

Statement on BIR Revenue Regulation 14-2021's Temporary Suspension of Certain Provisions of RR 5-2021

On July 27, 2021, the Department of Finance approved BIR Revenue Regulation No. 14-2021 ("RR 14") with the subject, "*Suspending the Implementation of Certain Provisions of Revenue Regulations No. 5-2021 dated April 8, 2021.*" RR 14 takes into account the pending bills in the 18th Congress which seek to clarify the proper tax treatment of proprietary educational institutions. The suspension is only pending passage of the appropriate legislation and is therefore temporary.

Specifically, RR 14 only suspends the following provisions of RR 5-2021:

Section 2 (C), on the definition of proprietary educational institutions, in so far as it includes therein the phrase, "which are non-profit";
Section 2 (E), on the definition of Non-Profit, in so far as it applies to "Proprietary Educational Institutions";
and
Section 3 (B), which provides illustration on the tax treatment of Proprietary Educational Institutions that are non-profit.

Enactment of the Law is imperative.

Nevertheless, while this latest development is a step forward, the suspension is merely temporary, and, we cannot lose sight of our main objective of pushing for a law to finally remove any doubt as to the right of proprietary educational institutions to the preferential tax rate of 10%, which has been in the Tax Code since 1968, and the concessionary tax rate of 1% for three years under the CREATE Act, to provide temporary relief during the pandemic.

Without this curative legislation, the suspension may be withdrawn again or reversed anytime by the BIR and DOF given the history of revenue issuances on this matter.

Call for swift approval of the tax bills

We thank our legislators from both the House of the Representatives and Senate for calling on the DOF and BIR to suspend RR 5-2021 pending the legislative process, in the meeting of the House Committee on Ways and Means called by its Chairman Congressman Joey Salceda on June 14, 2021, and the Senate Committee on Ways and Means called by its Chairman Senator Pia Cayetano on June 30, 2021.

In particular, Congressman Mark Go filed House Resolution 1877 urging the BIR to revoke RR 5 - 2021, and Senator Frank Drilon strongly urged the DOF to withdraw RR 5-2021.

We now urgently appeal for the swift approval of Senate Bill 2272 sponsored by Sen. Sonny Angara and supported by 15 other Senators, and House Bill 9596 sponsored by Cong. Joey Salceda, which will later be consolidated with other bills on the same subject of Deputy Speaker Rufus Rodriguez and Rep. Kiko Benitez and co-authored by 57 other Congressmen.

It is critical that the bills be passed as soon as possible, as many private schools have already started the new academic year and others will open not later than September. This would allow the private education sector to focus all of its time and resources on its highest priority, the very grave Learning Crisis that our country is now struggling with, rather than on correcting erroneous interpretations of the law and the Constitution.

We shall remain vigilant on future developments on this important tax policy to ensure our proprietary educational institutions are securely protected from illegal tax burdens. In addition, we shall continue to advocate for the fulfillment of the objectives of the CREATE Act's authors: to extend a lifeline to our struggling schools during this pandemic, and guarantee the continuity of learning for our students, jobs for our employees and livelihoods for the many small businesses (e.g. carinderias, tricycle drivers) who are dependent on our schools.



ATTY. JOSEPH NOEL M. ESTRADA
Managing Director
For the Coordinating Council of Private Educational Associations



Coordinating Council of Private Educational Associations

