REVENUE MEMORANDUM CIRCULAR NO. 38-2018 issued on May 23, 2018 reiterates the guidelines in registration, updates and other tax compliance requirements of candidates, political parties/party list groups and campaign contributors.

All candidates, political parties/party list groups and campaign contributors have the duty to register or update their registration with the BIR in relation to their candidacy.

The Client Support Section (CSS) of the concerned Revenue District Office (RDO) having jurisdiction over the residence address, head or principal office of registering candidates, political parties/party list groups and campaign contributors shall verify their registration in the BIR’s Integrated Tax System (ITS)/Electronic Tax Information System (eTIS-1). The RDO may secure the official list of candidates and political party/party list groups from the Commission on Election (COMELEC).

Individual candidates, political parties/party list groups or campaign contributors who are not yet registered with the BIR are required to submit specified documents to the CSS of the RDO having jurisdiction over his/her place of residence. Those already registered as business taxpayer, local employee and those registered under Executive Order No. 98 and/or One-Time Transaction (ONETT) are also required to submit the documents specified in the Circular.

All candidates and political parties/party list groups registered with the BIR prior to the issuance of the Circular shall be updated by the CSS of the RDO concerned based on the guidelines of the Circular, whichever is applicable. In addition, the CSS shall monitor all registered candidates or political parties/party list groups that were elected and otherwise, to make appropriate updates in their respective registration information after the elections.

The registration of individuals in their capacity as candidates shall automatically end ten (10) days after the deadline of filing the Quarterly Remittance Return of Creditable Income Taxes Withheld (BIR Form No. 1601EQ). However, the registration of political parties, including party list groups shall subsist.

Every candidate and treasurer of the political parties/party list groups shall submit the Statement of Contributions and Expenditures to the COMELEC and RDO having jurisdiction over the candidates/political parties/party list groups within 30 days after the election.

All candidates and political parties/party list groups shall:

a. Pay an Annual Registration Fee in the amount of Five Hundred Pesos (P500.00) and be issued a Certificate of Registration.

b. Keep books and other accounting records such as Cash Receipts Journal (basis for Statement of Contributions for submission to COMELEC), Cash Disbursements Book (basis for Statement of Expenditures for submission to COMELEC) or their equivalent and register the same to the concerned RDO.

c. Register Non-VAT Official Receipts (ORs), at least in duplicate copies thru application for an Authority to Print (using BIR Form 1906) to the concerned RDO. These Non-VAT ORs shall be issued for every contribution received, whether in cash or in kind. Contribution received in kind shall be valued at their cash equivalent or fair market value. The original copies of such ORs shall be issued to the contributors/donors while the duplicate shall be retained by the issuing political parties/party lists and candidates.

Income payments made by political candidates and political parties/party-list groups on their purchases of goods and services as campaign expenditures, and income payments made by individuals or juridical persons for their purchases of goods and
services intended to be given as campaign contribution to political parties and candidates shall be subject to five percent (5%) Creditable Withholding Tax (CWT), which shall be filed and remitted not later than the last day of the month following the close of the quarter during which the withholding was made.

Expenses incurred by the candidates, which were given free of charge, such as use, rental or hire of land, water or aircraft, equipment, facilities, apparatus and paraphernalia used in the campaign shall be assessed by the candidate. The amount commensurate with the expenses for the use thereof shall be declared based on the prevailing rate in the locality, and shall be included in the total expenses incurred by the candidate.

As withholding agents, political candidates and political parties/party-list groups are also required to submit through the eSubmission facility of the BIR, the Quarterly Alphalist of Payees available for download in the “downloadable” section of the BIR website. The payor/withholding agent, who may be an individual candidate, a political party/party list group, or any juridical entity, is further required to file the Annual Information Return of Creditable Taxes Withheld (Expanded)/Income Payments Exempt from Withholding Tax (BIR Form No. 1604-E) as well as the Statement of Contributions and Expenditures duly stamped “Received” by the COMELEC on or before March 1 following the year of election.

Expenses that were not subjected to the 5% CWT as herein required are not considered utilized campaign funds, and the candidates, political parties/party-list groups are precluded from claiming such expenditures as deductions from his/her/its campaign contributions. As such, the full amount corresponding to said expense shall be reported as unutilized campaign funds subject to Income Tax.

The contributions in cash or in kind to any candidate, political party or party list group, duly reported to COMELEC, are exempt from the imposition of Donor’s Tax. Only those donations/contributions that have been utilized/spent during the campaign period as set by the COMELEC are exempt from Donor’s Tax. Perforce, donations utilized before or after the campaign period are subject to Donor’s Tax and not deductible as political contribution on the part of the donor.

Donations made by corporations in violation of Section 36 (9) of the Corporation Code of the Philippines are subject to Donor’s Tax and may not be deducted as political contribution on the part of the Donor/corporation.

To be considered as exempt from Income Tax, campaign contributions must have been utilized to cover a candidate’s expenditures for his/her electoral campaign. Unutilized/excess campaign funds, net of the candidate’s or political party’s/party list’s campaign expenditures, shall be considered as subject to Income Tax and, as such, must be included in their/his taxable income as stated in their/his Income Tax Return pursuant to Revenue Regulations No. 7-2011.

Any candidate or political party/party list group, whether winning or losing, who fails to file with the COMELEC his/her/its Statement of Contributions and Expenditures required under the Omnibus Election Code shall be automatically precluded from claiming such expenditures as deductions from the campaign contributions making the entire amount directly subject to Income Tax.

All political parties/party list groups and candidates shall be responsible for the preservation of records and contributions and expenditures, together with all pertinent documents, for a period of at least three (3) years from the close of the taxable year during which the election was held.
All candidates, political parties and party list groups who failed to register and comply with the requirements of the BIR will be subjected to penalties under the Revised Consolidated Schedule of Compromise Penalties for Violations of the National Internal Revenue Code (NIRC) of 1997, as amended (RMO No. 7-2015).