NATIONAL ADMINISTRATIVE REGISTER · DECEMBER 14, 1994

PUBLISHING THE FULL TEXT OF REPUBLIC ACT NO. 7833 – AN ACT EXCLUDING THE BENEFITS MANDATED PURSUANT TO REPUBLIC ACT NO. 6686 AND PRESIDENTIAL DECREE NO. 851, AS AMENDED, AND OTH...

BIR MEMORANDUM CIRCULAR NO. 36-94, December 14, 1994

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For the information and guidance of all concerned, quoted hereunder is the full text of Republic Act No. 7833:

"Republic Act No. 7833

"An Act to Exclude the Benefits Mandated Pursuant to Republic Act No. 6686 and Presidential Decree No. 851, as Amended, and Other Benefits from the Computation of Gross Compensation Income for Purposes of Determining Taxable Compensation Income, Amending for the Purpose Section 28 (b) (8) of the National Internal Revenue Code, as Amended

"SECTION 1. A new sub-paragraph to be known as sub-paragraph (F) is hereby inserted at the end of Section 28 (b) (8) of the National Internal Revenue Code, as amended, which shall read as follows:

"(F) 13th month pay and other benefits.

"(i) Benefits received by officials and employees of the national and local governments pursuant to Republic Act No. 6686.

"(ii) Benefits received by employees pursuant to Presidential Decree No. 851, as amended by Memorandum Order 28, dated August 13, 1986;

"(iii) Benefits received by officials and employees not covered by Presidential Decree No. 851, as amended; and

"(iv) Other benefits such as productivity incentives and Christmas bonus in an amount not exceeding Twelve Thousand Pesos (P12,000.00) which shall be integrated in the 13th month pay solely for purposes of this Act.

"Provided, however, That the exclusion shall only apply to the first Thirty Thousand Pesos (P30,000.00).

SEC. 2. The exclusion herein provided shall cover benefits paid or accrued beginning January 1, 1994.

"For purposes of reimbursing the officials or employees who may have received the benefits covered by this Act before its effectivity, the withholding agents are hereby authorized not to deduct the withholding taxes in the immediately succeeding payroll periods corresponding to the amount previously withheld from the benefits.

SEC. 3. The Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue promulgate the necessary rules and regulations for the effective implementation of the provision of this Act.

SEC. 4. All laws, decrees, orders, rules and regulations and other issuances inconsistent with this Act are hereby repealed or amended accordingly.

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SEC. 5. This Act shall take effect fifteen (15) days after is complete publication in the Official Gazette or in any two (2) newspapers of general circulation, whichever comes earlier.

"APPROVED.

(SGD.) EDGARDO J. ANGARA

(SGD.) JOSE DE VENECIA

President of the Senate

Speaker of the House

of Representatives

"This Act which originated in the House of Representatives was finally passed by the House of Representatives and the Senate on December 6, 1994.

EDGARDO E. TUMANGAN

CAMILO L. SABIO

Secretary of the Senate

Secretary General

House of Representatives

"APPROVED.

"December 8, 1994

(SGD.) FIDEL V. RAMOS
President of the Philippines"

Salient Features

1. Before the amendment of Section 28 (b) (8) of the National Internal Revenue Code (NIRC) by R.A. 7833, the following benefits received by officials and employees of both public (national and local) and private offices, viz:

(F) 13th month pay and other benefits.

a. Annual Christmas bonus equivalent to one (1) month basic salary and additional cash gift of One Thousand Pesos (P1,000.00) received by National and Local Government officials and employees starting CY 1988 in accordance with R.A. No. 6686;

b. Benefits received by employees pursuant to P.D. No. 851, as amended by Presidential Memorandum Order No. 28 dated August 13, 1986 requiring all employers to pay all their rank-and-file employees a 13th month pay not later than December 24 of every year;

c. Benefits received by officials and employees not covered by P.D. No. 851, as amended; and

d. Other benefits such as productivity incentives and Christmas bonus in an amount not exceeding Twelve Thousand Pesos (P12,000.00) which shall be integrated in the 13th month pay solely for purposes of R.A. No. 7833.

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were taxable compensation income under Section 21 (a) in relation to Section 72, both of the NIRC, as amended, subject to withholding tax under Revenue Regulations No. 6-82, as amended by Revenue Regulations No. 4-93.

2. Under sub-paragraph (F) of Section 28 (b) (8) of the NIRC, as amended by R.A. No. 7833, the 13th month pay and other benefits aforestated, received by officials and employees of the National Government, Local Government Units and agencies, including government-owned and controlled corporations, as well as by officials and employees of private corporations and entities, are exempt from income tax, and consequently from withholding tax on wages. Provided, that the exclusions/exemptions from gross compensation income shall cover the 13th month pay and "other benefits" in the aggregate amount not exceeding P30,000.00 received by the officials and employees paid or accrued beginning January 1, 1994. The aforesaid "other benefits" as contemplated under Section 1 (F) (iv) of R.A. No. 7833 shall not exceed P12,000.00 which amount shall be integrated in the 13th month pay. Accordingly, benefits in excess of P30,000.00 shall be taxable and subject to the withholding tax only insofar as the amount in excess of P30,000.00.

Illustration:

During CY 1994, Mr. "X", an employee of a private corporation, received the following 13th month pay and other benefits from his employer, such as:

13th month pay

P15,000.00

Christmas bonus

10,000.00

Other benefits:

Gift in kind

2,000.00

Additional cash gift

1,000.00

Mid-year productivity

incentive bonus

5,000.00

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T O T A L

P33,000.00

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Under the amendment introduced by R.A. No. 7833 to Section 28 (b) (8) of the NIRC, wherein sub-paragraph (F) has been inserted at the end thereof, the computation of the amount of the benefits which shall be excluded/exempted from the taxable compensation income and/or those subject to withholding tax on wages, if any, shall be as follows:

1. Computation of whether the full amount of subject "other benefits" as contemplated under Section 1 (F) (iv) of RA 7833 is exempt from withholding tax on wages.

Christmas bonus

P10,000

Plus: Other benefits:

Gift in kind

P2,000

Additional cash gift

1,000

Mid-year productivity

incentive bonus

5,000

8,000

T O T A L

P18,000

Less: P12,000 minimum exemption

for "other benefits" as

contemplated under Sec. 1

(F) (iv) of RA 7833

(P12,000)

Taxable "Other Benefits"

Subject to Withholding

Tax on Wages

P6,000

=====

II. Computation of total benefits excluded/exempted from withholding tax on wages when the "other benefits" are integrated in the 13th month pay.

13th month pay

P15,000

Plus: Maximum allowable

exemption of P12,000

for "other benefits" as

contemplated under

Sec. 1 (F) (iv) of RA 7833

(please refer to compu-

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tation No. 1 above)

12,000

Total Exclusions/Exemption

From Taxable Compensation

Income

P27,000

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3. For purposes of reimbursing the officials and employees of the income taxes withheld and already remitted to the BIR, the following guidelines shall be followed:

a. Employers who have already given the 13th month pay and other benefits to their employees, and had withheld and remitted the tax due thereon prior to the approval of R.A. No. 7833 (December 8, 1994) shall, in annualizing and computing the annual income and the tax due from their employees, exclude the 13th month pay and other benefits. Any excess in the tax withheld shall be refunded immediately by the employer to the respective employees or credited against the tax required to be withheld from the compensation of the employees beginning January, 1995. The employer shall then be allowed to credit and deduct from its subsequent remittances of taxes withheld on compensation income of their employees for the succeeding months;

b. Taxes withheld on the 13th month pay and other benefits given last November, which should otherwise be remitted by the employer-withholding agent on December 12, 1994, shall no longer be remitted to the BIR. Said withheld amount should be refunded to the employees concerned; and

c. The exemption/exclusion provided for under R.A. No. 7833 shall cover the 13th month pay and "other benefits" in the aggregate amount not exceeding P30,000 received by the officials and employees paid or accrued beginning January 1, 1994, provided, however, that the aforesaid "other benefits" as contemplated under Sec. 1 (F) (iv) of R.A. No. 7833 shall not exceed P12,000 which amount shall be integrated in the 13th month pay.

It is desired that the Circular be given as wide a publicity as possible.

Adopted: 14 December 1994

(SGD.) LIWAYWAY VINZONS-CHATO
Commissioner of Internal Revenue

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