REVENUE REGULATIONS NO. 12-2007 issued on October 17, 2007 amends certain provisions of Revenue Regulations (RR) No. 9-98 relative to the due date within which to pay the Minimum Corporate Income Tax (MCIT) imposed on domestic corporations and resident foreign corporations pursuant to Sections 27(E) and 28(A)(2) of the Tax Code, as amended.

An MCIT of two percent (2%) of the gross income as of the end of the taxable year (whether calendar or fiscal year, depending on the accounting period employed) is imposed upon any domestic corporation beginning on the 4th taxable year immediately following the taxable year in which such corporation commenced its business operations. The MCIT shall be imposed whenever such corporation has zero or negative taxable income or whenever the amount of MCIT is greater than the normal Income Tax due from such corporation.

Notwithstanding the above provision, however, the computation and the payment of MCIT, shall likewise apply at the time of filing the quarterly corporate Income Tax as prescribed under Sections 75 and 77 of the Tax Code, as amended.

Thus, in the computation of the tax due for the taxable quarter, if the computed quarterly MCIT is higher than the quarterly normal Income Tax, the tax due to be paid for such taxable quarter at the time of filing the quarterly corporate Income Tax Return (ITR) shall be the MCIT, which is 2% of the gross income as of the end of the taxable quarter. In the payment of said quarterly MCIT, excess MCIT from the previous taxable year/s shall not be allowed to be credited. Expanded withholding tax, quarterly corporate Income Tax payments under the normal Income Tax and the MCIT paid in the previous taxable quarter/s are allowed to be applied against the quarterly MCIT due.

The quarterly MCIT paid on the quarterly ITR shall be credited against the normal Income Tax at year end if in the preparation and filing of the annual ITR and in the final computation of the annual Income Tax due, it appears that the normal Income Tax due is higher than the computed annual MCIT. Moreover, in addition to the quarterly MCIT paid and quarterly normal Income Tax payments in the taxable quarters of the same taxable year, excess MCIT in the prior year/s (subject to the prescriptive period allowed for its creditability), expanded withholding taxes in the current year and excess expanded withholding taxes in the prior year shall be allowed to be credited against the normal Income Tax computed under the normal Income Tax rules.

However, if in the computation of the annual Income Tax due, the computed annual MCIT due appears to be higher than the annual normal Income Tax due, what may be credited against the annual MCIT due shall only be the quarterly MCIT payments of the current taxable quarters, the quarterly normal Income Tax payments in the quarters of the current taxable year, the expanded withholding taxes in the current year and excess expanded withholding taxes in the prior year. Excess MCIT from the previous taxable year/s shall not be allowed to be credited therefrom as the same can only be applied against normal Income Tax.

For purposes of these Regulations, the term, “normal Income Tax” means the income tax rates prescribed under Sections 27(A) and 28(A)(1) of the Code at 34% on January 1, 1998; 33% effective January 1, 1999; at 32% effective January 1, 2000 and 35% effective November 1, 2005 and thereafter. Provided, however, that effective January 1, 2009 the rate of Income Tax shall be 30% pursuant to RA No. 9337.

The taxpayer shall pay the MCIT whenever it is greater than the regular or normal corporate Income Tax which is imposed under Sections 27(A) and 28(A)(1) of the Tax Code. The final comparison between the normal Income Tax payable by the corporation and the MCIT shall be made at the end of the taxable year and the payable or excess payment in the annual ITR shall be computed taking into consideration corporate Income Tax payment made at the time of filing of quarterly corporate ITR whether this be MCIT or normal Income Tax.

The term “gross income” means gross sales less sales returns, discounts and allowances and cost of goods sold, in case of sale of goods, or gross revenue less sales returns, discounts, allowances and cost of services/direct cost, in case of sale of services. This rule, notwithstanding, if apart from deriving income from these core business activities there are other
items of gross income realized or earned by the taxpayer during the taxable period which are subject to the normal corporate Income Tax, the same items must be included as part of the taxpayer’s gross income for computing MCIT. This means that the term “gross income” will also include all items of gross income enumerated under Section 32(A) of the Tax Code, as amended, except income exempt from Income Tax and income subject to final withholding tax.

The MCIT shall be paid in the same manner prescribed for the payment of the normal corporate Income Tax which is on a quarterly and on a yearly basis. It shall be covered by a tax return designed for the purpose, which will be submitted together with the corporation’s annual final adjustment ITR. Domestic corporations shall be required to pay the MCIT on a quarterly basis, pursuant to the provisions of Sections 75 and 77 of the Tax Code in relation to Section 245 of the same Code, as amended.

In the filing of the quarterly ITR for the taxable quarter which is due for filing after the effectivity of these Regulations, the computation of the MCIT shall be done on cumulative basis covering not only the current taxable quarter but also the previous taxable quarters of the same taxable year. Such computed MCIT shall be compared with the cumulative normal Income Tax, whereupon the higher amount between the two shall be the basis of the quarterly Income Tax payment to be made for said taxable quarter.

Thus, for those using calendar year basis accounting period, in the filing of the quarterly ITR for the third quarter ended September 2007, which is due for filing on or before November 29, 2007, the gross income for the 1st and 2nd quarters shall be added to the gross income for the quarter ended September 2007, the total of which shall be the basis of the 2% MCIT which shall then be compared with the computed cumulative normal Income Tax. The cumulative MCIT for the three (3) said quarters shall be paid in case the same appears to be higher than the normal Income Tax computed for the same period. Excess normal Income Tax carried over from previous taxable year and payments made for the previous quarters of the same taxable year, including withholding tax credits claimed for said previous quarters of same taxable year shall be credited against the computed tax due in the cumulative quarterly tax return.