



Circular Letter (CL) No.:	2020-89
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Supersedes:	None

CIRCULAR LETTER

TO : ALL INSURANCE AND REINSURANCE COMPANIES AUTHORIZED TO TRANSACT BUSINESS IN THE PHILIPPINES

SUBJECT : GUIDELINES IN THE TREATMENT OF CREDITABLE WITHHOLDING TAXES (CWTs)

WHEREAS, Section 202 (k) of the Amended Insurance Code provided the admission of other assets, to wit: ***“Other assets, not inconsistent with the provisions of paragraphs (a) to (j) hereof, which are deemed by the Commissioner to be readily realizable and available for the payment of losses and claims at values to be determined by him in a circular, rule or regulation.” (Emphasis supplied.)***

WHEREAS, it was noted that significant number of insurance companies have recorded in their books unutilized or excess creditable withholding tax and thus, form part of companies’ hard-earned assets.

WHEREAS, Creditable Withholding Taxes represent the taxes withheld at source by the counterparty which can be applied against future income tax liability. These CWTs are initially recorded at cost under “Other Assets” account.¹

WHEREAS, supported by the Statutory Issue Paper No. 83 issued by the National Association of Insurance Commissioners², which stated that:

*“The criteria for admissibility of **current** income tax recoverables is also modified by admitting them if they are reasonably expected to be recovered.”*

NOW, THEREFORE, pursuant to the powers of the Insurance Commissioner under Sections 437 of the Republic Act No. 10607 (Amended Insurance Code) and in consideration of the regulated industries’ request to consider Creditable Withholding Tax as admitted assets, the following guidelines are issued and promulgated:

¹ Definition by www.bir.gov.ph > index.php > Tax-Information

² 1 Statutory Issue Paper No. 83: Accounting for Income Taxes, issued by the National Association of Insurance Commissioners, 16 March 1998. See https://www.naic.org/sap_app_updates/app_e_issues.htm

SECTION 1: QUALIFICATION

Only those insurance companies with income payment declared as part of the gross income in their Income Tax Return and have submitted their withholding tax statement or Tax Credit Certificate (TCC) pursuant to Section 2.58.3 of Revenue Regulation (RR) 2-98.

SECTION 2: LIMITATION

The amount of creditable withholding tax to be considered as admitted asset shall depend on the following options chosen by the insurance company:

- 2.1. **To be refunded**– up to the amount of creditable withholding tax refunded.
- 2.2. **To be carried over as tax credit for next year/quarter** - up the amount of creditable withholding declared for the **current** reporting year.

SECTION 3: REQUIRED DOCUMENTATION - the company shall submit the following documents to this Commission:

- a. Original copy of the company's Income Tax Return for the current taxable year duly filed with the Bureau of Internal Revenue (BIR).
- b. For those who have chosen any of the following options:
 - b.1. **To be refunded**– Proof of refund (i.e. check)
 - b.2. **To be carried over as tax credit for next year/quarter** - Original copies of Certificate of Creditable Tax Withheld at Source or BIR Form 2307 or any withholding tax return³ duly signed by the payer or its authorized representative bearing the following information:
 - b.2.1. The Amount of Tax Withheld and Paid by the Withholding Agent.
 - b.2.2. Date of Remittance
 - b.2.3. Name of Payor and Payee
 - b.2.4. Description of Transaction
 - b.2.5. Determination of the Taxable Base
 - b.2.6. The Rate applied

³ Supreme Court decision Phil National Bank vs. Commission of Internal Revenue (GR No. 206019 promulgated on 18 March 2015).