NATIONAL ADMINISTRATIVE REGISTER · OCTOBER 30, 1992

IMPLEMENTING REPUBLIC ACT NO. 7497, “AN ACT AMENDING PERTINENT PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, RELATIVE TO THE FINAL WITHHOLDING TAX ON PURELY COMP...

BIR (DOF) REVENUE REGULATION NO. 4-93, October 30, 1992

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Pursuant to Sections 245 and 72 of the National Internal Revenue Code (NIRC), as amended, in relation to Section 15 of Republic Act No. 7497, these regulations are hereby promulgated to implement the provisions of said Act which amended pertinent provisions of the NIRC relative to the final withholding tax on purely compensation income.

SECTION 1. SCOPE - These regulations shall govern the collection at source of income tax on compensation income paid on or after January 1, 1992 further amending for the purpose pertinent provisions of Revenue Regulations No. 6-82, as amended, otherwise known as the “Withholding Tax Regulations on Compensation and prescribing Revised Withholding Tax Tables Therefor.” These regulations shall cover compensation income from Philippine sources of employed individuals, whether resident citizens and aliens or non-resident citizens or non-resident aliens engaged in trade or business in the Philippines.

SECTION 2. Section 7 of Revenue Regulations No. 6-82, as amended, is hereby further amended to read as follows:

> "Sec. 7. Requirement of Withholding XXXXXXXXXXXX"

I. Withholding of tax on compensation paid to resident employees - (a) In general, every employer making payment of compensation shall deduct and withhold from such compensation income for the entire calendar year, a tax determined in accordance with the prescribed new Withholding Tax Tables effective January 1, 1992 (ANNEX "A").

A. Legend of Symbols Used and Amount of Exemptions:

1. The Symbols used in the New Withholding Tax Table represent the following:

- Z - Zero exemption for (a) employee with multiple employers simultaneously, with respect to second, third, etc., employer; and (b) for employee who fail to file an exemption certificate (W-4).

- S- Single/Legally Separated Spouses/Widow/Widower without any qualified dependents.

- ME- Married Employee who is not legally separated

- HF- Head of the Family who is either Single/Legally Separated Spouses/Widower or Widow with qualified dependent parent, sister or brother, legitimate, recognized natural or legally adopted child.

2. The numerals (1-4) affixed to the status symbols ME and HF represent the number of qualified legitimate, recognized natural or legally adopted children.

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3. The asterisks (**)* under column SAPE represent special additional personal exemption of Four Thousand Pesos (P4,000) to be allowed if the gross compensation income of a single, married or head of family does not exceed the aggregate amount of Twenty Thousand Pesos (P20,000) during the calendar year (Monthly, P1,667.00; Semi-monthly, P833.00; Weekly, P385.00; and Daily P66.00).

4. Exemption - means the amount of exemption in Thousand Pesos an employee is entitled to claim as a deduction from the gross compensation income in accordance with his status, number of qualified dependent children and applicable special additional personal exemption.

B. Computation of Withholding Tax

1. In general — The employer shall determine the tax to be withheld and deducted in accordance with the following:

- Use the appropriate table for the payroll period: monthly, semi-monthly, weekly or daily, as the case may be.

- Determine the total monetary and non-monetary (cash value) compensation paid to an employee.

- Segregate the regular compensation from the supplementary compensation except when withholding under the cumulative average method. Regular compensation includes basic salary, fixed allowances for representation, transportation, housing, cost of living and other allowances or benefits (monetary and non-monetary) paid to an employee per payroll period. Supplementary compensation includes payments to an employee in addition to the regular compensation such as commission, overtime pay, taxable retirement pay, vacation and sick leave pay, profit sharing, bonus, 13th month pay, etc., with or without regard to a payroll period.

- Determine the line (horizontal) to be used corresponding to the status and number of qualified dependents. Use the appropriate status symbol with the corresponding symbol with the corresponding asterisks (**) indicated under the SAPE column if the gross compensation income does not exceed: Monthly, One Thousand Six Hundred Sixty Seven Pesos (P1,667.00); Semi-Monthly; Eight Hundred Thirty Three Pesos (P833.00); Weekly, Three Hundred Eighty Five Pesos (P385.00); and Daily, Sixty Six Pesos (P66.00). If the gross compensation income exceeds the respective foregoing amounts use the status symbol without any asterisks.

- Determine the column to be used by fixing the compensation level taking into account only the total amount of regular compensation income. The compensation level is the amount indicated in the line (as predetermined in paragraph B.1. (d) to which the regular compensation income is equal to or in excess, but not exceed the amount in the next column of the same line: Provided, however, That with respect to an employee entitled to a special additional personal exemption, the compensation level is the amount indicated in the line to which the gross compensation income is equal to or in excess, but not to exceed the amount in the next column of the same line.

- Compute the withholding tax due by adding the tax predetermined in the compensation level indicated at the top of the column to the product, which is computed by multiplying the excess of the total regular and supplementary compensation over the compensation level by the rate also indicated at the top of the same column".

EXAMPLE I

Mr. A, single, with no qualified dependent receives P1,450.00 as regular monthly compensation.

Computation:

Using the revised monthly Withholding Tax Table, the monthly withholding tax is computed by referring to Table A line 3 S with double asterisks (gross compensation income does not exceed: monthly, P1,667.00) of column 2 which shows a tax of P0.00 on P1,292.00 plus 1% of the excess (P1,450.00-P1,292.00 = P158.00).

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Total Compensation P 1,450.00

Less: Compensation level (line A-3 column 2) 1,292.00

Excess P 158.00

==========

Tax on

(P1,042.00) P 0.00

Tax on excess

(P158.00 x 1%) 1.58

Monthly Withholding Tax P 1.58

==========

EXAMPLE II

Mr. B, head of the family (with qualified dependent parent) receives P2,200.00 as monthly regular compensation and P300.00 as supplementary compensation for January or a total of P2,500.00.

Computation:

Using the Revised Monthly Withholding Tax Table, the withholding tax for January is computed by referring to Table A line 4 HF of column 4 (fix compensation level taking into account only the regular compensation income of P2,200.00) which shows a tax of P14.58 on P1,833.00 plus 7% of the excess P2,500.00 - P1,833.00 = P667.00).

Total Compensation

P

2,500.00

Less: Compensation level

(line A-4 column 4)

1,833.00

Excess

P 667.00

==========

Tax on (P1,833.00)

P

14.58

Tax on excess (P667.00 x 7%)

46.69

Withholding Tax for January

P

61.27

==========

EXAMPLE III

Mrs. C, married with two (2) qualified dependent children receives P3,500.00 as regular monthly compensation. Mr. C, her husband is also employed and claims for the additional exemptions.

Computation:

Using the Revised Monthly Withholding Tax Table, the withholding tax due is computed by referring to Table 6 ME of column 5 which shows a tax of P72.92 on P3,167.00 plus 11% of the excess (P3,500.00 - P3,167.00 =

P333.00).

Total Compensation

P

3,500.00

Less: Compensation level

(line A-6 column 5)

3,167.00

Excess

P 333.00

==========

Tax on (P3,167.00)

P

72.92

Tax on excess (P333.00 x 11%)

36.63

Monthly Withholding Tax

P

109.55

==========

EXAMPLE IV

Mr. D, married with two (2) qualified dependent children receives P1,500.00 as regular semi-monthly compensation. Mrs. D, his wife is also employed. Mr. D did not waive his right in favor of the wife to claim for the additional exemptions.

Computation:

Using the Revised Semi-Monthly Withholding Tax Table, the withholding tax is computed by referring to Table C line 2 ME2 of column 3 which shows a tax of P1.04 on P1,375.00 plus the excess (P1,500.00 - P1,375.00 = P125.00).

Total Compensation

P

1,500.00

Less:

Compensation level (line C-2 column 3)

1,375.00

Excess

P

125.00

==========

Tax on (P1,375.00)

P

1.04

Tax on excess

(P125.00 x 3%)

3.75

Semi-Monthly Withholding Tax

P 4.79

==========

EXAMPLE V

Mr. E, married with two (2) qualified dependent children receives P1,600.00 as regular semi-monthly compensation. Mrs. E, his wife is not employed.

Computation:

Using the revised semi-monthly withholding tax tables, the withholding tax due is computed by referring to Table C line 2 ME2 of column 4 which shows a tax of P7.29 on P1,583.00 plus 7% of the excess (P1,600.00 - P1,583.00 = P17.00).

Total Compensation

P

1,600.00

Less:

Compensation level (line C-2 column 4)

1,583.00

Excess

P

17.00

==========

Tax on (P1,583.00)

P

7.29

Tax on excess

(P17.00 x 7%)

1.19

Semi-Monthly Withholding Tax

P 8.48

==========

2. Exceptions –

"(a) Cumulative Average Method - If in respect of a particular employee, the regular compensation is exempt from withholding, but supplementary compensation is paid during the calendar year/or the supplementary compensation is equal to or more than the regular compensation to be paid, the employer shall determine the tax

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to be deducted and withheld in accordance with the cumulative average method provided hereunder:

- Add the amount of regular and supplementary compensation to be paid to an employee for the payroll period to an employee for the payroll period to the sum of regular and supplementary compensation paid since the beginning of the current calendar year.

- Divide the aggregate amount of compensation computed in No. (1) by the number of payroll period to which the amount relates.

- Compute the tax to be deducted and withheld on the cumulative average compensation determined in No. (2) in accordance with the appropriate table.

- Multiply the tax computed in No. (3) by the number of payroll periods to which it relates.

- Determine the excess, if any, of the amount of tax computed in No. (4) over the total amount of tax already deducted and withheld from the beginning payroll period to the last payroll period. The excess, as computed, shall be deducted and withheld from the compensation to be paid for the last payroll period of the current calendar year. The cumulative average method, once applicable to a particular employee at anytime during the calendar year, shall be the same method to be consistently used for the remaining payroll period/s of the same calendar year."

EXAMPLE VI

Mr. F, married with three (3) qualified dependent children whose spouse is not employed received the following compensation.

Note: Regular monthly compensation is exempt from withholding but supplementary compensation is paid during the calendar year.

2. Exceptions -
" a. Cumulative Average Method - if in respect of a particular employee, the regular compensation is exempt from witholding, but supplementary compensation is paid during the calendar year/or the supplementary compensation is equal to or more than the regular compensation to be paid, the employer shall determine the tax to be deducted and withheld in accordance with the cumulative average method provided hereunder;

- Add the amount of regular and supplementary compensation to be paid to an employee for the payroll period to the sum of regular and supplementary compensation paid since the beginning of the curent calendar year.

- Divide the aggregate amount of compensation computed in No. (1) by the number of payroll period to which the amount relates.

- Compute the tax to be deducted and withheld on the cumulative average compensation determined in No. (2) in accordance with the appropriate table.

- Multiply the tax computed in No. (3) by the number of payroll periods to which it relates.

- Determine the excess, if any, of the amount of tax computed in No. (4) over the total amount of tax already deducted and withheld from the beginning payroll period. The excess, as computed, shall be deducted and withheld from the compensation to be paid for the last payroll period of the current calendar year. The cumulative average method, once applicable to a particular employee at anytime during the calendar year, shall be the same method to be consistently used for the remaining payroll period/s of the same calendar year."

EXAMPLE VI

Mr. F. married with three (3) qualified dependent children whose spouse is not employed recived the following compensastion.

MONTHLY

REGULAR

SUPPLEMENTARY

TOTAL

COMPENSATION

COMPENSATION

COMPENSATION

Jan. P2,000.00 P1,500.00

P3,500.00

Feb. 2,000.00 1,500.00

3,500.00

Mar. 1,500.00 500.00

2,000.00

COMPUTATION:

1. For Jan. — P3,500.00 + 0

=

P3,500.00

For Feb. — P3,500.00 + P3,500.00

=

P7,000.00

For Mar. — P2,000 + P3,500.00 + P3,500

=

P9,000.00

2. For Jan. — P3,500/1

=

P3,500.00

For Feb. — P7,000/2

=

P3,500.00

For Mar. — P9,000/3

=

P3,000.00

3. For January

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Tax on P3,167.00 (line C.3, col. 3)

P2.08

Tax on excess (P333.00 x 3%)

9.99

Tax on P3,500.00

P 12.07

=======

For February

Tax on P3,167.00 (line C.3, col. 3)

P2.08

Tax on excess (P333.00 x 3%)

9.99

Tax on P3,500.00

P 12.07

=======

For March

Tax on P2,958.00 (line C.3, col. 2)

P 0.00

Tax on excess (P42.00 x 3%)

.42

Tax on P3,500.00

P

0.42

=======

4. For Jan. — P12.07 x 1

=

P12.07

For Feb. — P12.07 x 2

=

P24.14

For Mar. — P0.42 x 3

=

P1.26

5. For Jan. — P12.07 - 0

=

P12.07

For Feb. — P24.14 - P12.07

=

P12.07

For Mar. — P1.26 - P24.14

= NO W/HOLDING TAX

EXAMPLE VII

Mr. G, married with one (1) qualified dependent and whose spouse is also employed received the following compensation. Mr. G also explicitly waives his right to claim for the additional exemptions in favor of his wife.

Note: The supplemental compensation is equal to the regular compensation for the month of January. However, for the months of February and March the supplemental compensation is more than the regular compensation. The

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rule to be followed will still be the cumulative average method.

MONTHLY

REGULAR

SUPPLEMENTARY

TOTAL

COMPENSATION

COMPENSATION

COMPENSATION

Jan.

P3,000.00

P3,000.00

P6,000.00

Feb.

3,000.00

3,500.00

6,500.00

Mar.

3,000.00

5,000.00

8,000.00

COMPUTATION:

1.

For Jan. — P6,000.00 + 0

=

P6,000.00

For Feb. — P6,000.00 + P6,000.00

=

P12,000.00

For Mar. — P8,000 + P6,000.00 + P6,500

=

P20,500.00

2.

For Jan. — P6,000/1

=

P6,000.00

For Feb. — P12,500/2

=

P12,500.00

For Mar. — P20,500/3

=

P20,500.00

3.

For January

Tax on P4,833.00 (line A6 col. 6)

P

256.25

Tax on excess (P1, 167.00 x 15%)

175.05

Tax on P6,500.00

P

431.30

=======

For February

Tax on P4,833.00 (line A6, col. 6)

P

256.25

Tax on excess (P1, 167.00 x 15%)

P

212.55

Tax on P6,250.00

P 468.80

=======

For March

Tax on P6,500.00 (line A6, col. 7)

P 506.00

Tax on excess (P333.00 x 19%)

P 63.33

Tax on P6,833.33

P 569.58

=======

4. For Jan. — P 431.30 x 1

=

P 431.30

For Feb. — P 468.80 x 2

=

P 937.60

For Mar. — P 563.58 x 3

=

P 1,708.74

5. For Jan. — P 431.30 - 0

=

P 431.30

For Feb. — P 937.60 – P 431.30

=

P 506.30

For Mar. — P 1,708.74 – 937.30

=

P 771.14

(b) Annualized Withholding Tax Method — (1) When the employer — employee relationship is terminated before the end of the calendar year, and (2) when computing for the year-end adjustment to determine the amount to be either withheld in December of the current calendar year or refunded as excess withheld taxes, the employer shall determine the tax on the sum of the regular and supplementary compensation for the entire calendar year before the payment of the last compensation in accordance with the following procedures:

- Add the amount of regular and supplementary compensation to be paid to an employee for the last payroll period to the sum of the regular and supplementary compensation paid since the beginning of the current year, including the compensation income received from a previous employer/s if the employee has previous employer/s during the calendar year other than the present employer doing the annualized computation.

a) When the Employer - Employee relationship terminated before December - the total gross compensation income shall be the amount paid since the beginning of the current calendar year - to the termination of employment.

b) Year-end adjustment - the total gross compensation income shall be the amount paid since the beginning of the current calendar year to December.

- Deduct from the aggregate amount of compensation computed in No. 1 the amount of total exemption of the employee.

- Compute the amount of tax on the difference arrived at in No. 2 in accordance with the schedule provided in Section 21 (a) of the Tax Code, as follows:

OVER

BUT NOT
OVER

AMOUNT RATE

OVER

OF EXCESS

not over

2,500

0%

2,500

5,000

0 + 1%

2,500

5,000

10,000

25 + 3%

5,000

10,000

20,000

175 + 7%

10,000

20,000

40,000

875 + 11%

20,000

40,000

60,000

3,075 + 15%

40,000

60,000

100,000

6,075 + 19%

60,000

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100,000

250,000

13,675 + 24%

100,000

250,000

500,000

49,675 + 29%

250,000

500,000

over

122,175 + 35%

500,000

- Determine the deficiency or excess, if any, of the tax computed in No. 3 over the cumulative tax already deducted and withheld since the beginning of the current calendar year.

The deficiency tax (when the amount of tax computed in No. 3 is greater than the amount of cumulative tax already deducted and withheld) or when no tax has been withheld from the beginning of the calendar year shall be deducted from the last payment of compensation for the calendar year. If the deficiency of tax is more than the amount of last compensation to be paid an employee, the employer shall be liable to pay the amount of tax which cannot be collected from the employee. The obligation of the employee to the employer arising from the payment by the latter of the amount of tax which cannot be collected from the compensation of the employee is a matter of settlement between the employee and the employer.

The excess tax (when the amount of cumulative tax already deducted and withheld is greater than the tax computed in No. 3) shall be credited or refunded to the employee. In return, employer is entitled to deduct the amount refunded from the remittable amount of taxes withheld from compensation income in the current month in which the refund was made, and in the succeeding months thereafter until the amount refunded by the employer is fully repaid.

EXAMPLE VIII

Employer-employee relationship terminated before December.

Mr. X head of the family with no qualified dependent children receives P8,000.00 as monthly regular compensation starting January 1, 1992. On June 1, 1992, he filed his resignation effective June 30, 1992. The tax withheld from January to May was P4,031.25.

COMPUTATION:

1. Total compensation received from January 1 to May 31, 1992

P40,000.00

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Compensation to be received on June

8,000.00

Gross compensation Jan-June

P48,000.00

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2. Gross compensation

P48,000.00

Less: Personal exemption

12,000.00

Taxable compensation income

P36,000.00

==========

3. Tax on P20,000.00

P875.00

Tax on excess (P16, 000 x 11%)

1,760.00

Tax on P36,000.00

P2,635.00

==========

4. Tax due

P2,635.00

Less: Tax withheld from Jan.-May

4,031.25

Tax to be refunded to employee X

P(1,396.25)

==========

EXAMPLE IX

Year-End Adjustment

XYZ Company — employer has the following employees:

1. Mr. A, married with one dependent receives a salary of P4,000.00 a month. Sometime in October his wife who is also employed, gave birth to a second child thereby increasing their additional exemption to

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P10,000.00. However, he was able to file an amended W-4 only in December.

2. Mr. B, married and whose wife is not employed, receives a monthly salary of P4,000.00.

3. Mrs. C, whose husband is also employed receives a monthly salary of P1,500.00. Mr. and Mrs. C have no children.

4. Mr. D, head of family, started working with XYZ, only in August 1992, receiving a monthly salary of P8,000.00. Mr. D submitted to his new employer (XYZ Co.) a certification of tax withheld (W-2) issued by his employer (ABC Co.) showing a compensation income of P12,000.00 from January to June, 1992 and a tax withheld therefrom in the amount of P315.00.

5. XYZ Company gave a 50% of their monthly salary as bonus for December to employees A, B, C and D for the calendar year 1992.

COMPUTATION:

Alphabetical List of Employee from whom taxes are withheld.

NAME OF TIN

GROSS COMPENSATION
INCOME FROM

TOTAL EXEMP

TAX DUE (COMPUTED UNDER SEC 21 (a) NIRC) OF NET TAXABLE COMPENSATION INCOME

TAX WITHHELD FROM JAN. TO NOV. (COMPUTED MONTHLY UNDER THE WITHHOLDING TAX TABLE)

MR. A -

50,000

28,000

1,095.00

1,306.69

MR. B -

50,000

18,000

2,195.00

2,415.08

MR. C -

18,750

18,000

0.00

838.75

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MR. D -

(44, 000 + 12,000)

56,000

12,000

3,675.00

3,480.00

P174,750

P6,965.00

P8,040.52

=========

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YEAR-END
ADJUSTMENT

TAX WITHHELD
TO BE REFLECTED IN W-2

AMOUNT TO BE
WITHHELD FOR DECEMBER AMOUNT TO BE
REFUNDED TO EMPLOYEE

(211.69) - 1,095.00

(220.08) - 2,195.00

(838.75) -

195.00 -- 3,675.00

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P195.00 (1,270.52) ---

========== ========== ==========

NOTE: The W-2 to be given to the employees will show gross compensation and tax withheld as follows:

GROSS

COMPENSATION

TAX WITHHELD

MR. A

P 50,000.00

P

1,095.00

MR. B

50,000.00

2,195.00

MR. C

18,750.00

0.00

MR. D

56,000.00

3,675.00

-Amount against to be refunded by XYZ Company to the employee not later than January 25, 1993.

--Amount to be deducted from the December salary of the employees

---Creditable against remittances of taxes withheld for the month of December is the amount of P1,075.52 (P195.00 - P1,270.52 = P1,075.52). A Monthly Return of Income Tax Withheld (BIR Form 1743W) for December is still required to be filed by XYZ Company whether or not taxes have been withheld.

SECTION 5. The husband and wife shall be considered as separate taxable unit. However, they shall file only one return but shall compute their individual income tax based on their respective total taxable income.

SECTION 6. Section 8 of Revenue Regulations No. 6-82, as amended, is hereby further amended to read as follows:

"Sec. 8. Right to claim the following exemptions “X X X X X X X X X X X X X X X X”

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Each employee shall be allowed to claim the following amount of exemptions, with respect to compensation paid on or after January 1, 1992.

1. Basic personal exemptions -

a. For single individual or married individual judicially decreed as legally separated with no qualified dependents - P9,000.00

b. For each legally married employees - P18,000.00.

A married individual, whose spouse is unemployed or is a non-resident citizen deriving income from foreign sources the employed spouse or the spouse employed within the Philippines shall be entitled to a personal exemption of P18,000.00 only.

c. For head of family — P12,000.00

2. Additional Exemptions -Taxpayers with dependents - A married individual or a head of family shall be allowed an additional exemption of Five thousand pesos (P5,000) for each qualified dependent child, provided that the total number of dependents for which additional exemptions may be claimed shall not exceed four (4) dependents.

The additional exemptions for qualified dependent children shall be claimed by only one of the spouses in the case of married individuals.

The husband shall be the proper claimant of other additional exemption for qualified dependent children unless he explicitly waives his right in favor of his wife in the withholding exemption certificate. Provided, however, that where the spouse of the employee is unemployed, is a non-resident citizen deriving income from foreign sources, the employed spouse shall be entitled to claim the additional exemptions for children.

A dependent means a legitimate, recognized natural or legally adopted child chiefly dependent upon and living with the taxpayer if such dependent is not more than twenty-one (21) years of age, unmarried and not gainfully employed or if such dependent, regardless of age, is incapable of self-support because of mental or physical defect.

3. Special Additional Personal Exemption (SAPE) - If the gross compensation income of single, married or legally separated individual, or head of family does not exceed the aggregate (combined compensation income of husband and wife) amount of Twenty Thousand Pesos (P20,000), he is further entitled to a special additional personal exemption of Four Thousand Pesos (P4,000).

SECTION 7. Section 9 of Revenue Regulations No. 6-82 as amended is hereby further amended to read as follows:

> "Sec. 9. Withholding Compensation and Exemption Certificate - BIR Form W-4 (Annex "B")* - means the certificate to be accomplished by both employer and employee relating to the following information and other requirements.

A. Employee

1. Name/TIN/Address of employee

2. Status of the employee — (whether Single, Married, Head of the Family, legally separated or a widow or widower)

3. Status of spouse of the employee — If the employee is legally married, the Name/TIN, if any, of the spouse and whether said spouse is employed, unemployed, employed abroad, or is engaged in trade or business should be

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indicated on the certificate.

4. Qualified Dependents — Name and date of birth of qualified dependents (child/ren, parent/s, brother/s or sister/s).

5. Claimant of Exemptions for Children — The husband is the proper claimant of additional exemptions for qualified children. However, the wife shall claim full additional exemption for children in the following cases:

1. Husband is unemployed

2. Husband is non-resident citizen deriving income from foreign sources

3. The husband waives his right to claim the exemptions of children (waiver should be for all children) in a sworn statement to be attached to his and his wife's exemption certificates, in accordance with the procedures prescribed in Letter C, No. 4 of this Section.

6) Multiple employments concurrently — If the employee is employed concurrently by two or more employers within the same period of time during the taxable year, the said employee shall file a certificate (W-4) with his main employer (employer paying the higher/est wage) and a separate certificate with his secondary employers (2nd, 3rd, etc., employers) and shall show in the certificate the fact that the certificate is being filed with the main employer or secondary employers. The employed husband and wife shall each file a separate certificate with their employers.

> 7) Multiple Employment Successively — If the employee transferred to another employer during the taxable year, said employee shall furnish his new Employer with a Certificate of Compensation and Exemption (W-4) indicating therein his previous employments during the taxable year (name of employer/s, address/s, TIN/s and the date/s of his separation) and attach to the said certificate (W-4), the Certificate of Income Tax Withheld on Compensation (W-2) for the calendar year issued by previous employer/s.
>
> 8) Mixed Income — An individual receiving a combination of compensation and business/professional income shall first deduct allowable personal and additional exemptions from compensation income any excess therefrom, from business or professional income. In the case of husband and wife however, the husband shall be the proper claimant of the exemptions unless he waives it in favor of his wife in the withholding exemption certificate.

B. Employer — The employer with whom the Withholding Compensation and Exemption (W-4) is filed, must stamp the date of receipt thereon and accomplish the portion of the said certificate (Schedule B) showing regular and supplemental compensation to be paid to the employee during the payroll period and the total amount of personal and additional exemptions to be granted to the employee.

C. Procedures for the filing of the Certificate (W-4)

- All employers shall require their employees to accomplish in quadruplicate the Compensation and Exemption Certificate (described above) as follows:

> a. All employees as of December 31, 1992 shall accomplish and file certificate with the employers not later than February 28, 1993.
>
> b. New employees shall accomplish and file the certificate within five (5) days from the date of commencement of employment.
>
> c. In case of increase or decrease of personal and additional exemptions, an amended certificate showing the changes of exemptions must be submitted to the employer within ten (10) days after such change. The employer shall then make the necessary adjustments on the withholding tax of the employee based on the new

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exemptions.

d. Forms of Certificate will be supplied to employers upon request from the Bureau of Internal Revenue. In case the prescribed forms are not available for any reason, employers shall prepare and use forms substantially identical to the prescribed form.

- The employer shall transmit the original and triplicate copies of the certificate (after accomplishing Schedule B of the Certificate) to the Revenue District officer of the City or Municipality where the employer has his legal residence or place of business within thirty (30) days from February 28, 1993 or from the date of receipt from employee. The duplicate copy shall be retained while the 4th copy shall be given to the employee.

- The employer shall review the exemptions of the employees and shall in the computation of taxes required to be withheld on the compensation of employees apply only the correct and applicable exemptions as provided for in these regulations. If the employer has reason to believe that the exemptions claimed by an employee is greater than the exemptions to which such employee is entitled, said employer may require the submission of documents like marriage contracts, judicial declaration of adoption, contract of employment abroad, mayor's permit to engage in business, certificate of registration with the Bureau of Domestic Trade/BIR, and other documents to prove correctness of declaration in the W-4. In case of failure to submit the required documents, the Commissioner of Internal Revenue should be so advised.

- In case the husband waives his right to claim the exemptions of children in favor of his wife, he shall accomplish a waiver form* (BIR Form No. ____) in accordance with the following procedures:

a. Fill up three (3) copies of the prescribed waiver form (BIR Form No. ____)

b. Submit to his employer within five (5) days from employment, together with the BIR Form W-4 said waiver form for acknowledgment in the space provided for that purpose.

b.1 The employer of the husband shall:

b.1.1 After filling up the acknowledgement portion of the waiver form, retain the duplicate copy of the form and furnish the employee the original and triplicate copies for submission to the employer of the wife and for file of the employee, respectively.

b.1.2 Stop deductions of exemptions of children from the husband's compensation income starting the following month.

b.2 The employer of the wife shall:

b.2.1 Upon receipt of copy of the waiver form duly acknowledged by the employer of the husband, start deducting exemptions of children from the wife's income on the month when employer stopped deducting the exemptions.

c. The employed husband and wife shall apply the waiver in the computation of their respective taxable income in the income tax return required to be filed by them under Section 9 and 13 (3) of these regulations, that is, the husband shall not deduct exemptions of children from his compensation income because he has waived the same (exemptions of children) in favor of his wife who will now deduct said exemptions from her income in computing her tax due.

Waiver exercised during the calendar years shall be made only once in a calendar year and shall take effect for the present calendar year and succeeding year/s until revoked by the husband. Any waiver/revocation of such waiver done after the deadline shall take effect only starting the succeeding calendar year. In no case should an employer of the wife deduct exemptions of children from the wife's income unless the waiver by the husband has been duly

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acknowledged by the employer of the husband.

For all employees as of December 31, 1992 the waiver form shall be submitted to the employer of the husband together with the W-4 not later than February 28, 1993. The employee shall then submit a copy of such waiver form to the employer of the wife within five days from date of receipt and acknowledgement by the employer of the husband.

SECTION 8. Sec. 16 of Revenue Regulations 6-82, as amended is hereby further amended to read, as follows:

> "Sec. 16. Return and payment of income tax withheld the compensation BIR Form 1743-W — Every person required under the provisions of Chapter X, Title II of the NIRC, to deduct and withhold the tax on compensation shall make a return and pay such tax on or before the 10th day of the month following the month in which withholding was made to any authorized agent bank within the Revenue District Office or in places where there are no agent banks, to the Revenue District Officer of the City or Municipality where the Withholding Agent/Employers legal residence or place of business or office is located. Provided, However, That taxes withheld from the last compensation (December) for the calendar year shall be paid not later than January 25 of the succeeding year.

SECTION 9. Sec. 19 of Revenue Regulations No. 6-82 is hereby deleted and a new paragraph is provided as follows:

Filing of income tax returns by employees receiving purely compensation income. — Individual taxpayers receiving purely compensation income from Philippine sources which does not exceed an aggregate amount of P60,000.00 for the calendar year and the income tax on which has been withheld correctly by the employer (tax withheld equals tax due) shall no longer file an income tax return (1701A) as required under Section 44 of the NIRC. The following individuals, however, are still required to file their income tax returns:

1. Individuals deriving compensation concurrently from two or more employers at anytime during the taxable year.

2. Individuals whose purely compensation income for the taxable year exceeds P60,000.00.

3. Individuals receiving a combination of compensation and business income (mixed income). This includes a married individual receiving purely compensation income whose spouse derives income from business.

In case of married individuals who are still required to file returns, only one returns for the taxable year shall be filed by either spouse to cover the income of both spouses.

4. Employees whose total compensation income regardless of the amount, whether from a single or several employers during the calendar year, the income tax on which has not been withheld correctly, that is, that the total withholding tax is not equals the total tax due on total compensation income for the taxable year.

5. In case of married individuals where one of the spouses receive compensation income exceeding sixty thousand pesos (P60,000) a return shall be filed to include the income of the other spouse whose compensation is P60,000 or less.

SECTION 10. Sec. 20. of Revenue Regulations No. 6-82 as amended is hereby further amended to read as follows:

a. Employee's Withholding Statements — BIR Form W-2 (Annex "C")* In general, every employer or other person required to deduct and withhold the tax shall furnish every employee from whose compensation taxes have been withheld the Certificate of Income Tax Withheld on Compensation on or before January 31 of the succeeding calendar year, or if his employment is terminated before the close of such calendar year, on the day on which the

last payment of compensation is made.

The employer shall furnish each employee with the original and duplicate copies of BIR Form W-2 showing the name and address of the employer, employer's TIN, name and address of the employee, taxpayer's TIN, amount of exemptions claimed, the sum of compensation paid the amount of tax due and the amount of tax withheld during the calendar year.

The statement must be signed by both the employer or other authorized officer and the employee and shall contain a written declaration that it is made under the penalties of perjury.

If the employer is the Government of the Philippines, its political subdivision, agency or instrumentality or government-owned or controlled corporation, the statement shall be signed by the duly designated officer or employee.

b. Extension of time for furnishing statements to employee. — An extension of time, not exceeding 30 days, within which to furnish the Employer's Withholding Statement (BIR Form W-2) required by Section 95(a) upon termination of employment is hereby granted to any employer with respect with respect to any employee whose employment is terminated during the calendar year. In the case of intermittent or interrupted employment where there is reasonable expectation on the part of both employer and employee of further employment, there is no requirement that an employee's withholding statement be immediately furnished the employee; but when such expectation ceases to exist, the statement must be furnished within 30 days from the date of termination of employment. The extension mentioned under this section refers to extension of time for furnishing the employee the employee's withholding statement (BIR Form W-2) upon termination of employment.

SECTION 11. Section 21 of Revenue Regulations No. 6-82 as amended is hereby further amended to read as follows. - Every employer or other person required to deduct and withhold the tax shall, on or before January thirty-first of the succeeding year, file with either the Collection Agent or authorized municipal treasurer or Revenue District Officer or Commissioner of Internal Revenue the Annual Return of Income Tax Withheld on Compensation (BIR Form W-3), to be submitted with an alphabetical list of employees, both in duplicate copies.

The Annual Return of Income Tax Withheld on Compensation must show the following:

a. Withholding agent's registered name, address and taxpayer's identification number (TIN)

b. Amount and date of remittance for the 12 months of the calendar year

c. Name of Bank, Bank Code/ROR (if any)

The alphabetical list of employees must show the following:

a. Name and TIN of employees

b. Gross compensation paid all present and previous employers for the calendar year

c. Amount of exemptions.

d. Tax required to be withheld computed in accordance with Section 21 (a) of the Tax Code

e. Tax withheld by all present and previous employers for the calendar year

f. Adjustment, if any

The alphabetical list of employees shall be prepared indicating separate listings of the following:

A. Employees as of December 31 of the taxable year.

B. Employees terminated prior to the year-end adjustment computation showing the month of termination/month of last payment of compensation during the year of termination.

C. Employees (non-resident citizen) whose services are rendered abroad.

D. Alien employees subject to final withholding tax

SECTION 12. Liability for tax -

a. Employer

- In general, the employer shall be liable for the withholding and remittance of the correct amount of tax required to be deducted and withheld from the compensation income of his employees. If the employer fails to withhold and remit the correct amount of tax as required to be withheld, such tax shall be collected from the employer together with the penalties or additions to the tax otherwise applicable in respect of such failure to withhold and remit.

- The employer required to collect, account for and remit any tax imposed by the NIRC who willfully fails to collect such tax, or account for and remit such tax or willfully assists in any manner to evade any such tax or the payment thereof, shall, in addition to other penalties, provided for in Chapter I, Title X of the NIRC be liable to a penalty equal to the amount of the tax not collected or not accounted for or remitted.

- Any employer-withholding agent who fails, or refuses to refund excess withholding tax that shall, in addition to the penalties provided in Title X of the NIRC be liable to a penalty equal to the total amount of refunds which was not refunded to the employee resulting from any excess of the amount withheld over the tax actually due on their return.

b. Employee - Where an employee fails or refuses to file the withholding exemption certificate or willfully supplies false or inaccurate information thereunder, the tax otherwise to be withheld by the employer shall be collected from his including penalties or addition to the tax from the due date of remittance until the date of payment. On the other hand, excess taxes withheld made by the employer due to: (a) failure or refusal to file the withholding exemption certificate; or (b) false and inaccurate information shall not be refunded to the employee but shall be forfeited in favor of the Government.

A. ADDITIONS TO THE TAX -

a. There shall be imposed, in addition to the tax required to be paid, a penalty equivalent to twenty five percent (25%) of the amount due, in the following cases:

1. Failure to file any required documents under the provisions of the NIRC or regulations on the date prescribed; or

2. Filing a return with an internal revenue officer other than those with whom the return is required to be filed; or

3. Failure to pay the tax within the time prescribed for its payment; or

4. Failure to pay the full amount of the tax shown on any return required to be filed under the provisions of the NIRC or regulations, or the full amount of tax due for which no return is required to be filed, on or before the date prescribed for its payment.

5. In case of willful neglect to file the return within the period prescribed by the NIRC or regulations, or in case a false or fraudulent return is willfully made, the penalty to be imposed shall be fifty percent (50%) of the tax of the deficiency tax, in case any payment has been made on the basis of such return before the discovery

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of the falsity or fraud.

6. The penalties imposed hereunder shall form part of the tax and the entire amount shall be subject to the interest prescribed in Section 249, NIRC.

b. Interest — There shall be assessed and collected on any unpaid amount of tax, interest at the rate of twenty percent (20%) per annum, or such higher rate as may be prescribed by regulations, from the date prescribed for payment until the amount is fully paid.

c. Deficiency Interest — Any deficiency in the tax due, at the term is defined in the NIRC, shall be subject to the interest prescribed on paragraph (a) hereof, which interest shall be assessed and collected from the date prescribed for its payment until the full payment thereof.

If the withholding agent is the government or any of its agencies, political subdivisions, or instrumentalities, or a government-owned or controlled corporations, the employee thereof responsible for the withholding and remittance of tax shall be personally liable for the surcharge and interest imposed herein.

B. SPECIFIC PENALTIES —

1. Failure to file return, supply correct and accurate information, pay tax, withhold and remit tax and refund excess taxes withheld on compensation — Any person required under the NIRC or by regulations to pay any tax, make a return, keep any record[s], or supply correct and accurate information, who willfully fails to pay such tax, make such return, keep such record[s], or supply such correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law, shall in addition to the other penalties provided by law, upon conviction thereof, be fined not less than Ten Thousand Pesos (P10,000) and imprisonment of not less than one (1) year but not more than ten (10) years.

2. Declaration under penalties of perjury. — Any declaration, return and other statements required under the NIRC, shall, in lieu of an oath, contain a written statement that they are made under the penalties of perjury. Any person who willfully files a declaration, return or statement containing information which is not true and correct as to every material matter shall, upon conviction, be subject to the penalties prescribed for perjury under the Revised Penal Code.

3. Violation of withholding tax provision by a government officer.— Every officer or employee of the government of the Republic of the Philippines or any of its agencies and instrumentalities, its political subdivisions, as well as government-owned or controlled corporation including the Central Bank who, under the provisions of the NIRC or regulations promulgated thereunder, is charged with the duty to deduct and withhold any internal revenue tax and to remit the same in accordance with the provisions of the NIRC and other laws is guilty of any offense hereinbelow specified shall, upon conviction for each act or omission, be fined in a sum of not less than five thousand pesos but not more than fifty thousand pesos or imprisoned for a term of not less than six months and one day but not more than two years, or both:

- Those who fail or cause the failure to deduct and withhold any internal revenue tax under any of the withholding tax laws and implementing regulations;

- Those who fail or cause the failure to remit taxes deducted and withheld within the time prescribed by law, and implementing regulations; and

- Those who fail or cause the failure to file return or statement within the time prescribed, or render or furnish a false or fraudulent return or statement required under the withholding tax laws and regulations.

(4) Violation of other provisions of the NIRC or regulations in general. A person who violates any provision of the NIRC or any regulation, for which no specific penalty is provided by law shall, upon conviction for its act or omission, be fined in a sum of not more than one thousand pesos or imprisoned for a term of not more than six months, or both.

SECTION 13. Transitory Provisions

1. BIR Form W-3* In addition to the statement of the Alphabetical List of Employees to BIR Form W-3, the Withholding Agent shall also attach to the said W-3, a statement of the details of adjustments of refunds/credits made in 1992, together with the BIR Form 1743-W's (Monthly Remittance Return) where the adjustments of refunds/credits were made, showing a reconciliation of the amount of taxes required to be withheld and remitted and amounts actually remitted for 1992.

2. Multiple Employment on a Successive basis - For taxable year 1992, the employer shall compute the year-end adjustment on the basis of the compensation income paid by it to the employee, without need to include the compensation paid by previous employers.

3. Married employees who resigned or whose services were terminated before the 1992 year-end adjustment computation.

Married employees who resigned or whose services were terminated before the 1992 year-end adjustment computation and were given P7,000 personal exemption in the computation of taxes withheld from their last compensation in 1992 shall file their income tax return regardless of the amount of compensation.

SECTION 14. Repealing Clause — All existing regulations and regulations or parts thereof which are inconsistent with the provisions of these regulations are hereby revoked.

SECTION 15. Effectivity — These regulations shall take effect on compensation income beginning January 1, 1992 except as provided for in the transitory provisions of these regulation.

Adopted: 30 Oct. 1992

(Sgd.) RAMON R. DEL ROSARIO, JR.
Secretary of Finance

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* See Appendix 1, Revised Withholding Tax Table on pp. 188-191.

* See Appendix 2, BIR Form W-4 on p. 192-193.

* See Appendix 3, Sworn Statement on p. 194.

* See Appendix 4, BIR Form W-2 on p. 195-196.

* See Appendix 5, BIR Form W-3 on p. 197-198.

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