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EXEMPTION FROM TAX OF CERTAIN BENEFITS GRANTED TO THE MEMBERS OF THE PHILIPPINE NATIONAL POLICE AND THOSE BENEFITS GRANTED TO THE MEMBERS OF THE ARMED FORCES OF THE PHILIPPINES

BIR REVENUE MEMORANDUM CIRCULAR NO. 12-97, June 05, 1997

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Hereunder is the clarification of the rulings made by this Office on the matter of tax exemptions of certain benefits enjoyed by the members of the Philippine National Police (PNP) under RA 6975 pursuant to BIR Ruling No. 120-96 dated November 8, 1996 and those enjoyed by the members of the Armed Forces of the Philippines (AFP) pursuant to BIR Ruling No. 143-96 dated December 24, 1996.

In BIR Ruling No. 120-96, this Office ruled that all benefits granted under Section 71 of R.A. No. 6975, which include longevity pay and allowances thus enumerated, such as subsistence allowance, clothing allowance, cost of living allowance, hazard pay, and all other allowances as provided by existing laws are exempt from tax pursuant to Section 77 of the same Act.

On the other hand, BIR Ruling No. 143-96 confirmed that all remunerations for services of AFP personnel are generally included in the taxable compensation income subject to withholding tax which include fringe benefits, whether monetary or non-monetary, e.g. longevity pay, hazard pay, and all kinds of allowances, except allowances for quarters, clothing and subsistence which are held to be exempt from income tax pursuant to Revenue Memorandum Circular No. 15-87.

For your guidance, please be informed of the following:

The benefits enjoyed by the uniformed personnel of the PNP are explicitly provided for under Sections 71 and 77 of R.A. 6975, otherwise known as "An Act Establishing the Philippine National Police under a reorganized Department of Interior and Local Government (DILG) of 1990:"

Pursuant to said Section 71, these uniformed men in the Department are entitled to certain benefits as quoted hereunder, viz:

> "SEC. 71. Longevity pay and Allowances. — Uniformed personnel of the Department shall be entitled to a longevity pay of 10 percent (10%) of their Basic monthly salaries for every five (5) years of service, which shall be reckoned from the date of the personnel's original appointment in the AFP, or appointment in the police, fire, jail or other allied services prior to the integration of the PC and the INP: Provided, That the totality of such longevity pay shall not exceed fifty percent (50%) of the basic pay. They shall also continue to enjoy the subsistence allowance, quarters allowance, clothing allowance, cost of living allowance, hazard pay, and all other allowances as provided by existing laws."

These enumerated benefits are exempt from tax, as expressly stated in Section 71 of the same Act, viz:

> "SEC. 71. Exemption from Attachment and taxes. — All benefits granted by this Act, including benefits received from the Government Service Insurance System shall not be subject to attachment, levy, execution or any tax of whatever nature." (Emphasis supplied)

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Thus, the exemption from tax of certain benefits enjoyed by these uniformed men in the PNP is expressly granted by R.A. 6985. (BIR Ruling No. 120-96)

On the other hand, military personnel, i.e., AFP are likewise enjoying such fringe benefits granted to the members of the PNP, whether monetary or non-monetary, which includes of longevity pay, hazard pay and all kinds of allowances and benefits received as such, except allowances for quarters, clothing and subsistence are generally included as part of the taxable compensation income subject to withholding tax as provided for under paragraph 2, Section 2 of Revenue Regulations No. 12-96 and Revenue Memorandum Circular No. 15-87. These benefits, however, should not be included for purposes of determining whether or not the "other benefits" exceeds P12,000.00. (BIR Ruling No. 143-96)

The taxability of the aforementioned benefits, viz, hazard pay, COLA, Additional Compensation Allowance (ACA), longevity pay and loyalty pay is clearly provided for under paragraph (F), Section 28(b) of the Tax Code, as amended by R.A. No. 7833. Thus, it must be noted that these benefits except quarters, clothing and subsistence allowances mentioned under RA 7833 are benefits common to the rest of the government personnel or employees in the private firm; the tax exemption however, of certain benefits like those being enjoyed by the members of the PNP, are specifically granted under a special law, i.e., RA 6975.

Accordingly, it is hereby emphasized that as regards claim by members of the PNP for tax exemption of the aforementioned benefits, viz, quarters allowance, clothing allowance, cost of living allowance, hazard pay, longevity pay the same is provided for in RA 6975.

On the other hand, claim for tax exemption by AFP personnel shall be limited to quarters, clothing and subsistence allowances. For the rest of the benefits enjoyed by military personnel, the same shall form part of their taxable compensation income subject to withholding tax.

Adopted: 05 June 1997

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