

REVENUE MEMORANDUM ORDER NO. 43-2020 issued on December 1, 2020 streamlines the process of issuing Tax Residency Certificates (TRCs), amending for this purpose pertinent provision of Revenue Memorandum Order No. 51-2019.

The applicants (individuals and non-individuals) for TRC shall submit, together with the required documents prescribed in the Order, a duly accomplished and signed BIR Form No. 0902 to the BIR's International Tax Affairs Division (ITAD). The assigned Case Officer shall evaluate the completeness of the application and shall inform the applicant, via registered mail or electronic mail, any deficiency in the accompanying requirements within three (3) working days.

All TRC applications shall be acted upon within fourteen (14) working days from the submission of complete documentary requirements. The BIR shall continue to issue its own TRC Form, which shall be signed by the Assistant Commissioner for Legal Service only. All TRC applications filed with the Revenue District Offices (RDOs) or Large Taxpayers Divisions (LTDs) shall be immediately indorsed to the ITAD.

The ITAD shall, within a reasonable period of time after the close of each taxable year or whenever necessary, convey the relevant information to the concerned RDO or LTD that has jurisdiction over the applicant, or the National Investigation Division, as the case may be. In turn, the investigating office shall verify whether the foreign source income was declared by the taxpayer, for tax purposes, and collect deficiency taxes and penalties, if warranted.

The investigating office may likewise request for information from the foreign tax authority, through the Exchange of Information Unit of the ITAD, to further verify the accuracy of the declared income. If, based on the information received and/or other competent proof obtained, the taxpayer made a false declaration under oath, the taxpayer may be charged with the crime of perjury under Article 183 of the Revised Penal Code and with other appropriate crimes or offenses as may be warranted under existing laws, in addition to the payment of deficiency taxes. To complete the process, the investigating office shall furnish the ITAD the results of its investigation within thirty (30) calendar days from the termination thereof.

To avoid being subjected to the regular tax imposed in the source state, Philippine taxpayers deriving income from another contracting state are hereby advised to always secure a TRC and present the same before the foreign tax authority to be entitled to treaty benefits. Those who fail to secure a TRC shall not be allowed to claim foreign tax credits in excess of the appropriate amount of tax that is supposed to be paid in the source state had the income recipient invoked the provision/s of the treaty and proved his/her/its residency in the Philippines.

To achieve this purpose, tax auditors shall always ensure that Philippine taxpayers are only allowed the appropriate amount of tax credit which is equal to the amount of taxes that would be imposed on that item of income pursuant to the treaty.