysia and the OECD in 2013, 2) the Regular Consultation on BEPS at the

¹⁰³ Results of the questionnaire survey on e-Learning

OECD Korea Policy Centre in South Korea and the Strategic Dialogue on Engaging in BEPS in France sponsored by the OECD in 2014, and 3) the Training of the Trainers on BEPS and TP sponsored by the ADB in 2017 and 2018, among others.

In June 2019, the BIR held a ‘Strategic TNA’ and invited revenue officers from LTS, the Legal Service, the National Investigation Division, and the Information System Group to identify their training needs on BEPS and related areas.¹⁰⁴ During the workshop, participants picked up topics that they were already knowledgeable about as well as topics that they wished to learn more about, and then classified the level of specialization into a) basic, b) intermediate, c) specialized, and d) advanced as shown in the table below. Workshop results were compiled in a report and submitted to the JICA Philippine Office for future cooperation.¹⁰⁵ Thereafter, the TMD of the HRDS reflected the results of STNA in the “Curriculum Building” matrix, in which prospective training courses are listed according to the categories of 1) Organizational, 2) Technical, and 3) Leadership.

Table 17 Result Summary of Strategic TNA on BEPS (2019)

Basic	Intermediate	Specialized	Advanced
<ul style="list-style-type: none"> TP documentation Value Creation Risk Assured Cross Border Transaction Arm's Length Principle Digital Economy What is BEPS what are the 15-Action Plans? <p><u>As trainers:</u></p> <ul style="list-style-type: none"> Basic/Awareness Training Workshops on Minimum Standards-Action Plans 5,6,13,14 Training: Actual test case through audit <p><u>Challenges:</u></p> <ul style="list-style-type: none"> Access to comparable Limitations due to Data Privacy Technology and Facilities <p><u>Policy Direction:</u></p> <ul style="list-style-type: none"> Creation of DB on standard/comparable/ other data required Revisit existing taxpayer regulation and harmonize with other tax laws 	<ul style="list-style-type: none"> Make Dispute Resolution Mechanisms more effective 	<ul style="list-style-type: none"> Prevent Treaty Abuse Need to know about success stories on TP Address the tax challenges of DX Effects of Hybrid Mismatch Arrangement Limit Base Erosion via Interest Deductions and other Financial Payments Intangibles Risk and Capital Other High Risks Transactions Established methodologies to collect and analyze data on BEPS and the actions to address it. 	<ul style="list-style-type: none"> Technical Database for Comparables International best practices that we can adopt

(Source: BIR (2019), Report on Strategic Training Needs Assessment)

2) JICA Seminar on BEPS (2020)

Upon the BIR’s request, JICA in cooperation with NTA, Japan held a 3-day BEPS seminar for revenue officers and lawyers in February 2020 in the Philippines. The seminar covered the basic topic on BEPS

¹⁰⁴ BIR (2019), “Strategic Training Needs Analysis: Base Erosion & Profit Shifting”

¹⁰⁵ The workshop report was submitted to JICA Philippines Office on Jun 20, 2019.

such as the BEPS Action Plan and TP related procedures such as APA and MAP. The seminar outline is shown in the table below.

Table 18 JICA Seminar Outline

Name	Base Erosion and Profit Shifting Seminar
Period	February 4-6, 2020
Place	National Training Center (NTC), BIR National Office (NO)
Contents	<ol style="list-style-type: none"> 1. Presentation by BIR <ul style="list-style-type: none"> • Current situation in Philippines • Inclusive Framework membership • Applying Multilateral Instrument (MLI) • Existence of harmful tax regimes (Action 5) • EOI on tax rulings (Action 5) • Preventing treaty abuse (Action 6) • CbCR-Domestic law and foreign network (Action 13) • Effective dispute resolution (Action 14) 2. BEPS Action Plan (1) <ul style="list-style-type: none"> • Outline of 15 Action Plans • Japan's address to BEPS- Revision of law, Organizational issue • Inclusive Framework and MLI • Road map to implementation • Sanction to blacklisted countries • Post BEPS 3. BEPS Action Plan (2) <ul style="list-style-type: none"> • Minimum Standard • Peer Review • Action Plan 5 – Outline, other countries' cases, case study • Action Plan 6 – Outline, GAAR and LOB • 4. TP issue (BEPS 13 and 14) <ul style="list-style-type: none"> • Outline of TP, APA, MAP • Action Plan 13 (Outline, Detail of CbCR, Case Study) • Action Plan 14 (Outline, Minimum Standard)

(Source: Provided document by JICA)

3) BIR's Basic Training on "Introduction to BEPS"

[Training Outline]

The BIR launched their pilot training course "Introduction to BEPS" in December 2020 and batch 2 and 3 training courses were conducted in March and July 2021 respectively. The training targets all revenue officers and lawyers, regardless of their position level and designation both at the National and RO. It aims

to inform participants on the fundamental concept of BEPS. With the obtained knowledge and understanding, it also expects them to expose the BEPS schemes that end up in double non-taxation outcomes as well as to deepen their knowledge on minimum standards that member countries of the OECD Inclusive Framework of BEPS are expected to implement in their domestic law and tax treaties.

The training covered the following themes, aiming for the participants to become able to address the BEPS scheme, commit more to the development of BIR's policies and guidelines related to the BEPS in line with international standards: 1) an Inclusive Framework on BEPS, 2) 15 BEPS Action Plan, and 3) BEPS minimum standards. The training was conducted through the PTA iLearn platform, where training modules were accessed by participants anytime at their own pace and convenience within the given period. During the designated period, the participants are expected to progress in their study through the module sections sequentially as well as to take a pre-course assessment before they take the first module and to take a post-course assessment after they complete the last module.¹⁰⁶ The table below shows the training outline of the Introduction to BEPS (batch 1 and 2).

Table 19 Outline of the Training on Introduction to BEPS

Name	Introduction to BEPS
Period	Batch 1- 14-21, December 2020 / Batch 2- 08-15, March 2021
Hours	40 hours
Modality	e-Learning (through PTA-iLearn platform) / Self-learning
Training Target	All revenue officers and lawyers, regardless of position and designation nationwide
Participants	Batch-1 37 Officers / Batch-2 34 Officers
Contents	<ol style="list-style-type: none"> 1. Overview / Pre-test 2. Module 100: BEPS Inclusive Framework / Modular Assessment 3. Module 200: BEPS 15 Actions Overview / Modular Assessment 4. Module 300: BEPS Minimum Standards / Modular Assessment 5. Post-test / Course Evaluation

(Source: HRDS provided document)



[Training Materials]

The following modules were prepared by Ms. Katrina Louise F Velasco, the administrative officer IV at the TMD, with technical support from the Subject Matter Expert, Deputy Commissioner Ms. Marissa O Cabreros: Module 100, 200, and 300. In Module 200, there is TP related content such as BEPS Action 8-10. In particular, it refers to the indispensable concepts in TP such as transactions within an MNE group based on the arm's length principle, the hard-to-value-intangible (HTVI), and the OECD TP guidelines. It

¹⁰⁶ If training participants fail the assessment, they are required to take the course again (Source: Results of the interview to HRDS conducted on 11 June 2021).

also provides an overall explanation of Action 11: CbCR and Action 14: MAP. In addition, Module 300 addresses monitoring mechanisms for the minimum standards of Action 5, 6, 13 and 14 as well as indicates the issues in the Philippines that make it challenging to promote BEPS movement in the country. According to the HRDS, BIR's TP related guidelines were provided to the training participants as referential materials.¹⁰⁷ The table below shows a summary of training modules.

Table 20 Summary of the Training Contents

Topic	Module 100: BEPS Inclusive Framework	
Summary	<ul style="list-style-type: none"> What is BEPS? Introduction of BEPS Package Tackling Tax Avoidance and Evasion (*) History of The G20 and Taxation (*) 	
Materials	<ul style="list-style-type: none"> Reading materials (PPT 13 slides) Video Clips – OECD Video https://www.youtube.com/watch?v=jL_tS6Nyer4&feature=emb_logo (Tackling Tax Avoidance and Evasion) https://www.youtube.com/watch?v=vyrzdq8kFB8&feature=emb_logo (History of The G20 and Taxation) 	
Topic	Module 200: BEPS 15 Actions Overview	
Summary	<ul style="list-style-type: none"> Introduction of details of 15 Actions Summary by Theme (Coherence, Substance and Transparency) 	
Materials	<ul style="list-style-type: none"> Reading materials (PPT 110 slides) Video clips – OECD Video https://www.youtube.com/watch?v=qs8dYOkpN2E&feature=emb_logo (Action 1: Collecting VAT in the Digital Age) https://www.youtube.com/watch?v=imjo9-YP_wM&feature=emb_logo (Action 2: Neutralizing Hybrid Mismatch Arrangements) https://www.youtube.com/watch?v=3W4orxYM18k&t=27s (Action 6: Eliminating Treaty Shopping) https://www.youtube.com/watch?v=UH8v3LRpeQQ&feature=emb_logo (Action 13: Improving Transparency with CbCR) 	

¹⁰⁷ Results of the questionnaire survey on HR Development Activities

Topic	Module 300: BEPS Minimum Standards	
Summary	<ul style="list-style-type: none"> • Explanation of Multilateral Consensus and Minimum Standards • Importance of Monitoring Mechanism • Effort in the Philippines for BEPS 	
Materials	<ul style="list-style-type: none"> • Reading materials (PPT 15 slides) 	

[Training Participants]

According to the BIR’s Training Evaluation Report, a total of seventy-two officers with ten different positions from twenty-four different offices from all over the country enrolled in the course, of which seventy-one officers completed the training. About 40 percent of seventy-two enrolled officers were from ROs located close to Metro Manila, and the majority were officers in positions between Revenue Officer I and Revenue Officer III.¹⁰⁸

Position	Batch-1	Batch-2	Total	%
1 Revenue Officer I	11	17	28	38.9%
2 Revenue Officer II	12	7	19	26.4%
3 Revenue Officer III	9	5	14	19.4%
4 Revenue Officer IV	1	2	3	4.2%
5 Attorney III	1	1	2	2.8%
6 Attorney IV	1	1	2	2.8%
7 Chief Revenue Officer II	0	1	1	1.4%
8 Chief Revenue Officer III	1	0	1	1.4%
9 Chief Revenue Officer IV	1	0	1	1.4%
10 Special Investigator II	0	1	1	1.4%
	37	35	72	100%

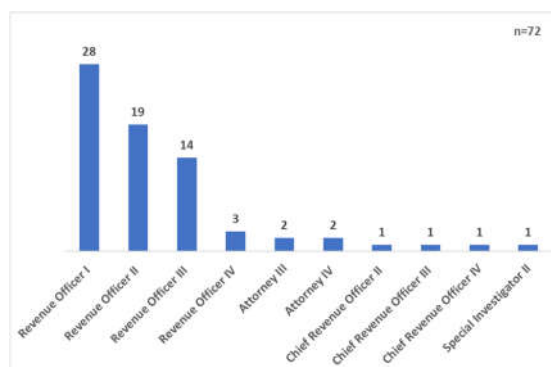


Figure 10 Demographics by Positions
(Source: BIR (2020, 2021), Training Evaluation Report)

BIR’s Training Evaluation Report also shows that 23.4 percent of 71 officers fell within the age 26-30 category and 43 percent of them had 1-5 years’ working experience.¹⁰⁹

¹⁰⁸ BIR (2020, 2021), Training Evaluation Report.

¹⁰⁹ A total of 37 officers participated in batch -1 training and 35 participants for batch-2 training (Source: BIR (2020, 2021), Training Evaluation Report).

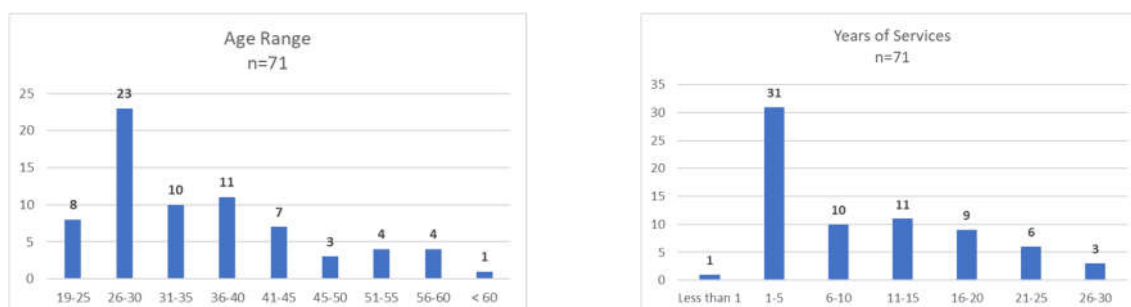


Figure 11 Demographics by Age and Years of Services

(Source: BIR (2020, 2021), Training Evaluation Report)

[Assessment, Monitoring, and Evaluation]

All participants who enrolled in the training courses on the PTA iLearn platform are required to take a pre-course and post-course assessment, which is the standard set offered on the platform. Also, a basic requirement to receive a certificate of training completion is to get a score of more than 80 percent from the post-course assessment.¹¹⁰ Should they fail to meet the passing score, they are required to retake the relevant course before moving on to advanced courses. The course evaluation form was also developed by the TMD and provided on the iLearn website, in which comments and feedback from participants are collected. Data processing and the generation of grades, figures, and tables are all done automatically. According to the BIR's Training Evaluation Report, various aspects of the training on the Introduction to BEPS including content and modalities have been highly rated by participants. The table below shows the evaluation summary.

Table 21 Participants' Evaluation Summary

Contents specific	Modality
Good Points <ul style="list-style-type: none"> Very informative, Comprehensive, well prepared The use of videos from OECD, YouTube videos, Video clip is very useful and easy to understand 	Platform is easy to navigate,
Points to be better <ul style="list-style-type: none"> Sample cases/illustrations of BEPS in Philippine setting More videos and examples to further explain the topic, videos with different tax scenarios, include more illustrations and video presentations local videos that show actual application or scenarios in the Philippines 	Thorough discussion on the Philippines' current standing on BEPS These links be accessible during office hours using office device by enabling the links in our office desktops even for the duration of the seminar only.
Initiatives required <ul style="list-style-type: none"> Design the training course with interactive approach 	NA
External support required Design and Content development on BEPS	Development of e-Learning platform

(Source: Results of Questionnaire Survey to HRDS)

¹¹⁰ For longer courses, modular tests have also been added (Source: [BIR, "020 Annual Report"](#))

[Future Plan/A Way Forward]

Following batch-1, 2 and 3 training, the BIR plans to offer batch-4 training in September 2021 with the same content (Appendix-7). In addition, in response to the participants' feedback through the training evaluation, the BIR will explore the possibility of synchronizing e-learning using the iLearn platform and virtual learning using other online applications so that training courses become more interactive.¹¹¹ In the current plan, first the BIR will conduct an orientation where participants are informed on how to proceed in their self-directed study, secondly materials for reading in advance of the course are uploaded to the PTA iLearn platform, and after reading this material, or when new information that needs to be shared with the training participants is added, participants are invited to the virtual sessions on other online applications to have extensive discussions.

According to the TMD, the training in the Introduction to BEPS course will be registered as a formal BIR training once the training meets all the requirements to address the training needs of the target group during the trial period.¹¹² Thus, continuous effort should be made till tangible and successful results from the basic training course on BEPS are achieved.

Besides, the Introduction to BEPS training is regarded as a TOT on BEPS and those who have undergone the training courses are entitled to be prospective trainers for BEPS basic training courses based on the "Competency Based Learning and Development Management System in the Civil Service Commission" regulation. As of June 2021, approximately thirty trainers are pooled/registered as trainers on BEPS, and they are expected to play a greater role in the future BEPS-related training courses.¹¹³

4) Basic Course on TP Taxation

As mentioned in the earlier section, the BIR developed several new courses in 2020 including Introduction to BEPS that is still in the trial period. Based on the findings from the said BEPS basic training course, the BIR plans to design and develop a basic training course on TP taxation in the near future in order to enhance the capability of the revenue officers and lawyers who will implement TP audits and will be responsible for tax legislation and/or tax policy development specific to TP taxation.

5) Intermediate Training Courses on TP

Currently, an intermediate training course for TP audit has not been developed yet, however, BIR plans

¹¹¹ Source: Result of interview to HRDS conducted on 11 June 2021

¹¹² According to the BIR, this synchronized approach will be applied only to technical training courses considering the nature of this learning, under this approach (Source: Interviews to HRDS officers conducted on 11 June 2021).

¹¹³ Of those thirty trainers' candidates, those who participated in the JICA BEPS seminar conducted in 2020 were also included (Source: ditto).

to design a concrete course outline in response to the decision on the direction of the basic training course for TP. It aims to provide revenue officers with “practical and applicable” skills that can be applied at their workplaces in processing TP related duties. The training images that BIR has as of August 2021 regarding the intermediate course are as follows.

Table 22 Basic concept for Intermediate Training Courses on BEPS/TP

Purpose	Revenue officers - understand the theories, concepts, and techniques on BEPS and - become able to demonstrate those acquired knowledge and skills in an appropriate manner.
Modality	On-site, online, and Virtual Training
	1) On-the-Job Training or Field Practice, 2) Study Visit, 3) Job Rotation, and 4) Study Paper Writing
Participants	Approximately 9,300 BIR officers from revenue officers and lawyers regardless of position and destination in the NO and the ROs.
Expected donors	ADB, OECD

(Source: Results of the questionnaire survey on HR Development Activities)

(5) Development Partners’ Support in the field of BEPS

In terms of human resource development activities in the field of BEPS including TP, JICA is one of the major sponsors in recent years. In January 2013, the Japanese government through JICA conducted a three-day seminar on Tax Treaties and provided learning opportunities for BIR officers to deepen their understanding of important concepts relating to the MAP and EOI.¹¹⁴ In later years, the BIR sent a number of trainees to the JICA’s group training on “International Taxation in Asia” held in Tokyo, Japan between 2009 and 2015 for six consecutive years and also in 2019 in order for BIR officers to enhance comprehensive understanding of international taxation including TP taxation.¹¹⁵ Also, in February 2020, JICA held a three-day seminar under the joint auspices of the BIR.

The OECD also have provided continuous support to the BIR as well as to the DOF for many years in order to strengthen their execution capacity on BEPS including TP through dispatching experts/training facilitators and offering training courses and dialogue both domestically and abroad. In 2020, the OECD supported five training programs including two on-site training courses held between February and March 2020 and three online training courses held in September 2020 and one of them was a TP related training course. The table below shows training courses/workshops specific to the field of TP sponsored by

¹¹⁴ ‘JICA (2013), Press Release on *JICA Supports Strengthening of BIR Human Resources through Tax Treaty Workshop*’.

¹¹⁵ Training modules include reviewing the situation of the international taxation system and administrations in the respective countries, writing reports and giving presentations, lectures on major issues related to international taxation, case studies on five important taxation issues including TP, APA, EOI, etc., and identification of issues in relevant fields in their respective countries (Source: JICA (2019), Knowledge Co-Creation Program (Group & Region Focus) for International Taxation for Asian Countries).

development partners between 2017 and 2020.

Table 23 Workshops and Trainings on BEPS/TP Offered by Development Partners (2017-2020)

Workshops and Trainings Offered	Fund	Place	Year
Virtual Capacity Building on Transfer Pricing (TP)	OECD	Manila, Philippines	2020
BEPS Seminar	JICA	Manila, Philippines	2020
International Seminar on Taxation	JICA	Tokyo, Japan	2019
International Seminar on Taxation (Advanced)	JICA	Tokyo, Japan	2019
International Taxation for Asian Countries	JICA	Tokyo, Japan	2019
NTA Training Workshop on EOI	OECD, Japan	NA	2019
EOI Training (New Zealand and Singapore)	NA	Singapore	2018
Transfer Pricing (TP): Policy and Practice	NA	North Carolina, USA	2018
International Seminar on Taxation	JICA	Tokyo, Japan	2018
International Seminar on Taxation (Advanced)	JICA	Tokyo, Japan	2018
EOI as a Tool to Combat Offshore Tax Evasion	NA	Budapest, Hungary	2018
Strategic workshop on Taxation of the Digital Economy	JICA	Tokyo, Japan	2017
International Seminar on Taxation	JICA	Tokyo, Japan	2017
International Seminar on Taxation (Advanced)	JICA	Tokyo, Japan	2017
BEPS and TP Guideline	NA	Vienna, Austria	2017

(Source: BIR Annual report between 2017 and 2019)

(6) Identified Challenges

1) Acquiring Deeper and Higher Specialized Knowledge on BEPS

As mentioned above, the BIR has accumulated a great deal of knowledge about the basic contents of BEPS by taking advantage of BEPS-related training opportunities both domestically and abroad. Moreover, based on acquired knowledge and findings, the BIR has made every effort up to this point toward the introduction of BEPS, including developing legal and institutional frameworks, formulating guidelines, and implementing basic training courses on BEPS. However, as a result of the survey, it became clear that although there are ten MAP cases confirmed as of August 2021, no TP audit has been carried out in the Philippines up to this point.

The Team also confirmed that the HRDS is planning to design and develop TP basic and intermediate training courses, followed by training on an Introduction to BEPS, in order to further the progress of the BIR's initiatives toward BEPS and to secure appropriate implementation of international taxation. Moreover, it became clear that how and from where to acquire more advanced and specialized knowledge on BEPS have become issues to be addressed in the BIR, even at the stage of preparation of training courses on TP.

2) Improvement of Information Communication Technology's Infrastructure and skills

Various challenges lie at the organizational as well as the individual (employee's) level in terms of ICT infrastructure.¹¹⁶ The challenge at the organizational level is that ICT infrastructure has not been corresponding well to the current requirement and needs of the training participants due to the limitations of its capacity, unstable internet connections, improper system operation, and insufficient learning technology and applications. These issues have brought about an additional administrative burden to the training team, which has then caused a lack of productivity in the administrative procedure when implementing online training courses. It is also necessary to strengthen the skills and expertise of training teams in implementing e-learning and virtual learning. At the individual (employee's) level, unstable internet connections and inadequate devices to access the designated learning platform have become one of the long-standing issues.

3-4 ENGAGEMENT OF DONORS AND INTERNATIONAL ORGANIZATIONS

(1) The Government of the United States

Table 24 Support Provided by the U.S. Government

Org.	Scheme	Period	Supporting Area (Key words)
USAID	Bilateral	2013-2018	IT Infrastructure development/ Digital Transformation (DX)
	Bilateral /MCC	2016-2018	Digital Transformation (DX) / Electronic Tax Information System (eTIS)
	Bilateral	2015-2021	E-PESO Project
	Bilateral	2020-2025	ICT/ Digital Transformation (DX)
USTDA	Grant Assistance	2021-	ICT, eTIS

1) United State Agency for International Development (USAID)

With its long-standing relationship, the United States recognizes the Philippines as one of its key partners in the Indo-Pacific region and has worked closely with the Philippine government through the United States Agency for International Development (hereinafter referred to as "USAID") to build the country's self-reliance through strengthening governance. To date, a series of programs have been implemented in the areas of socio-economic development, peace, and stability in the conflict-affected areas of Mindanao as well as natural resource management and environmental resilience programs.

(a) Facilitating Public Investment (FPI) Project

Among other contributions, the USAID launched the "Facilitating Public Investment (FPI)" Project based on an agreement between USAID and the DOF signed in 2013 for five years of bilateral assistance.

¹¹⁶ Results of the questionnaire survey on e-Learning

It aimed at increasing tax revenue, improving public expenditure, and improving fiscal transparency by supporting the Philippine government in expanding public and private investment under the TRAIN reforms.¹¹⁷ The project assisted the DOF, the Department of Budget and Management, the BIR, and other private sectors and organizations. Through the project, the USAID supported the BIR with upgrading its e-filing system and e-payment. The project played a significant role in increasing public revenue, as the e-filing rate increased from 8 percent in 2013 to 75 percent in 2018, so the project was deemed a success. Moreover, the project also contributed to boosting the overall economy of the Philippines through the targeted tax cuts for the working class and investment tax incentives for the private sector.

(b) E-PESO Project

Moreover, the USAID through the E-PESO project provided support to Bangko Sentral ng Pilipinas, the BIR, and eleven local government units since the early 2010s for establishing a system for safe and efficient payments and settlements as well as assisting in the opening of online and mobile payment platforms for property taxes, building and business permits, and more.¹¹⁸ The E-PESO project has promoted broad-based economic growth and financial inclusion by increasing the use of digital payments in the country. For instance, to date, the USAID E-PESO project supported the development of a certification system for electric tax software providers that enables the agency to provide taxpayers with a seamless, end-to-end automated and electric tax preparation, filing and payment experience. The system was launched in December 2018 and three tax software providers were certified by the BIR by 2020.¹¹⁹ Also, the E-PESO project provided support in implementing the innovation challenge called “HACK-A-TAX” conducted by the BIR in 2020. It was a nationwide competition on developing front-end applications that would facilitate digital taxpayer transactions with serviceable digital tax services for micro and small business and potentially individual taxpayers. Through the campaign, selected top three winners were awarded in June 2020. The project was completed in 2021 after more than six years of cooperation. It was reported that with the E-PESO project, tax services for people have improved and more than 80 percent of revenue is consistently delivered via e-payment by taxpayers over the last two years.¹²⁰

(c) Support on Development of Electric Tax Information System

In addition to the E-PESO project, the US government through the Millennium Challenge Cooperation (MCC) scheme, which ended in 2016, supported the BIR to design and develop the Electronic Tax Information System (eTIS) with a web-based platform. By the end of 2018, those systems including the

¹¹⁷ USAID, Fact Sheet: Facilitating Public Investment (FPI) Project

¹¹⁸ USAID (2017), Outline of E-PESO project

¹¹⁹ BIR, "2020 Annual Report", pp.33

¹²⁰ USAID (2021), '6-Year 1 billion pesos USAID Initiative Boosts Digital Payments Infrastructure in the Philippines'

Electronic Filing and Payment System (eFPS), the Electronic Registration System (eReg), and the Automated Auditing Tools (AAT) System among others were encompassed and consolidated into the eTIS system.¹²¹

(d) Other Related Information

In 2020, the U.S Government through the USAID and the DOF signed another five-year bilateral assistance agreement valued at 213 million US dollars to boost the country's economic development and growth. It aims at promoting inclusive, market-driven growth, improving the business environment, expanding economic opportunities through private-sector-led innovation for Small and Medium Enterprises, and increasing information and communication through technology. To date, there is no record of assistance provided by the USAID to the BIR under this agreement.

2) the United States Trade and Development Agency (USTDA)

In 2021, the United States Trade and Development Agency (USTDA) concluded a grant agreement with the BIR for upgrading digital infrastructure and enhancing public services with the amount of 809,450 US Dollars.¹²² The grant will help the BIR undertake a technical assessment of its current ICT environment, develop its digital strategy roadmap and workforce development plan and implement its plan for an in-house data center, thereby improving network performance such as the BIR's e-filing and e-payment system, enhancing information security and transparency, and reducing administrative costs.

(2) Korea International Cooperation Agency (KOICA)

During the COVID-19 pandemic, the cashless economy and e-commerce platforms have been further advancing and increasing the demand for electric invoicing and receipting. To adapt to this changing economic environment, the BIR, as part of its digital transformation in tax administration, launched the development of an e-invoicing and e-receipting system to enhance taxpayers services with help of the Korean Government through the Korea International Cooperation Agency (KOICA).¹²³ The project consultant from KOICA (Douzone Consortium) has already identified 100 pilot taxpayers (large taxpayers) and plans to test the system toward the end of 2021.¹²⁴ According to the BIR, the system will be operational

¹²¹ The MCC also provided support to the IMF to dispatching long and short-term experts and assistants on tax reforms to the DOF for its capacity development for investigation on corruption in the tax system. (Source: [USAID \(2018\), "Domestic Resource Mobilization Case Study: The Philippines", pp.7](#))

¹²² [USTDA \(2021\), 'USTDA Bolsters BIR's Digital Transformation'](#)

¹²³ The system includes e-Invoicing/e-Receipting and e-Sales Reporting. It is expected to "reduce the costs associated with issuing, delivering and storing invoices/receipts; the data gets stored as an electronic document in BIR and prevents loss/damage of invoice/receipt; increases productivity on invoice insurance and its management; and increases the convenience during VAT filing." (Source: [Philexport \(2021\), PH eyes rolling out e-invoicing system in 2020](#))

¹²⁴ Source: Ditto

in 2022 and will be expanded to other taxpayers including small businesses later in the year.

Besides the support for establishing an e-invoicing and e-receipting system, the KOICA has been implementing other related activities such as a business process review, validation of the required systems design and review/analysis of database design, and infrastructure requirements.¹²⁵

(3) Asian Development Bank (ADB)

1) Global Movement

In July 2017, the ADB established a multi-partner trust fund called the “Domestic Resource Mobilization (hereinafter referred to as “DRM”) Trust Fund for the purpose of enhancing the public financial management capacity of its Developing Member Countries (hereinafter referred to as “DMCs”).¹²⁶ Most of the DMCs struggled with weak revenue performance and recorded that tax yields across Asian countries were lower than other OECD member countries. In the situation, the DRM has become a major strategic priority for member countries to address debt sustainability, and to achieve the SDGs. During the COVID pandemic, public debt has increased as a result of large-scale fiscal measures to mitigate the impact of the pandemic. During this pandemic, tax revenue has shrunk, leading the fiscal balance to be significantly worsened.

To improve public financial management to ensure debt sustainability to maintain access to their principal resources of external financing, it has become more important to strengthen the DRM and international tax cooperation. Given the situation, the ADB launched the Asia Pacific Tax Hub at the 54th Annual Meeting held on 03 May 2021.¹²⁷ To support the DMCs, it is expected to become the hub of exchanging opinions regarding the following issues: 1) development of Mid-term Revenue Strategy (hereinafter referred to as “MTRS”), 2) a Roadmap for the automation of tax administration, and 3) Proactive participation in international tax initiatives. Through the Hub, the ADB will:

- Work closely with the IMF to help DMCs develop country-specific medium-term revenue strategies, conduct regional workshops in collaboration with the Platform for Collaboration on Tax (PCT), and support activities that utilize Tax Administration Diagnostic Assessment Tools (TADAT).
- Conduct a needs assessment to create a road map for the automation of tax administration in DMCs and work closely with development partners in this field to realize this.
- Promote dialogues with the OECD as well as promote proactive participation of DMCs in the Inclusive Framework on BEPS and the Global Forum, tax transparency, and Exchange of

¹²⁵ BIR, "2020 Annual Report", pp.21-pp.22

¹²⁶ Eligible areas for support from the DRM Trust Fund are as follows: including revenue policy, revenue administration, international taxation and international cooperation, and administration data and information. (Source: ADB (2018) “ADB’s Capacity Support on Tax for Asia Pacific Countries”, pp.3, .)

¹²⁷ <https://www.adb.org/ja/news/adb-launches-tax-hub-enhance-domestic-resource-mobilization-international-tax-cooperation> accessed in July 2021

Information (EOI),

- Apply the loan scheme including policy support, project-type loans, and other financial means such as to promote the DRM and international tax standards as well as strengthening public investment in technology by revenue authorities in each member country.

To operate the Hub, ADB plans to establish a Tax Hub Secretariat and operational body with participation of proactive development partners and DMCs. Also, the first high-level meeting called a Tax Conference is scheduled to be conducted in the last quarter of 2021 to discuss the progress as well as the way forward to address the three main issues mentioned above¹²⁸. The Asia Pacific Tax Hub is expected to play a key role in the provided agendas by stimulating regional dialogue and knowledge sharing on needed reforms.

2) Activities in the Philippines

Table 25 Support Provided by the ADB

Scheme	Period	Supporting Area (Key words)
TA	2013-2015	Staff training on tax administration
TA	2016-2021	Policy development, analytical skill development, skill development on tax administration
TA (multilateral)	2018-2021	Needs assessment, self-assessment for BEPS, skill development (Note: it covers support not only to the BIR but also to the DOF)

The ADB has contributed in many ways to improving the institutional capacity of the BIR based on its country operations business plan for the Philippines. Over the past decade, besides individual support through training courses and seminars listed in the table below, the ADB implemented the following three Technical Assistance (hereinafter referred to as “TA”) programs in the field of tax administration: namely a) TA on Supporting Capacity Development for the BIR; and b) TA on Strengthening Tax and Fiscal Policy Capacity for Inclusive Growth, and c) TA on Enhancing Tax Transparency of ADB DMCs.

¹²⁸ Results of interview to ADB Officers conducted on 09 June 2021

Table 26 international tax workshops and dialogues offered (2013-2017)

EOI	Place	Year
Global Forum Regional Training Seminar on Exchange of Information for Tax Purposes	Manila	2013
Cooperating to Combat Tax Evasion,	Tokyo	2015
Global Forum and OECD workshop on Automatic Exchange of Information	Manila	2015
Fundamentals of Effective Exchange of Information for Tax Purposes	Phnom Penh	2015
Fundamentals of Effective Exchange of Information for Tax Purposes (advanced)	Manila	2015
Workshop on Detecting Tax Evasion	Tokyo	2015
ADB/OECD/SGATAR Workshop on Tax Evasion: Investigation and Compliance Strategies	Tokyo	2016
Global Forum Seminar on Beneficial Ownership	Manila	2017
BEPS and Domestic Resource Mobilization	Place	Year
ADB-OECD Asia-Pacific Regional Meeting of the Inclusive Framework on BEPS	Manila	2016
ADB/OECD/SGATAR Strategic Workshop on Strengthening Tax Policy and Administration Capacity to Mobilize Domestic Resources	Tokyo	2017
ADB/OECD/SGATAR Workshop on taxation of the digital economy	Tokyo	2017
OECD-ADB Train the Trainers BEPS and Transfer Pricing	Manila	2017
ICT for Tax Administration	Place	Year
Knowledge Sharing Workshop on Electronic Tax Administration	Manila	2014
Anti-corruption and Governance	Place	Year
ADB-ADBI Forum on Governance and Institutions (Domestic Resource Mobilization)	Tokyo	2016
UNSW-ADB-ADBI Forum on Tax and Corruption	Sydney	2017
Tax Policy and Revenue Statistics	Place	Year
IMF-ADB Capacity Building Seminar for tax policy and administration officers on "Medium Term Revenue Strategy	Manila	2017
Revenue Statistics in Asia-Pacific Technical Workshop	Suva, Fiji	2017

(Source: Yuji MIYAKI (2018), 'ADB's Capacity Support on Tax for Asia-Pacific Countries)

a) TA on Supporting Capacity Development for the BIR (2013-2015)

In 2013, ADB launched the TA on "Supporting Capacity Development for the BIR" for a three-year period till November 2015 aiming at strengthening the capacity of the BIR on human resources development and management for new recruits. The TA outlines are shown as follows:

Table 27 TA Outline

Impact:
Increase tax revenue
Outcome:
BIR has improved capacity to mobilize tax revenue
Output
Output 1. International best practices on staff training and tax administration shared, Two international trainings were held in Tokyo and Kuala Lumpur in April 2014 and August 2015.
Output 2. A training strategy and medium-term training plan Competency-based framework and competency-based training programs were formulated, Existing training programs were optimized and 3 level of management courses on basic, middle, and advanced were designed.

Output 3. Reviewed training materials

Paper-based training materials were reviewed and feasibility study of e-learning in the BIR was conducted; however, it did not reach to the development of the web-based training materials as planned due to lack of expertise resulting from some deficiencies in the project design. Also, materials to evaluate participants' achievements and progress were not developed due to lack of time.

Output 4. Training for trainers' seminars

Three-day training program for 38 prospective trainers were conducted and Learning Management System Toolkit was drafted.

Output 5. A new training course for new recruits

Three new training courses for new recruits in BIR were designed and conducted monthly in batches of 20 to cover 250 newly employed tax officers.

(Source: ADB (2013), "Supporting Capacity Development for the BIR")

Under the TA, the ADB also supported the BIR for the review of the Strategic Performance Management System (hereinafter referred to as "SPMS") and the training implementation on Gender and Development. As for the SPMS, a proposal entitled "10 steps toward the enhancement of the BIR's Strategic Performance Management System" was developed through the cooperation period covered.

b) TA on Strengthening Tax and Fiscal Policy Capacity for Inclusive Growth (2016- 2021)

Followed by the TA above, the ADB launched another TA for "Strengthening Tax and Fiscal Policy Capacity for Inclusive Growth" in 2016 for the purpose of supporting the DOF's initiatives to develop sound tax and fiscal policy through policy-oriented analysis and communication of fiscal and economic policy priorities with stakeholders.¹²⁹ The TA consists of four outputs, one of which included strengthening the tax administration capacity of the DOF and its subordinated agencies including the BIR. It includes a review of three business processes for tax administration and business registration, research on the implementation of standardized deadlines for government transactions, and a zero-contact policy and single unified business registration form, among others. Outcomes from this output have served as an important benchmark to the BIR's DX initiatives such as the Online Registration and Update System (ORUS).

Table 28 TA Outline

Impact
Tax revenues increased to 15.6% of GDP
Outcome
SERG (Strategy, economic, and results group) capacity for tax and fiscal policy to recommend policies and reforms strengthened

¹²⁹ ADB (2016), 'Strengthening Tax and Fiscal Policy Capacity for Inclusive Growth'. The cooperation period was extended to December 2021 for two years from the original plan and is still active as of July 2021.

Output
1. Technical advice on the design of priority reforms provided
2. Quantitative and qualitative analytical skills for policy reform enhanced
3. Policy reform agenda and research outputs communicated with stakeholders
4. Tax administration capacity strengthened.

(Source: ADB (2016), 'Strengthening Tax and Fiscal Policy Capacity for Inclusive Growth')

c) TA on Enhancing Tax Transparency of ADB Developing Member Countries (2018-2021)

The ADB launched the TA on Enhancing the Tax Transparency of ADB's DMCs in 2018. It is the regional TA administered by ADB's office of Anticorruption and Integrity and targets the DMCs in the region. It addresses the issues of 1) lack of tax transparency, 2) tax evasion, 3) aggressive forms of tax planning, and expects to increase global tax transparency, strengthen the legal and institutional tax systems of DMCs to protect themselves against tax evasion, and to enhance capability of tax planning as project outputs. In order to do so, the TA has assisted DMCs in the following areas:¹³⁰

- To join the Global Forum and implement EOIR,
- To prepare for, and successfully complete the Global Forum's peer review process for EOIR
- To commit to implementing AEOI, become a signatory of the MAC, and put in place IT infrastructure,
- To prepare for, and successfully complete, the Global Forum's peer review process for AEOI,
- To participate in the Inclusive Framework on BEPS, including becoming a signatory of the MLI, and prepare for, and successfully complete, the peer review process for an Inclusive Framework on BEPS.

Table 29 TA Outline

Impact
Capacity of developing countries to strengthen tax systems, reduce illicit financial flows, and combat tax evasion (a predicate offense for money laundering) and corruption increased.
Outcome
Global tax transparency increased and legal and institutional tax systems of DMCs to protect themselves against tax evasion and aggressive forms of tax planning strengthened.
Output
1. In-country consultation and country needs assessment (By June 2020), ¹³¹

¹³⁰ Excerpt from ADB (2016), ADB (2016), 'Strengthening Tax and Fiscal Policy Capacity for Inclusive Growth'.

¹³¹ DMCs are expected to develop action plans as well as detailed plans to tackle identified needs for capacity development. At the operational stage, ADB consultants are to provide substantive support for each participating DMC based on their action plan till six months before the end of the TA (ADB (2018), TA on Enhancing Tax Transparency of ADB Developing Member Countries (2018-2021)).

2. Operational support to address issues or deficiencies identified in the country capacity needs assessment for each participating developing member country provided.
3. Regional high-level policy dialogue to raise awareness
4. Skills development through training workshops, conferences, and seminars conducted in-country and regionally: and relevant manuals, hand-out and/or e-learning modules produced.¹³²

(Source: ADB (2018), TA on Enhancing Tax Transparency of ADB Developing Member Countries (2018-2021))

Based on the plan, the ADB has been assisting self-assessment exercises for the BIR to join the BEPS Inclusive Framework. The assessment involves the following areas including Action 5, 6, 13, 14 of the BEPS minimum standards as well as Action 15.

Table 30 Activities Outline

Assessment Area	Outline
1. Action 5	<ul style="list-style-type: none"> • Aims to identify potential preferential tax regimes for Action 5. • Some meetings were held already to discuss the potential impact of Action 5 when preferential tax regimes are exercised. • Plans to assess the existing regimes.
2. Action 6	<ul style="list-style-type: none"> • Updating the Double Taxation Agreement (DTA) model in line with Action 6 and BEPS standards is underway and scheduled to be completed by September 2021. • Identified the bilateral DTAs of the Philippines that are not in line with Action 6. • Delivered several capacity-building workshops on Action 6, tax treaties, tax treaty negotiation skills.
3. Action 13	<ul style="list-style-type: none"> • No relevant activities as it involves domestic implementation through model CbCR legislation.
4. Action 14	<ul style="list-style-type: none"> • Those DTAs that need to be updated to be in line with Action 14 were revised. • Plans to develop MAP guidelines and assess the existing domestic legal framework, and its related MAP provisions by October/November 2021. • Plans to conduct workshops on MAP.
5. Action 15	<ul style="list-style-type: none"> • Prepared some notes on the steps for joining MLI and its implementation. • Plans to conduct capacity-building workshops to explain the function of the MLI.

(Source: Information provided by the ADB on 19 July 2021)

(4) Organisation for Economic Co-operation and Development (OECD)

The OECD has worked on establishing evidence-based international standards and solutions to the

¹³² As a part of the skill-development support, the TA also support the publication of relevant materials, handbooks, and e-learning modules digitally.

pressing issues on economic development and growth, information and communication, health, and education among others to meet its goal of enhancing prosperity, equality, opportunity, and well-being for all. As for its support in tax policy and administration including international taxation, the OECD is in close collaboration with representatives of governments and other international organizations and has worked on tax matters through four inter-connected efforts: 1) inclusive international standards, 2) country-level capacity building, 3) guidance, data, and multilateral training, and 4) partnership. Through their supports, the OECD has provided a wide range of expertise on taxes, tailor-made guidance and tools, and direct capacity-building supports by dispatching international consultants and providing e-learning programs to their member and non-member countries for many decades.¹³³

The DOF and its subordinate organizations including the BIR in the Philippines have received direct and indirect support from the OECD. To date, the BIR participated in the BEPS project-related meetings and workshops,¹³⁴ and has utilized OECD e-learning materials for its' training courses offered at the PTA of the DOF. Between 21 and 23 of July 2020, virtual capacity-building training on TP taxation was held under the joint auspices of the BIR for those who 1) have intermediate-to-advanced competency who can engage in the discussions, 2) are in good understanding on TP, and 3) have undergone the designated OECD training conducted in the past such as Training of Trainers (TOT) on BEPS and TP (November 2017), the TP workshop (December 2018), and the BEPS seminar (February 2020). The training covered 1) Tax policy in response to the COVID-19 pandemic, 2) the latest developments in TP issues, 3) TP guidelines on financial transactions, 4) TP in extractive industries, etc.¹³⁵

(5) International Monetary Fund (IMF) ¹³⁶

The Fiscal Affairs Department (FAD) of the IMF is responsible for support in the field of tax system and tax administration including those specific areas such as international taxation and international treaties. FAD has provided technical support for MTRS development as well as budget analysis and projection to realize the Sustainable Development Goals (SDGs). There are 200 professional staff members and seventy administration staff members working at the headquarters, and approximately half of the professional staff are technical assistants and about eighty of them are engaged in technical support. As of June 2021, a total of seventy-five officers have been dispatched to all over the world just like JICA does with their technical cooperation, and particularly to Asian countries, IMF officers have been dispatched to Mongolia, Bhutan,

¹³³ No record is confirmed in the Philippines, however, the OECD in cooperation with the United Nations Development Programme (UNDP) launched a joint initiative called "Tax Inspectors Without Borders (TIWB)" in 2015. Through the TIWB scheme, OECD/UNDP has supported countries in need of strengthening and building tax audit capacity.

¹³⁴ The government of the Philippines participated in the strategic dialogue on engaging in BEPS and received regular consultation on the BEPS project in November 2017.

¹³⁵ BIR (2020), *Joint Virtual Capacity Building on TP*

¹³⁶ Results of an interview with an IMF officer (Mr. Nakayama) conducted on 08 June 2021

Myanmar, and PNG. Roughly USD 13 billion has been secured for the IMF support in 2021 and is allocated to five regions in the world. There is no budget allocated on an individual country basis. Experts are to be dispatched if needed, and in such cases, the cost of the experts will be covered by the regional budget.

According to their support modality, first they send a mission team to the target country to validate the needs and support request submitted and dispatch an expert accordingly, based on the survey results. To date, the IMF has provided technical support in various areas including policy development, implementation of training courses, and provision of equipment. However, study tours are not included in their support. Especially to Asian countries, support has been provided through the Revenue Mobilization Fund (RMF) and training/workshops. Before the COVID-19 pandemic, IMF training courses are offered a few times a year at their training institute established in Singapore targeting not only the Philippines but also other Asian countries; however, not more than one training course was conducted in 2020.

To the Philippines specifically, the IMF had worked on tax treaties in 2018 in the field of policy making and conducted seminars on tax treaties and international taxation. Regarding the IMF's support for TP taxation of the BIR, once their current support is completed, the IMF will determine their future cooperation in the area of international taxation based on the results of a feasibility study.

(6) World Bank (WB)

The WB was the first major contributor that had worked on the electric modernization of the BIR. The Bank supported BIR's effort through the "Tax Computerization Project," which was implemented between 1993 and 1999 and helped the BIR to accelerate its modernization efforts. Later, the Bank provided continuous support for IT system enhancement through the bank's "National Program Support for Tax Administration Reform Project." Also in recent years, the Bank dispatches consultants to the relevant fields as training facilitators for sessions under the DOF's Tax Reform initiatives.¹³⁷

¹³⁷ DOF (2019), Digital Transformation Session under the Tax Reform.

4. OPTIONS AND RECOMMENDATION TOWARD FURTHER ADVANCEMENT

4. OPTIONS AND RECOMMENDATION TOWARD FURTHER ADVANCEMENT

While the Philippines needs to tackle all challenges presented by the socio-economic environment, how tax policy and administration are designed and implemented makes a significant difference. Knowing all political and administrative challenges revealed through the survey, the team offers the following options and recommendations for consideration for future actions to be taken as to the designated survey items as well as the implementation of the training on TP audits. The organizations responsible, manner, and timing of implementation should be determined after due consideration between the BIR and all stakeholders.

4-1 LAWS AND REGULATIONS

Since the Philippines is committed to joining the BEPS Inclusive Framework, the legal framework must be ready to comply with the minimum standards of BEPS. For this, the BIR and the DOF work jointly with International Organizations to continue following-up benchmarking among the tax community in the world to urge legislators to fully understand its position and accelerate enactment of the legislations. To do so, both high-level as well as practitioner-level channels must be established to communicate among all players including legislators who are responsible for tax matters.

4-2 TAX ADMINISTRATION

[Action 5] Preventing Harmful Tax Practices

As for Action 5, the Philippines needs to organize the necessary legal framework. First of all, implementing spontaneous EOI to exchange rulings with current treaty partners is the priority and RR needs to be signed by the Secretary of Finance. All tax treaties of the Philippines stipulate all kinds of EOI already. However, it is necessary to prepare RR for Spontaneous EOI for rulings before commencing as the role and obligations of the officers for this specific task are not covered by the existing issuances. As the BIR already forwarded the RR to the DOF in June 2021, it is expected to be approved in the near future. At the same time, a manner in which to utilize TIEAs and/or MAC that enables the expanding use of exchanging rulings with other countries should be sought. Since the Philippines signed MAC in 2014, the Senate needs to deliberate on the concurrence and its status must be observed by the DOF. As for the administrative measures, it is essential for the BIR to keep its eyes on the risk of harmful tax treatment. For this, the ITAD needs to make sure that required documents are properly submitted by conducting periodic guidance. Also, the risks must be identified through tax consultations and tax audits, and it is necessary to implement a mechanism for those officers who identified risks to refer the case to the ITAD to decide whether a written ruling is necessary or not.

[Action 6] Preventing the Granting of Treaty Benefits in Inappropriate Circumstances

The BIR needs to draft the GAAR first to send to the DOF and convince legislators to include it in the tax code. Also, complying with the minimum standards of BEPS is a prerequisite of signing the MLI. Therefore, as the DOF is already working with ADB, it is crucial to put further effort towards meeting the minimum standards of BEPS. The Covered Tax Agreement, specifying which provisions of the MLI would apply, must be prepared as it must be exchanged with partners after depositing the ratification instrument with the OECD secretariat.

[Action 13] Country-by-Country Reporting (CbCR)

First, the ratification of MAC, multilateral competent authorities' agreements and domestic legal frameworks should be developed as early as possible towards the introduction of CbCR, one of the minimum standards of the BEPS Inclusive Framework. Next, creating a special organization (team) to conduct risk assessments on TP and other international taxation through TP documents, focusing on Form 1709 submitted by taxpayers should be considered. Various types of information such as Form 1709 should be compiled into a database, and Business Intelligence (BI) such as analysis software using big data should be utilized to proceed with risk analysis in international taxation including TP and utilized in the case selection of audits. The organization in charge of this risk assessment needs to be composed of organizations that are different from the TP audit team, so that the multifaceted risks in the international taxation field can be broadly grasped without limiting the TP audits, which are more objective and efficient.

[Action 14] Dispute Resolution Mechanism

The implementation of MAP and APA, some of the minimum standards for the BEPS Inclusive Framework, require the immediate finalization of the guidelines and the creation of teams to manage them. Ideally, the staff belonging to both teams should have experience in TP auditing. Also, the staff must be trained on TP as well as MAP and APA enforcement procedures, in order to meet the requirements of a review based on BEPS by other countries or have the knowledge to compete with other tax authorities in the process of the MAP.

(3) Transfer Pricing (TP): Tax Structure and Execution

It is necessary to establish an organization (section) dedicated to TP audits at an early stage. Compared to general audits, TP audits require an enormous amount of work and time. Therefore, it is desirable that two people are in charge of a single case as a team, and multiple teams in the dedicated section should be formed. It would be better to develop future resources as well. Moreover, creating a team to support TP auditors from the review side should be considered as one of the measurements in the future. By doing so, auditors will be able to confirm the application of laws and regulations and receive advice from the team in

the process of auditing cases, which will contribute to the uniformity of application of laws and regulations and the handling of disputes.

It is also necessary to systematically train revenue officers through basic to advanced courses on TP and to strategically assign them to the designated section on TP. In the future, it will be important to explore the possibility of a personnel exchange between TP audit teams and that of MAP/APA in order to develop and unify their understanding on TP.

[Digital Taxation]

The BIR and the DOF need to keep following up with the discussion in the Senate for passing House Bill No. 7425, “Imposition of VAT on Digital Transactions.” In the meantime, the BIR needs to prepare relevant regulations for the administrative work and communicate with taxpayers well in advance of implementation. Early planning for the future agreement on digital taxation (Income Tax) among the OECD/G20 member countries is necessary in order to secure tax revenue in the Philippines. To tackle the digital economy, including domestic e-commerce transactions, it is recommended that the BIR establish a designated division/team to monitor and analyze e-commerce and capture what must be collected in the Philippines.

[Exchange of Information and Common Reporting Standard]

In addition to Spontaneous EOI, AEOI must be implemented in order to comply with the international standard created by the Global Forum. Also, solving the issue of bank secrecy is necessary to sign CRS MCAA. It is also good to study if the Philippines can use “the Anti-Money Laundering Act” to obtain financial information for AEOI as often the relationships of money laundering, terrorist financing, and money from tax evasion are discussed and some tax authorities started to obtain information due to the Act. Since the MAC was signed in 2014 but has not been ratified by the Senate yet, the Philippines is qualified to participate in the Coordinating Body as an observer. Therefore, it is worth observing the meeting and reporting to congress continuously in order to urge deliberation. As for the organization setting, expecting to increase the volume of work relating to the EOI programs, it is recommended that a designated small team be created, which will solely focus on the actual administrative work of EOI.

[Further Improvement for Tax Administration]

When a new law or regulation is introduced, providing plenty of time for taxpayers to study and adjust their practices is even more necessary than promoting its public announcement. Also, enhancing a unified interpretation of the law and regulations among officials is recommended by 1) improving officials’ knowledge by training, 2) providing adequate materials for their daily work, and 3) fully functionalizing the chain of command to request and obtain official interpretations between the BIR offices. This will improve the fairness of taxation.

The BIR needs to strengthen the monitoring system of VAT refund status. (The BIR has set the target of processing these refunds within 90 days of the claim date.) The office in charge needs to make sure to inform taxpayers making claims of the status and reason if the process is not completed within the target time span. In addition, adding more detailed FAQs on VAT refunds, especially issues relating to common mistakes for which the BIR declines taxpayers' requests, will improve their understanding and help avoid unnecessary disputes.

As for tax audits, not only auditors but also managers of the audit office need to make sure that the audit results presented to taxpayers are based on evidence as well as in accordance with the NIRC. Estimated taxation by audit should be allowed only when the facts are confirmed but obtaining cooperation from taxpayers can be impossible. This will improve transparency and confidence in tax auditors among taxpayers. As some taxpayers expressed satisfaction with auditors in LTS, various programs should be implemented to improve auditing skills in other offices. For example, assigning auditors from other offices for a limited time to experience OJT in LTS, and LTS auditors or selected officials are given some jurisdiction to help difficult audit cases in other offices on an ad-hoc basis.

4-3 HUMAN RESOURCE DEVELOPMENT/ TRAINING

[For the Deeper and Higher Specialized Knowledge on BEPS]

Given the situation where TP audits have not been conducted yet in the Philippines, the team recommends taking the following measures to gain deeper and more specialized knowledge related to TP taxation:

- 1) accessing reliable open-source systems such as the OECD knowledge sharing platform to obtain area-specific information and data on TP audits,
- 2) making the most of TP training, relevant dialogues and conferences offered to the Philippines as well as to countries in the Asia-Pacific region by development partners to obtain advanced knowledge and expertise from TP practitioners,
- 3) utilizing advanced knowledge and understanding on BEPS obtained from document reviews as well as out-of-office training opportunities mentioned above, the BIR needs to promote the enforcement of TP audits,
- 4) conducting further study and research based on actual implementations of TP audits, and
- 5) accumulating as many TP audit cases in the Philippines as possible and sharing every finding within the dedicated TP section.

To do so, it is important to establish a human resource development system and framework that secure continuous accumulation of knowledge and expertise through training and practice. As for the

recommendations, in terms of them being a practical part of TP audit enforcement, please see the detailed description in the above-mentioned section: “4. Recommendation toward future advancement 4-2 Tax Administration.”

[For the Improvement of ICT Infrastructure and skills]

Firstly, once the effectiveness of the BIR’s e-learning platform is confirmed and the future direction is decided by the BIR management, the necessary budget funds for enhancing the functionality of the platform should be secured. Secondly, for the time being, it is necessary to find a way to improve the existing systems. Regarding the issue of the capacity of the e-learning platforms, it is recommended that further measures should be considered such as the following:

- 1) reviewing the operational system of e-learning platforms,
- 2) assessing the capacity of the platform itself to make the best use of the allocated capacity on the PTA-iLearn and BIR’s pilot platform,
- 3) optimizing the standards on creating training materials,
- 4) exploring other tools such as other apps available on the internet for reducing the capacity used on the platform to effectively allocate the limited platform capacity to the necessary training courses offered by the BIR, and
- 5) seeking learning opportunities for developing online training courses domestically and abroad can be one of the options.

4-4 ENGAGEMENT OF DONOR AND INTERNATIONAL ORGANIZATION

Firstly, the BIR in cooperation with development partners should continue creating multifaceted movements based on the fact that several donors and organizations are actively supporting the BIR in the area of “Infrastructure Development,” “Institutional and Policy Development,” and “BEPS related Skill Development.” Collaborations like these and effective allocation as well as utilization of resources will be the key to future development.

Secondly, it is also recommended for JICA not only to examine how future support can be provided based on available resources and expertise in Japan, but also to explore collaborative techniques of working with other development partners to generate synergy in future cooperation activities. In this sense, taking into consideration its strengths, and addressing the issue by a tailor-made approach, JICA should first explore the possibility of future collaboration with the ADB as well as the OECD to tackle BEPS related issues including TP taxation so as to generate a synergy effect, and then it will be necessary to proceed with concrete activities in a cooperative manner with them to generate future synergies.

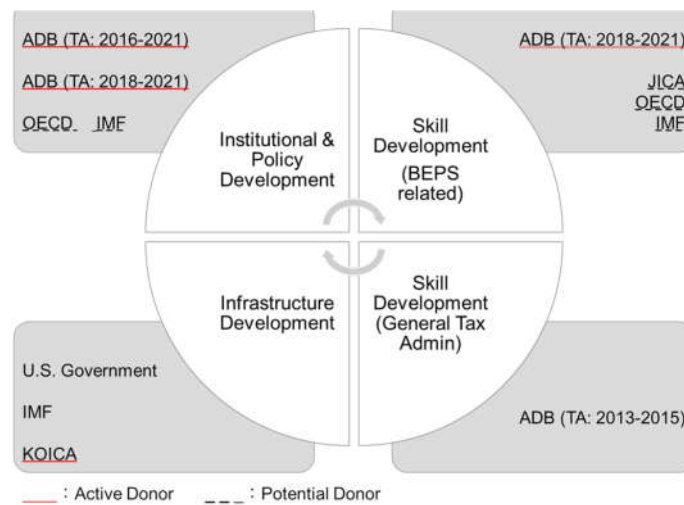


Figure 12 Development Partners Engagement

Lastly, it is also important to continuously pay attention to domestic trends in the Philippines as well as trends overseas, when considering future support for the Philippines since global socio-economic trends have a significant impact on international taxation including BEPS. To do so, it is recommended for the development partners including Japan to actively participate in and cooperate with BEPS related initiatives undertaken at the Asia Pacific Tax Hub, which was established in May 2021.

4-5 IMPLEMENTATION OPTIONS FOR TP BASIC TRAINING

Based on the current situation and issues mentioned above, the Survey Team makes the following proposals regarding (1) training purpose, (2) training content, (3) training tools and materials, (4) training modality, and (5) training approach for the implementation of TP basic training courses in the future.

(1) Training Purpose

In the Philippines, the TP guidelines and TP audit guidelines were formulated in 2013 and 2019 respectively,¹³⁸ based on Articles 50 and 244 of Tax Code. Moreover, MAP had already been put in place and implemented, and APA will be introduced in the near future. On the other hand, other referential documents such as TP audit procedure manual and circulars to facilitate TP audit enforcement have not been developed, nor has a dedicated section/unit for TP audits been established yet, which resulted in no TP audits being conducted up to this point. Given the status of affairs, upcoming TP basic training courses should

¹³⁸There is no plan to be revised as of August 2021.

provide relevant officers with the fundamental knowledge and understanding not only on TP audits but also on associated procedures such as MAP and APA.

(2) Training Contents

Training modules for the TP basic training course need to be prepared in accordance with 1) the fundamental principles of BEPS which are being promoted by the OECD, 2) related laws and regulations pertaining to TP audits and related procedures such as MAP established in the Philippines, and 3) other key documents pertaining to TP audit enforcement including TP guidelines and TP audit guidelines. It is also necessary to cover at least the following topics and areas to master the basics on TP audits.

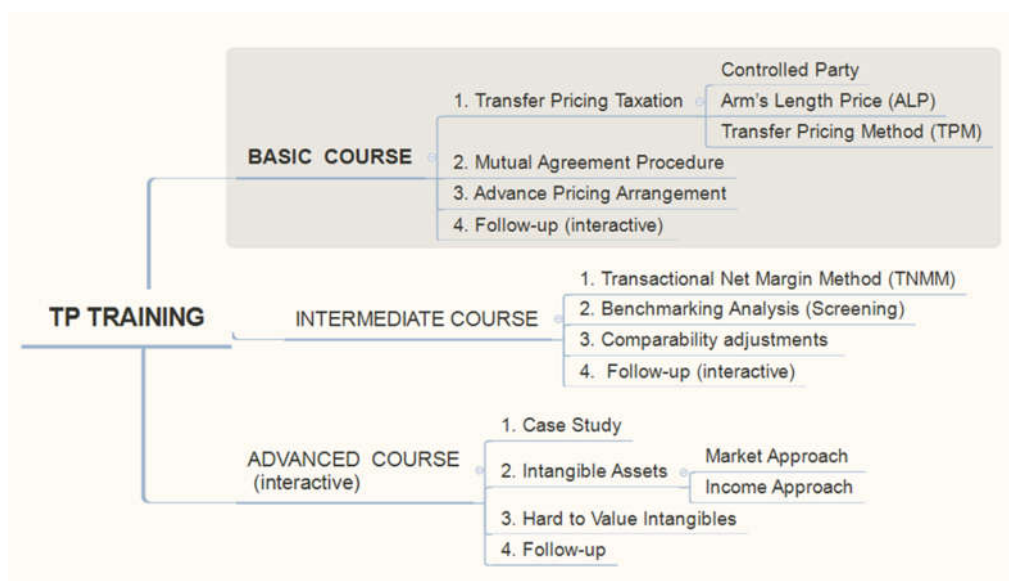


Figure 13 Proposed Training Contents

(3) Training Tools

As of writing, the Survey Team confirmed that written materials and video clips are the main teaching materials used for the training courses offered by the BIR, especially during the COVID-19 pandemic. Besides these tools, it is recommended to consider the use of “audio materials” as one of the teaching tools. Audio materials would be a useful option in the situation where training participants are to learn the modules in their gap time during their busy schedule as participants can adjust playback speed on their own. Moreover, they are highly convenient and of great assistance to those who take time to commute every day or who don't have sufficient time to open their PC, mobile phone, or tablet to read the training materials during the designated period.



Figure 14 Proposed Training Tools

(4) Training Modality

For the TP basic training course in the future, the Survey Team proposes a synchronized modality associated with e-learning and virtual training, considering the nature of the TP audit that requires both theoretical and practical knowledge and understanding. With the synchronized modality, participants learn the theoretical part through e-learning while they learn the practical content through virtual training. During the training period, trainees will first learn theories and then practice, and e-learning and virtual training are repeatedly conducted till all topics are covered. Additionally, training participants are required to take online pre and post course assessments following the BEPS introduction training process so that training organizers can grasp the level of their understanding prior to the implementation of virtual training courses.

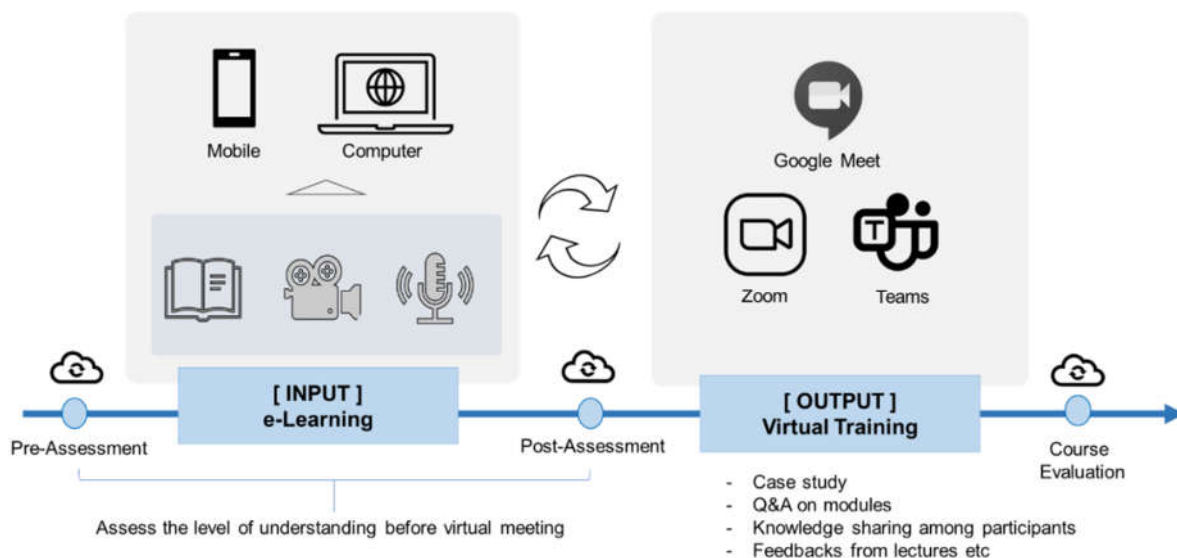


Figure 15 Training Modality

(5) Training Approach

The Survey Team proposes the following three approaches for future implementation of the basic training course on TP: 1) a Mass Approach, 2) a Filtering Approach, and 3) a TOT (Training of Trainers) Approach. Training programs with 1) a Mass Approach will target all revenue officers and related officers in the country aiming to capacitate all of them on TP audits. With regard to the training with 2) a Filtering Approach, it requires concrete conditions for participant selection in advance to be established. Selected

participant will then attend the training and outstanding officers will be selected as candidates for advanced training courses to become TP audit specialists. In addition, regarding the training with 3) a TOT approach, limited officers who are/will be in charge of BEPS duties will first receive a series of training courses, and then they will play a teaching role in the future BEPS/TP training courses offered to others.

These three training approaches have various characteristics. The characteristics of each approach can be analyzed and explained with the following seven criteria: 1) Accuracy of Strategy, 2) Target Participant, 3) Resilience to Changes, 4) Training Cycle, 5) Implementation Efficiency, 6) Absorption Speed on Specialized Topics, and 7) Immediate Efficiency in Practice. Results of the analysis by the Survey Team are as follows:



Figure 16 Training Approach and Its Characteristics (Individual)

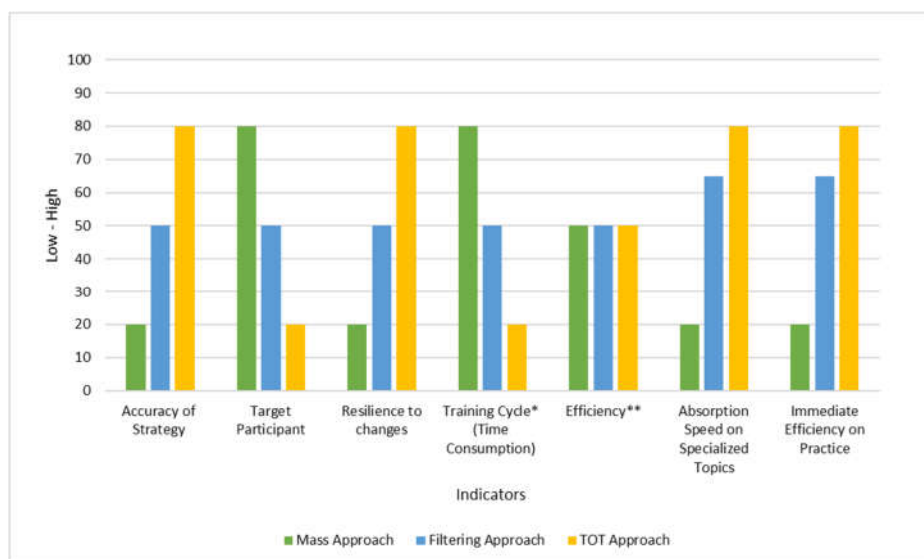


Figure 17 Training Approach and Its Characteristics (Overall)

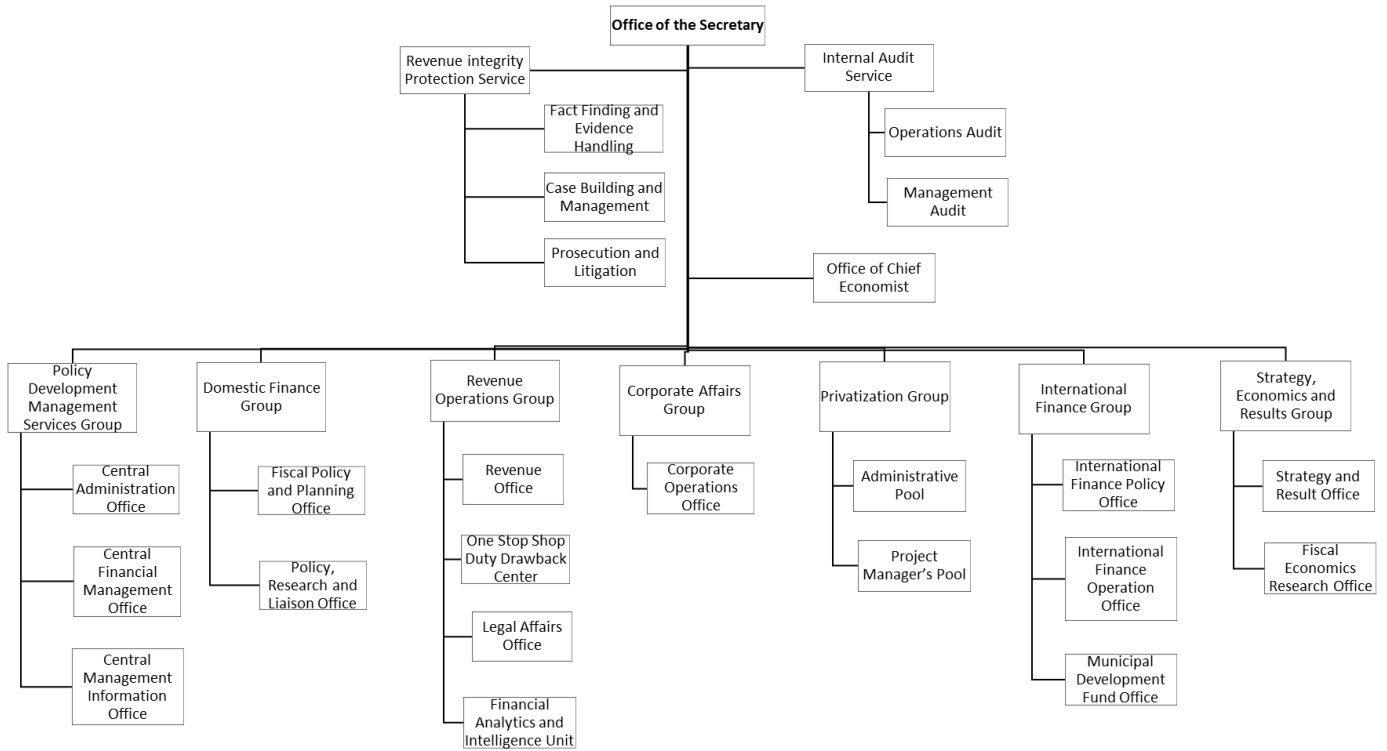
Based on the above, the Survey Team proposes a sample training outline as shown below.

Table 31 TP Basic Training Course Outline (Sample)

Item	Outline
Purpose	For the training participants to get a firm understanding of the basic concepts of TP and TP audits
Program coverage	<ul style="list-style-type: none"> □ Transfer Pricing Taxation □ Mutual Agreement Procedure (MAP) □ Advance Pricing Arrangement (APA)
Learning outcome	At the end of the training, participants will be able to: <ul style="list-style-type: none"> □ Comprehend the background and current situation of TP taxation. □ Understand the basic components of TP audits. □ May become candidates for intermediate training on TP.
Tools	Reading materials, video clips, audio materials
Modality	<ul style="list-style-type: none"> □ E-learning: Reading Material □ Virtual training: group work, role playing, group discussion, etc. [note] Face-to-face training cover all on site.
Assessment	Pre and post assessment Training Evaluation
Participants	<ul style="list-style-type: none"> □ Revenue officers who have experience in auditing or evaluating the process of cross-borders transactions □ Legal Officer I~IV

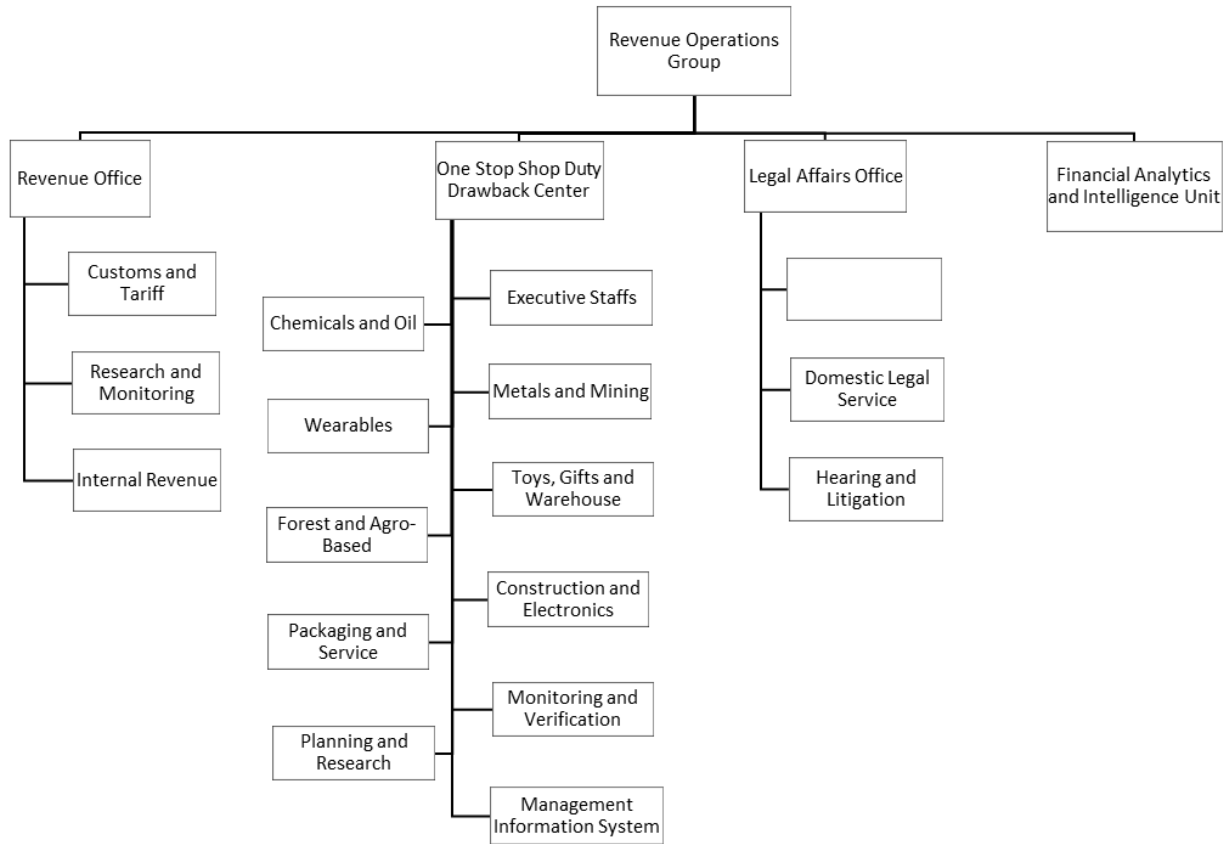
APPENDIX

Appendix-1 Organization Chart of DOF



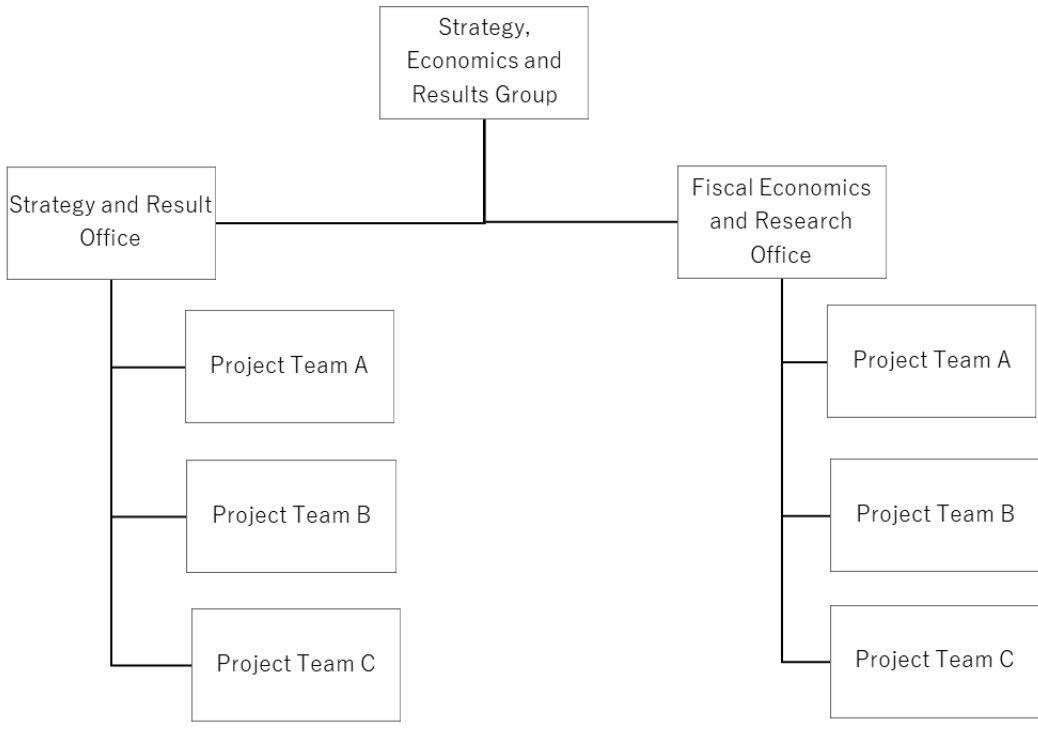
(Source: DOF Website, assessed in June 2021)

Appendix-2 Organization Chart of Revenue Operations Group, DOF



(Source: DOF Website, assessed in June 2021)

Appendix-3 Organization Chart of Strategy, Economics and Results Group, DOF



(Source: DOF Website, assessed in June 2021)

Appendix-4 AEOI Project Team

Heads:	
For Legal Matters	Deputy Commissionaer, Legal Group
For Data Utilization and Monitoring	Deputy Commissionaer, Operations Group
For IT Solution, Data Matching, Confidentiality and Data Safeguards	Deputy Commissionaer, Information Systems Group
Members:	
A. Legal	Assistant Commissioner, Legal Service
	Chief, International Tax Affairs Division (ITAD)
	Assistant Chief, ITAD
	Exchange of Information (EOI) Section, ITAD
	Chief, Law and Legislative Division (LLD)
	Assistant Chief, Law and Legislative Division Legislative Section, LLD
B. IT Solution	Assistant Commissioner, Information Systems Development & Operations Service
	Assistant Commissioner, Information Systems Project Management Service
	Division
	Chief, Systems Development Division Division
C. Data Matching and Utilization	Assistant Commissioner, Large Taxpayers Service
	Chief-of-Staff, Operations Group
	Assistant Commissioner, Assessment Service
	Regional Directors
	Chief, ITAD
	Chief, Business Intelligence Division
	Chief, National Investigation Division Chiefs, Regional Investigation Division Division
D. Confidentiality and Data Safeguards	Assistant Commissioner, Internal Affairs Service
	Chief, Internal Investigation Division
	Chief, Security Management Division
	Chief, ITAD EOI Section, ITAD
E. Monitoring of Results	Assistant Commissioner, Large Taxpayers Service
	Chief-of Staff, Operations Group
	Chief, ITAD EOI Section, ITAD

(Source: BIR)

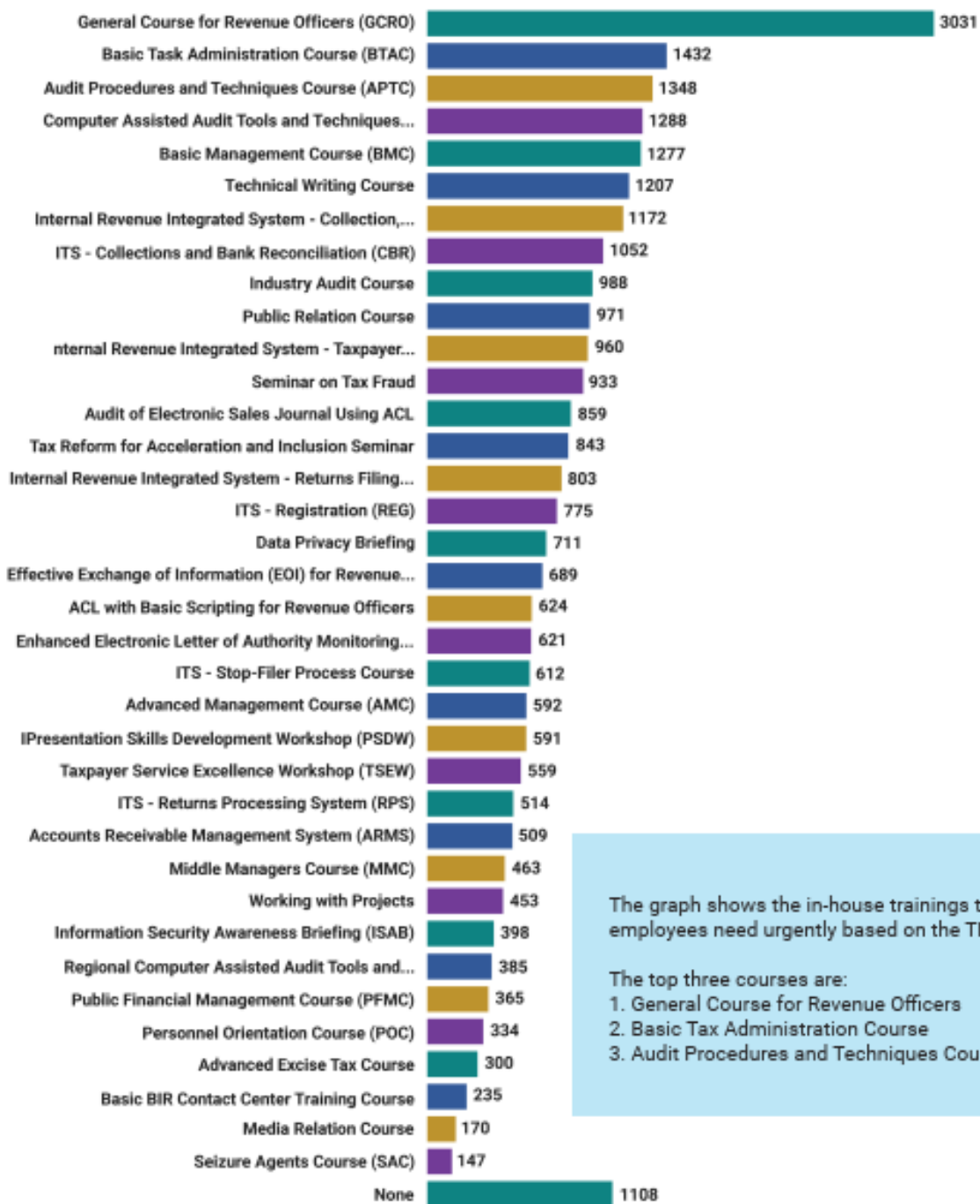
Appendix-5 Office in charge of Legal issues, BEPS, EOI, Audit, and HR development¹

Research Topic	Office in charge	Function
Legal matter	Law & Legislative Division	1. Serves as clearing house to Revenue Regulations & other issuances involving legal matters or with tax implications prepared by other offices of the Bureau. 2. Prepares drafts of all rulings and opinions on legal issues of first impression involving the interpretation of the NIRC of 1997 and other laws related thereto.
Legal matter - BEPS - digital economy - EOI	Legal Service	1. Provides functional direction to the preparation and interpretation of revenue laws, implementing regulations/issuances, decisions on administrative protests involving questions of law and/or fact and claims for tax credit/refund of taxes erroneously paid, tax treaties, international tax policies and agreements and other legal matters.
Policy - BEPS/ International standard, - TP (APA, MAP) guideline, - EOI	International Tax Affairs Division	1. Formulates and administers work plans for the effective discharge of International commitments and obligations of the BIR (e.g. SGATAR, Global Forum) 2. Studies and recommends measures/issuances affecting international taxpayers (e.g. multinational enterprises) and international transaction (e.g. TP, APA) 3. Implements the uniform application of international tax laws, court decisions, revenue regulations and other issuances is in charge of EOI (on request, automatic via the CRS or FATCA, and spontaneous).
Audit planning	Assessment Programs Division	1. Conducts study, research and analysis for the development of audit procedures and techniques for improving the quality of tax audit. 2. Conducts study and analysis for risk assessment related to audit and preparation of the annual national audit plan. 3. Recommends actions and improvements after evaluation of field offices' implementation of assessment programs, including their reporting system.
Audit related work	Audit Information, Tax Exemption & Incentives Division	1. Formulates policies, work programs, standards, guidelines and procedures relative to the supervision of tax exemptions/incentives by entities duly registered with the BOI, PEZA, SBMA and other IPAs. 2. Develops and recommends policies, work programs, standards, guidelines and procedures in the
Training	Human Resource Development Service	Provides functional direction to matters concerning personnel in the areas of career management, performance evaluation, employees welfare and trainings.
Legal matter -CRS, CbCr, F1709	LT Assistance Division	1. Provides frontline assistance/information and undertakes tax information dissemination and education campaign for LTS. 2. Receives and processes applications for secondary registration, registration-related permits, certificates, registration information updates together with the required attachments and all forms of inquiries from LTS.
General work for large taxpayers	Large Taxpayers Service	1. Provides functional direction to taxpayers assistance, collection, assessment and monitoring activities on large taxpayers including computerized and non-computerized processing & analysis of data. 2. Administers and enforces internal revenue laws and regulations including the assessment and collection of all internal revenue taxes, charges and fees.
Audit planning	LT Performance Monitoring & Programs Division	1. Reviews and monitors projects/programs on LTS to ascertain whether results are consistent with established objectives and goals & such projects/programs are being carried out as planned. 2. Implements work programs, methods and procedures in gathering, maintaining and analyzing data/information.
Audit for large taxpayers	Regular LT Audit Divisions	1. Identifies taxpayers under its jurisdiction for issuance of LAs in accordance with the audit program of the LTS. 2. Conducts quality audit of tax cases within its jurisdiction and submits reports of investigation thereof. 3. Processes and recommends approval/disapproval of all claims for tax credit/refund of taxpayers, except those processed by the Legal Service.
HR, Training	Personnel Division	1. Formulates policies, work programs, standards, guidelines and procedures relative to personnel information, recruitment, selection, promotion, career management, compensation and benefits, employee's performance appraisal and payroll system. 2. Develops, applies and evaluates policies, procedures, methods and programs related to the individual in the organization to promote and enhance work effectiveness and advancement.
Training	Training Delivery Division	1. Administers/implements the conduct of priority programs/courses as well as all other trainings such as regular, Information and Communications Technology (ICT)/ICT-related, livelihood programs, and pre-retirement that will continuously upgrade the knowledge, skills, abilities, values and orientation of trainers/staff/personnel. 2. Monitors the conduct of training courses in the regional and district offices. 3. Manages and approves all articles/publications in the BIR Website/Portal regarding regular/coordinated in-house training programs.
Training	Training Management Division	1. Conducts Training Needs Analysis to identify the competency gaps and recommends effective training and development programs for the Bureau personnel. 2. Designs course syllabus/curriculum and develops/enhances training programs/materials for the Bureau's training programs. 3. Oversees/monitors and evaluates all regular and specialized trainings conducted by various offices.

(Source: BIR)

¹ The International Tax Affairs Division (ITAD) is likewise in charge of EOI (on request, automatic via the CRS or FATCA, and spontaneous). The revenue issuances mandating the submission of related party disclosures, i.e., RR No. 19-2020, RMC No. 76-2020, RMC No. 98-2020, RR No. 34-2020, RMC No. 54-2021, originated from ITAD.

Appendix-6 Results of Training Needs Analysis (2020)



The graph shows the in-house trainings that BIR employees need urgently based on the TNA.

The top three courses are:

1. General Course for Revenue Officers
2. Basic Tax Administration Course
3. Audit Procedures and Techniques Course

(Source: BIR, "2020 Annual Report")

Appendix-7 Training Calendar (2021)

Training Delivery Division
Tentative Training Calendar
(Regular, ICT and Coordinated Trainings)
 January to December 2021

SEMINARS	2021											
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
A. ON-BOARDING COURSES												
- Personnel Orientation Course (POC)		(3-5) 8-11 (2 batches) (111 pax) 3-5	2-5 23-26		11-14		6-9	31 → 3			3-5 & 8	
- Information Security Awareness Briefing (ISAB)		(10) 15-16 (2 batches) (111 pax)	10-11 29-30		19-20		14-15		8-9		10-11	
- Data Privacy Briefing		(3) 8-9 (2 batches) (16) 18-19 (2 batches) (111 pax)	16-17	29-30	26-27		20-21		14-15		16-17	
- Basic Tax Administration Course (BTAC)		1-3 & 8-11 (2 batches) (backlog) (8-12) 15-19 & 22 (from DPA Feb 3) 22-26 (2 batches) (111 pax)	22-26 & 29		17-24	21-28	26-30 → 2		20-24 27		22-26 29	
- Induction					31 → 4				6-10		8-12	
- Integrity						7-9				4-6		7-9
B. TECHNICAL COURSES												
- General Course for Revenue Officers (GCRO) (Priority list of Assessment from 2020 TNA Respondents)		15 → 16			3-31 31 → 28	15 → 13	12 → 10 2-30	1-29	1-29	3-29 → 2		
- Audit Proc. & Tech. Course					24 → 1 7-15 21-30		9-17 23-31	27 → 5 11-19 21-29				
- BEPS			8-15			28 → 5 12-19		6-13 20-27		11-18	10-17 15-22	
- Regional Computer-Assisted Audit Tools & Techniques (RCAATTs) Training							13-15 27-29	21-23 28-30	26-28		16-18 23-25	
- Technical Writing Course						29 → 1						1-3
C. ORGANIZATIONAL COURSES												
- LAMIC					3-10			9-14				
- GAD					10-14			16-20				
- Strategic Training Needs Analysis Course					24-28					4-8		
D. OTHERS												
- Mandatory Continuing Legal Education (MCLE)								7-10 14-17 (online)				

(Source: BIR Provided Document)