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**TAX LAW FOR BUSINESS**

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## **Paying estate tax in the wise**

WE live in a world where we aim to invest in properties, own a house and lot of our dream, save money for our loved ones; so when our physical self departs the universe, we are at peace that our successors will be financially secured. Indeed, our death is certain, so with estate tax.

Estate tax is a tax on the right of the deceased person to transmit his/her estate to his/her lawful heirs and beneficiaries at the time of death. It is not a tax on property but a tax imposed on the privilege of transmitting property upon the death of the owner.

Prior to the effectivity of the Tax Reform for Acceleration and Inclusion (TRAIN) law on January 1, 2018, the Tax Code of 1997 in relation to Revenue Regulations (RR) 2-2003 imposes a 5-percent to 20-percent estate tax based on the net estate. Under the TRAIN law, the rate of estate tax is fixed at 6 percent. The new rate, however, will apply only to deaths occurring on or after January 1, 2018.

Earlier this year the Bureau of Internal Revenue (BIR) issued RR 12-2018 discussing everything an heir should know before he/she receives his/her share of the pie.

Aside from the new rate, RR 12-2018 increased the standard deduction granted to the net estate of a deceased citizen or resident of the Philippines from P1 million to P5 million. Nonresident aliens are, likewise, entitled to a standard deduction of P500,000. The deduction for family home is raised to P10 million, from P1 million, based on the current fair market value of the decedent's family home. On the contrary, deductions for funeral and medical expenses may no longer be claimed.

Under the revenue regulation, estate-tax returns are now required to be filed within one year from the death of the decedent from the former filing period of six months. Estate tax may now also be paid by cash installment for a period of two years from the date of the filing of estate-tax return. After the lapse of two years without payment, the entire tax due shall become due, demandable and subject to applicable penalties and interests.

Another salient feature of the revenue regulation is the introduction of electronic Certificate Authorizing Registration (eCAR), which will be issued by the BIR in case of partial disposition of estate and application of its proceeds to the estate tax due.

As to the most common query of an expectant recipient of his/her pie, an heir may only withdraw the bank deposit of the decedent upon payment of final withholding tax of 6 percent of the amount to be withdrawn. The heir may exercise his/her right to withdraw within a period of one year from the death of the decedent. On the part of the bank, it is required to file the prescribed quarterly return on the final tax withheld on or before the last day of the month following the close of the quarter during which the withholding was made. The bank, thereafter, shall issue the corresponding BIR Form 2306 certifying such withholding.

In all cases, the final tax withheld for bank deposit shall not be refunded, or credited on the tax due on the net taxable estate of the decedent.

In instances where the bank deposit accounts have been duly included in the gross estate of the decedent and the estate tax due thereon paid, the executor, administrator, or any of the legal heirs shall present the eCAR issued for the said estate prior to withdrawing from the bank deposit account. Such withdrawal shall no longer be subject to the 6 percent final withholding tax.

Regardless of these rules, one thing is for sure. During our lifetime, we are taxed and death provides no escape.

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