

AMENDING SECTIONS 2.78.1(A)(1), (A)(6), (A)(7), AND (B)(11)(B) OF REVENUE REGULATIONS NO. 2-98, AS AMENDED, AND SECTION 2.33(C) OF REVENUE REGULATIONS NO. 3-98, WITH RESPECT TO ...

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Section 1. Scope - Pursuant to Section 244 of the 1997 Tax Code, in relation to Section 78 thereof pertaining to the withholding of income tax on compensation income, these Regulations are hereby promulgated amending Sections 2.78.1 (A)(1), (A)(3), (A)(6), (A)(7), and (B)(11)(b) of Revenue Regulations No. 2-98, as amended, to further clarify certain benefits/privileges received by the employees which are not considered as items of income and therefore not subject to income tax and consequently, to the withholding tax. Likewise amended is the enumeration of the items of de-minimis benefits which are exempt from fringe benefits tax as appearing under Sec. 2.33(C) of Revenue Regulations No. 3-98.

Sec. 2. Amendments-Sec. 2.78.1 (A)(1),(A)(3), (A)(6),(A)(7),(B)(11)(b) and (B)(13) are hereby amended to read as follows:

"Sec. 2.78.1. Withholding of Income Tax on Compensation income -

"(A) xxx xxx xxx

"(1) Compensation paid in kind, xxx xxx

"Where compensation is paid in property other than money, the employer shall make necessary arrangements to ensure that the amount of the tax required to be withheld is available for payment to the Commissioner.

"(3) Facilities and privileges of relatively small value - Ordinarily, facilities and privileges (such as entertainment, medical services, or so-called "courtesy discounts" on purchases), otherwise known as "de minimis benefits," furnished or offered by an employer to his employees, are not considered as compensation subject to INCOME TAX AND CONSEQUENTLY TO withholding tax, if such facilities are offered or furnished by the employer merely as means of promoting the health, goodwill, contentment, or efficiency of his employees.

"THE FOLLOWING SHALL BE CONSIDERED AS UDE MINIMIS" BENEFITS NOT SUBJECT TO WITHHOLDING TAX ON COMPENSATION INCOME OF BOTH MANAGERIAL AND RANK AND FILE EMPLOYEES:(a) MONETIZED UNUSED VACATION LEAVE CREDITS OF EMPLOYEES NOT EXCEEDING TEN (10) DAYS DURING THE YEAR;(b) MEDICAL CASH ALLOWANCE TO DEPENDENTS OF EMPLOYEES NOT EXCEEDING P750.00 PER EMPLOYEE PER SEMESTER OR P125 PER MONTH;(c)RICE SUBSIDY OF P1,000.00 OR ONE (1) SACK OF 50-KG. RICE PER MONTH AMOUNTING TO NOT MORE THAN P1,000.00;(d) UNIFORMS AND CLOTHING ALLOWANCE NOT EXCEEDING P3,000 PER ANNUM;(e) ACTUAL YEARLY MEDICAL BENEFITS NOT EXCEEDING P10,000 PER ANNUM;(f) LAUNDRY ALLOWANCE NOT EXCEEDING P300 PER MONTH;(g) EMPLOYEES ACHIEVEMENT AWARDS, E.G., FOR LENGTH OF SER-VICE OR SAFETY ACHIEVEMENT, WHICH MUST BE IN THE FORM OF A TANGIBLE PERSONAL PROPERTY OTHER THAN CASH OR GIFT CERTIFICATE, WITH AN ANNUAL MONETARY VALUE NOT EXCEEDING P10,000.00 RECEIVED BY THE EMPLOYEE UNDER AN ESTABLISHED WRITTEN PLAN WHICH DOES NOT DISCRIMINATE IN FAVOR OF HIGHLY PAID EMPLOY;(h) GIFTS GIVEN DURING

CHRISTMAS AND MAJOR ANNIVERSARY CELEBRATIONS NOT EXCEEDING P5.000 PER EMPLOYEE PER ANNUM;(i) FLOWERS, FRUITS, BOOKS, OR SIMILAR ITEMS GIVEN TO EMPLOYEES UNDER SPECIAL CIRCUMSTANCES, E.G., ON ACCOUNT OF ILLNESS, MARRIAGE, BIRTH OF A BABY, ETC.; AND(J) DAILY MEAL ALLOWANCE FOR OVERTIME WORK NOT EXCEEDING TWENTY FIVE PERCENT (25%) OF THE BASIC MINIMUM WAGE."THE AMOUNT OF UDE MINIMIS" BENEFITS CONFORMING TO THE CEILING HEREIN PRESCRIBED SHALL NOT BE CONSIDERED IN DETERMINING THE P30.000 CEILING OF "OTHER BENEFITS" PROVIDED UNDER SECTION 32(B)(7)(e) OF THE CODE. HOWEVER, IF THE EMPLOYER PAYS MORE THAN THE CEILING PRESCRIBED BYTHESE REGULATIONS, THE EXCESS SHALL BE TAXABLE TO THE EMPLOYEE RECEIVING THE BENEFITS ONLY IF SUCH EXCESS IS BEYOND THE P30,000.00 CEILING. PROVIDED, FURTHER, THAT ANY AMOUNT GIVEN BY THE EMPLOYER AS BENEFITS TO ITS EMPLOYEES, WHETHER CLASSIFIED AS DE MINIMIS BENEFITS OR FRINGE BEN-EFITS, SHALL CONSTITUTE AS DEDUCTIBLE EXPENSE UPON SUCH EMPLOYER.

"(4) xxx xxx xxx"(5) xxx xxx xxx"(6) Fixed or variable transportation, representation and other allowance

"(a) IN GENERAL, fixed or variable transportation, representation and other allowances which are received by a public officer or employee of a private entity, in addition to the regular compensation fixed for his position or office, is compensation subject to withholding. PROVIDED, HOWEVER, THAT REPRESENTATION AND TRANSPORTATION ALLOWANCE (RATA) GRANTED TO PUBLIC OFFICERS AND EMPLOYEES UNDER THE GENERAL APPROPRIATIONS ACT AND THE PERSONNEL ECONOMIC RELIEF ALLOWANCE (PERA) WHICH ESSENTIALLY CONSTITUTES REIMBURSEMENT FOR EXPENSES INCURRED IN THE PERFORMANCE OF GOVERNMENT PERSONNEL'S OFFICIAL DUTIES SHALL NOT BE SUBJECT TO INCOME TAX AND CONSEQUENTLY TO WITHHOLDING TAX. PROVIDED FURTHER, THAT PURSUANT TO E.O. 219 WHICH TOOK EFFECT ON JANUARY 1, 2000, ADDITIONAL COMPENSATION ALLOWANCE (ACA) GIVEN TO GOVERNMENT PERSONNEL SHALL NOT BE SUBJECT TO WITHHOLDING TAX PENDING ITS FORMAL INTEGRATION INTO THE BASIC PAY. CONSEQUENTLY, AND EFFECTIVE FOR THE TAXABLE YEAR 2000, ACA SHALL BE CLASSIFIED AS PART OF THE "OTHER BENEFITS" UNDER SECTION 32(B)(7)(e) OF THE CODE WHICH ARE EXCLUDED FROM GROSS COMPENSATION INCOME PROVIDED THE TOTAL AMOUNT OF SUCH BENEFITS DOES NOT EXCEED P30,000.00.

"(b) Any amount paid specifically, either as advances or reimbursements for traveling, representation and other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred by the employee in the performance of his duties are not compensation subject to withholding, if the following conditions are satisfied:

"(i) It is for ordinary and necessary traveling and representation or entertainment expenses paid or incurred by the employee in the pursuit of the trade, business or profession; and

"(ii) The employee is required to account/liquidate for the foregoing expenses in accordance with the specific requirements of substantiation for each category of expenses pursuant to Sec. 34 of the Code. The excess of actual expenses over advances made shall constitute taxable income if such amount is not returned to the employer. Reasonable amounts of reimbursements/advances for traveling and entertainment expenses which are pre-computed on a daily basis and are paid to an employee while he is on an assignment or duty need not be subject to the requirements of substantiation and to withholding."

" xxx xxx xxx

"(B) Exemptions from withholding tax on compensation. The following income payments are exempted from the requirement of withholding tax on compensation.

" xxx xxx xxx

"(11) Thirteenth (13th) month pay and other benefits. -

"(a) xxx xxx xxx

"(b) Other benefits such as Christmas bonus, productivity incentives, loyalty award, gift in cash or in kind and other benefits of similar nature actually received by officials and employees of both government and private offices, INCLUDING THE ADDITIONAL COMPENSATION ALLOWANCE ("ACA") GRANTED AND PAID TO ALL OFFICIALS AND EMPLOYEES OF THE NATIONAL GOVERNMENT AGENCIES "(NGAS) INCLUDING STATE UNIVERSITIES AND COLLEGES (SUCs), GOVERNMENT-OWNED AND/OR CONTROLLED CORPORATIONS (GOCCS), GOVERNMENT FINANCIAL INSTITUTIONS (GFIs) AND LOCAL GOVERNMENT UNITS (LGUs)

"The above stated exclusions (a) and (b) shall cover benefits paid or accrued during the year provided that total amount shall not exceed thirty thousand pesos (P30,000.00) which may be increased through rules and regulations issued by the Secretary of Finance, upon recommendation of the Commissioner, after considering, among others, the effect on the same of the inflation rate at the end of the taxable year."

"(12) xxx xxx xxx

"(13) FACILITIES AND PRIVILEGES OF RELATIVELY SMALL VALUE OR "DE MINIMIS" BENEFITS AS DEFINED UNDER THESE REGULATIONS."

Sec. 3. Repealing Clause - Sections 2.78.1(A)(1), (A)(3), (A)(6), (A)(7), and (B)(11)(b) of Revenue Regulations No. 2-98, including the enumeration of the items of de-minimis benefits which are exempt from fringe benefits tax as appearing under Sec. 2.33(C) of Revenue Regulations No. 3-98 are hereby modified and the inclusion of Sec. 2.78.1 (B)(13} in accordance with the amendments under these Regulations. All provisions of these Regulations are hereby revoked, modified or amended accordingly.

Sec. 4. Effectivity Clause - These Regulations shall take effect fifteen (15) days after publication in any newspaper of general circulation.

Adopted: 21 Aug. 2000

(SGD.) JOSE T. PARDO

Secretary of Finance

RECOMMENDING APPROVAL:

(SGD.) DAKILA B. FONACIER

Commissioner of internal Revenue

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