

NEWSLETTER

WORKPLACE GUIDELINES

Q: What are the new obligations of the employer in relation to the prevention and control of COVID-19 in the workplace?

A: In addition to the obligations of the employer listed in the DTI and DOLE Interim Guidelines on Workplace Prevention and Control of COVID-19 issued on 30 April 2020, DTI and DOLE Joint Memorandum Circular No. 20-04-A issued on 15 August 2020 mandates the following:

1. Employers classified as large or medium sized private establishments (i.e. those with total assets above ₱15,000,000.00) are required to provide shuttle services to their employees. The guidelines, however, are silent as to who must shoulder the cost of transportation.
2. Employers are mandated to provide advocacy awareness raising programs covering strategies to help prevent and reduce the spread of COVID-19 in the workplace.
3. Employers shall ensure that employees, regardless of work arrangements, shall have access to telemedicine services, either through a health maintenance organization, employer-initiated services, or the Barangay Health Center.
4. Employers of large and medium sized private establishments are mandated to designate an isolation area of one room for every 200 employees for those needing further assessment due to elevated temperature, presence of flu-like symptoms, exposure to COVID-19 positive

patients, etc. Employers who are unable to provide such isolation units may make arrangements with the Barangay Local Government Unit for immediate referral of employees who fulfill the criteria for isolation.

5. Employers are required to report COVID-19 positive and symptomatic employees, as well as their close contacts to: (i) the local health office having jurisdiction over the workplace; (ii) the Barangay Health Emergency Team; and (iii) the DOLE using its Work Accident/Illness Report Form which may be downloaded from <http://ncr.dole.gov.ph/default.php?retsamlakygee=23&resource=617a4046ef07a0>

Q: Under the DTI and DOLE Joint Memorandum Circular No. 20-04-A, are employers required to conduct testing for asymptomatic employees upon their return to work?

A: No. Employers are not required to conduct testing on asymptomatic employees. Symptomatic employees or those with exposure to COVID-19 on the other hand are mandated to undergo a 14-day quarantine.

Employers are merely encouraged to send their employees for testing once every quarter at no cost to the employees.

Q: What is the consequence of non-compliance of the mandatory provisions of the DTI and DOLE Joint Memorandum Circular No. 20-04-A?

A: Private establishments may be ordered temporarily closed until they are deemed fully compliant with the minimum health protocols prescribed under DTI and DOLE Joint Memorandum Circular No. 20-04-1.



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COURTS

Q: How are hearings conducted during periods of community quarantine?

A: All hearings in both criminal and civil cases shall be done fully in-court, except when a person deprived of liberty is involved or under exceptional circumstances such as when the litigant or his/her counsel is a person above 60 years old or is immunocompromised. (SC Administrative Circular No. 45-2020)

Q: Considering the periodic closures of courts due to reported cases of COVID-19, how do I know if my scheduled hearing is pushing through on a particular date?

A: All courts shall remain physically open during the period of general community quarantine (GCQ). Unless otherwise declared by the Supreme Court, only affected courts or branches, which may have to undergo disinfection or contact tracing shall be closed. You may visit <http://sc.judiciary.gov.ph/courts-status/> to view the updated quarantine schedules of affected courts.

CORPORATE TERM

Q: What are the latest guidelines concerning the retention, shortening, extension of the term of existence of a corporation?

A: Retention of Term: Corporations organized under the Old Corporate Code (i.e. prior to 23 February 2019), whose term was automatically extended upon the effectivity of the Revised Corporation Code (RCC), may retain its specific corporate term upon approval by

majority of the board of directors or trustees, and a vote of the stockholders representing majority of the outstanding capital stock, including non-voting shares. Concerned corporations shall file a notice and submit a directors' certificate attesting to the said approval with the SEC no later than 23 February 2021. Otherwise, such corporations shall be treated as having perpetual

Shortening or Extension of Term: A corporation which opted for a specific corporate term may extend or shorten its existence by amending its articles of incorporation upon the vote of majority of the board of directors and stockholders representing 2/3 of the outstanding capital stock of the corporation. (SEC Guidelines on Retaining, Amending Corporate Terms issued on 25 August 2020)

CORPORATE DEBT VEHICLE

Q: What is a Corporate Debt Vehicle (CDV)?

A: A CDV is a closed-end investment company that issues or offers for sale its securities consisting of either shares of stock or units of participation to any number of buyers not exceeding 19 persons in the Philippines during any 12-month period with the specific objective of investing in corporate debts of large and medium-sized corporation. CDVs have been introduced by the SEC to support liquidity amid the present pandemic. (SEC Framework for CDV issued on 25 August 2020)

Q: How do you invest in a CDV?

A: Subscription to CDVs shall be done only through initial public offering. (SEC Framework for CDV issued on 25 August 2020)

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NEWSLETTER

Q: What are the rights of stockholders or investors CDVs?

A: Investors in CDVs shall have no voting rights but may benefit from the periodic pro-rata distribution of interest income or from the increase in the value of the underlying investments of each share/unit in the CDV upon its maturity. They shall also be entitled to notice of any material change in the CDV's prospectus, product highlight sheet, and subscription agreement. (SEC Framework for CDV issued on 25 August 2020)

Q: How can a CDV be incorporated?

A: To incorporate, a CDV shall have a minimum subscribed and paid-up capital of ₱50,000,000.00. If the CDV forms part of a group of investment companies to be created or already in existence is to be managed by a fund manager with a track record of at least 5 years, the subscribed and paid-up capital shall not be lower than ₱1,000,000.00.

Q: Will the shares of a CDV have to be registered as securities?

A: No. However, the CDV's exemption must be approved by the SEC following the submission of (1) a notarized simplified prospectus and (2) a product highlight sheet.

TAXES**Q: How shall the fair market value of shares not sold or disposed of through a local stock exchange be determined for purposes of taxation?**

A: Under BIR Revenue Regulation No. 20-2020 issued on 17 August 2020, the fair market value of shares not

sold or disposed through a local stock exchange shall be determined as follows:

Common Shares: the book value based on the latest available financial statements duly certified by an independent public accountant prior to the date of sale, but not earlier than the immediately preceding taxable year.

Preferred Shares: the liquidation value, which is equal to the redemption price of the preferred shares as of balance sheet date nearest to the transaction date, including any premium and cumulative preferred dividends in arrears.

In case there are both common and preferred shares, the book value per common share shall be arrived at by deducting the liquidation value of the preferred shares from the total equity of the corporation and dividing the result by the number of outstanding common shares as of the balance sheet date nearest to the transaction.

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