

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

December 12, 2003

REVENUE REGULATIONS NO. 30-2003

SUBJECT: Amending Further Pertinent Provisions of Revenue Regulations No. 2-98, as Last Amended by Revenue Regulations No. 17-2003, and Revenue Regulations No. 8-98, as Amended, Providing for the Imposition of Final Withholding Tax on the Sale, Exchange or Other Disposition of Real Property Classified as Capital Assets by Non-resident Aliens, Increasing the Withholding Tax Rates on Certain Income Payments, Inclusion of Certain Income Payments, Sanctions to be Imposed on Payees Who Refuse the Withholding of Tax on Their Income/Receipts, and for Other Purposes.

TO : All Internal Revenue Officers, Employees and Others Concerned.

SECTION 1. SCOPE. - Pursuant to the provisions of Section 244, in relation to Sections 57(A) and (B) of the Tax Code of 1997, these regulations are hereby promulgated to further amend portions of Revenue Regulations Nos. 2-98, as last amended by Revenue Regulations No. 17-2003, and 8-98, as amended, providing for withholding as a mode of remitting final capital gains tax on the sale of real property classified as capital assets by non-resident aliens, increasing the withholding tax rates on certain income payments, inclusion of non-food products in the coverage of expanded withholding tax, providing sanctions to payees who refuse the withholding of tax on their income/receipts, and for other purposes.

SECTION 2. INCOME PAYMENTS SUBJECT TO FINAL WITHHOLDING TAX. – Sec. 2.57.1 of Revenue Regulations No. 2-98, as amended, is hereby further amended to read as follows:

“Sec. 2.57.1. Income Payments Subject to Final Withholding Tax.

- The following forms of income shall be subject to final withholding tax at the rates herein specified.

(A) Income payments to a citizen or to a resident alien individual.

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(B) Income Payment to Non-resident Aliens Engaged in Trade or Business in the Philippines. - The following forms of income derived from sources within the Philippines shall be subject to final withholding tax in the hands of a non-resident alien individual engaged in trade or business within the Philippines, based on the gross amount thereof and at the rates prescribed therefor:

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(3) On capital gains presumed to have been realized from the sale exchange or other disposition of real property located in the Philippines, classified as capital assets, including pacto de retro sales and other forms of conditional sales based on the gross selling price or fair market value as determined in accordance with Sec. 6(E) of the Code (i.e. the authority of the Commissioner to prescribe zonal values), whichever is higher – Six percent (6%).

In case of sale on installment of real property classified as capital asset, the procedures stated under Sec. 2.57.2(J) hereof on the sale of real property classified as ordinary asset shall apply with the exception that the withholding tax on the former shall be final whereas that on the latter shall be creditable.

In case of dispositions of real property classified as capital asset by individuals to the government or any of its political subdivisions or agencies or to government-owned or controlled corporations, the tax to be imposed shall be determined either under Sec. 24(A) of the Code for the normal rate of income tax for individual citizens or residents or under Sec. 24(D)(1) of the Code for the final tax on the presumed capital gains from sale of property at six percent (6%) at the option of the taxpayer-seller.

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(C) Income Derived from All Sources Within the Philippines by a Non-resident Alien Individual Not Engaged in Trade or Business Within the Philippines. - The following forms of income derived from all sources within the Philippines shall be subject to a final withholding tax in the hands of a non-resident alien individual not engaged in trade or business within the Philippines based on the following amounts and at the rates prescribed therefor:

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(2) On capital gains presumed to have been realized from the sale, exchange or other disposition of real property located in the Philippines, classified as capital assets, including pacto de retro sales and other forms of conditional sales based on the gross selling price or fair market value as determined in accordance with Sec. 6(E) of the Code (i.e. the authority of the Commissioner to prescribe the real property values), whichever is higher – Six percent (6%)

In case of sale on installment of real property classified as capital asset, the procedures stated under Sec. 2.57.2(J) hereof on the sale of real property classified as ordinary asset shall apply with the exception that the withholding tax on the former shall be final whereas that on the latter shall be creditable.

In case of dispositions of real property classified as capital asset by individuals to the government or any of its political subdivisions or agencies or to government-owned or controlled corporations, the tax to be imposed shall be determined either under Section 24(A) of the Code for the normal rate of income tax for individual citizens or residents or under Section 24(D)(1) of the Code for the final tax on the presumed capital gains from sale of property at six percent (6%) at the option of the taxpayer-seller.

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SECTION 3. INCOME PAYMENTS SUBJECT TO CREDITABLE WITHHOLDING TAX. - Sec. 2.57.2 of Revenue Regulations No. 2-98, as amended, is hereby further amended to read as follows:

“Sec.2.57.2. Income payments subject to creditable withholding tax and rates prescribed thereon. - xxx xxx

(A) Professional fees, talent fees, etc., for services rendered by individuals. – On the gross professional, promotional and talent fees or any other form of remuneration for the services of the following individuals - Fifteen percent (15%), if the gross income for the current year exceeds P720,000; and Ten percent (10%), if otherwise;

(1) Those individually engaged in the practice of professions or callings; lawyers; certified public accountants; doctors of medicine; architects; civil, electrical, chemical, mechanical, structural, industrial, mining, sanitary, metallurgical and geodetic engineers; marine surveyors; doctors of veterinary science; dentist; professional appraisers;

connoisseurs of tobacco; actuaries; interior decorators, designers and all other profession requiring government licensure examinations and/or regulated by the Professional Regulations Commission, Supreme Court, etc.

- (2) Professional entertainers, such as, but not limited to, actors and actresses, singers, lyricist, composers and emcees;
- (3) Professional athletes, including basketball players, pelotaris and jockeys;
- (4) All directors and producers involved in movies, stage, radio, television and musical productions;
- (5) Insurance agents and insurance adjusters;
- (6) Management and technical consultants;
- (7) Bookkeeping agents and agencies;
- (8) Other recipient of talent fees;
- (9) Fees of directors who are not employees of the company paying such fees, whose duties are confined to attendance at and participation in the meetings of the board of directors.

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Furthermore, in order to determine the applicable tax rate (10% or 15%) to be applied/withheld by the withholding agent, every individual professional/talent/corporate directors herein enumerated, shall periodically disclose his gross income for the current year to the Bureau of Internal Revenue (BIR) by submitting a notarized sworn declaration attached as Annex “A” hereof in three (3) copies (two (2) copies for the BIR and one (1) copy for the taxpayer), copy furnished all the current payors of the declaration duly stamped received by the BIR (Collection Division of the Regional Office having jurisdiction over the place where the income earner is registered/ Large Taxpayers Collection Division for large taxpayers in Metro Manila/ LTDO for large taxpayers outside Metro-Manila). Sworn declaration may likewise be filed by the income payor on behalf of the professionals/talents/directors whose services were being rendered exclusively to the aforesaid payor. The disclosure should be filed on June 30 of each year or within fifteen (15) days after the end of the month the professional/talent/director's income reaches P720,000, whichever comes earlier. In case his total gross income is less than P720,000 as of June 30,

he/she shall submit a second disclosure within fifteen (15) days after the end of the month that his/her gross income for the current year to date reaches P720,000. The payee – professional/talent/director shall furnish each payor a copy of the BIR duly stamped received sworn declaration not later than five (5) days from the date of receipt by the BIR. In case of failure to submit the June 30 annual declaration/disclosure to the BIR, and to furnish the payor/s a copy thereof, the payor shall withhold the tax at the rate of 15%.

The Collection Division/Large Taxpayers Collection Division/LTDO shall transmit one (1) copy of the duly submitted notarized sworn declaration, to the Withholding Tax Division within five (5) days from receipt thereof. The remaining copy shall be the file copy of the concerned Regional Office/Large Taxpayer Service/LTDO for monitoring purposes.

These requirements shall likewise apply to taxable juridical persons (sworn declaration shall be executed by the president/managing partner of the corporation/company), partners of general professional partnerships and medical practitioners stated under sub-sections (B), (H) and (I) hereof.

Notwithstanding the foregoing, if an individual recipient receives professional fees/talent fees/directors fees in addition to salaries from the same payor, the said fees shall be considered as supplemental compensation and, thus be subject to the withholding tax on compensation.

(B) Professional fees, talent fees, etc., for services of taxable juridical persons. – On the gross professional, promotional and talent fees, or any other form of remuneration enumerated in the preceding subparagraph for the services of taxable juridical persons – Fifteen percent (15%), if the gross income for the current year exceeds P720,000; and Ten percent (10%), if otherwise;

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(H) Income payments to partners of general professional partnerships. – Income payments made periodically or at the end of the taxable year by a general professional partnership to the partners, such as drawings, advances, sharings, allowances, stipends, etc. - Fifteen percent (15%), if the income payments to the partner for the current year exceeds P720,000; and Ten percent (10%), if otherwise;

(I) Professional fees paid to medical practitioners. – Any amount collected for and paid to medical practitioners (includes doctors of medicine, doctors of veterinary science and dentists) by hospitals and clinics, or paid directly to the medical practitioners by patients who were ‘admitted and confined’ to such Hospitals or Clinics, or paid directly to such medical practitioners by health maintenance organizations (HMOs) and/or similar establishments which is likewise covered by Section 2.57.2(A)(1) - Fifteen percent (15%), if the income payments to the medical practitioner for the current year exceeds P720,000; and Ten percent (10%), if otherwise.

a) It shall be the duty and responsibility of the hospital, clinic or HMO to remit taxes withheld from the following:

1. Professional fees paid by HMOs to medical practitioners
 2. Professional fees paid by patients to medical practitioners thru the hospitals or clinics.
 3. Professional fees paid by patients directly to medical practitioners where the 10% or 15% expanded withholding tax, whichever is applicable, shall in turn be given by medical practitioners directly to the Accounting Office of the hospitals or clinics

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c) **xxx** **xxx** **xxx**
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(ii) Medical practitioners whose professional fee was paid to them directly by the patients and the 10% or 15% withholding tax, whichever is applicable, was given by such practitioners to the Accounting Office of the hospital or clinic

(iii) Medical practitioners whose professional fee was paid to them directly by the patients but the 10% or 15% withholding tax, whichever is applicable, was not given by such practitioners to the Accounting Office of the hospital or clinic.

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(e) Hospitals and clinics shall be responsible for the accurate computation of taxes to be withheld on professional fees paid by patients thru the hospitals and clinics, in the same way that HMOs shall be responsible for the computation of taxes to be withheld from the professional fees paid by them to the medical practitioners, and timely remittance of the 10% or 15% expanded withholding tax, whichever is applicable.

The list of all income recipients-payees in this Subsection shall be included in the Alphalist of Payees Subject to Expanded Withholding Tax attached to BIR Form No. 1604-E (Annual Information Return of Creditable Income Taxes Withheld (Expanded)/Income Payments Exempt from Withholding Tax).

Likewise, the hospitals, clinics or HMOs shall issue a Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) to medical practitioners who are subjected to withholding, every 20th day following the close of the taxable quarter or upon request of the payee.

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(N) Income payments made by the government to its local/resident supplier of goods and local/resident supplier of services other than those covered by other rates of withholding tax. – Income payments, except any casual or single purchase of P10,000.00 and below, which are made by a government office, national or local, including barangays, or their attached agencies or bodies, and government-owned or controlled corporations, on their purchases of goods and purchases of services from local/resident suppliers

Supplier of goods - One percent (1%)

Supplier of services - Two percent (2%)

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(S) Income payments made to suppliers of agricultural products. - Income payments made to regular agricultural suppliers such as those, but not limited to, payments made by hotels, restaurants, resorts, caterers, food processors, canneries, supermarkets, livestock, poultry, fish and marine products dealers, hardwares, factories, furniture shops and all

other establishments, except for income payments to casual agricultural suppliers where the annual gross purchases therefrom do not exceed P20,000 – One percent (1%)

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The term “agricultural suppliers” refers to suppliers/sellers of agricultural, forest and marine food and non food products, livestock and poultry of a kind generally used as, or yielding or producing foods for human consumption; and breeding stock and genetic materials therefor. “Livestock” shall include cows, bulls and calves, pigs, sheep, goats and other animals similar thereto. “Poultry” shall include fowls, ducks, geese, turkey and others similar thereto. “Marine products” shall include fish and crustaceans, such as but not limited to, eels, trout, lobsters, shrimps, prawns, oysters, mussels and clams, shells and other aquatic products.

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SECTION 4. INCOME PAYMENTS TO OTHER CONTRACTORS. –

Sec. 2.57.2(E) of Revenue Regulations No. 2-98, as amended, is hereby further amended to correct the typographical error in RR 17-2003 to read as follows:

“Sec. 2.57.2. Income payments subject to creditable withholding tax and rates prescribed thereon. -

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(E) Income payments to certain contractors. – On gross payments to the following contractors, whether individual or corporate – Two percent (2%)

(1) General engineering contractors . -

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(2) General building contractors. - xxx xxx

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(3) Specialty contractors . - xxx xxx

(4) Other contractors . -

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SECTION 5. PERSONS REQUIRED TO DEDUCT AND WITHHOLD. -

Sec. 2.57.3 of Revenue Regulations No. 2-98, as amended, is hereby further amended to read as follows:

"Sec. 2.57.3. Persons required to deduct and withhold. - xxx
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Agents, employees or any person purchasing goods or services/paying for and in behalf of the aforesaid withholding agents shall likewise withhold in their behalf, provided that the official receipts of payment/sales invoice shall be issued in the name of the person whom the former represents and the corresponding certificate of taxes withheld (BIR Form No. 2307) shall immediately be issued upon withholding of the tax.

All income payments which are required to be subjected to withholding tax shall be subject to the corresponding withholding tax rate to be withheld by the person having control over the payment and who, at the same time, claims the expenses, [e.g. payments to utility companies which are required to be subjected to withholding tax shall likewise be subjected to withholding tax even if the meter or billing statement (e.g. electric or water meter or the telephone bill) is not in the name of the payor, as long as valid proof that payment of a particular expense is being shouldered by the aforementioned payor (i. e. contract between the registered user of the meter and the payor); payments made by persons who are sharing portion of the bill which is in the name of another person as long as he is a duly constituted withholding agent and shall only withhold on the portion of the expense being shouldered by him].

Income payments made thru brokers or agents or other person authorized to collect/receive payments for and on behalf of the payee, whether for consideration or otherwise, shall likewise be subject to the corresponding withholding tax rates to be withheld by the payor/person having control over the payment with the corresponding issuance of certificate of taxes withheld in the name of the payee whom the agent represents.

The obligation to withhold is imposed upon the buyer-payor of income although the burden of tax is really upon the seller-income earner hence, unjustifiable refusal of the latter to be subjected to withholding shall be a ground for the mandatory audit of his income tax liabilities (including withholding tax) upon verified complaint of the buyer-payor."

SECTION 6. REPEALING CLAUSE. - All existing revenue regulations and other issuances or portions thereof which are inconsistent herewith are hereby revoked, repealed or amended accordingly.

SECTION 7.. TRANSITORY PROVISIONS – Accrued income earned prior to January 1, 2004 shall be based on the prevailing withholding tax rate at the time of accrual and must be withheld and remitted at the time the income accrues.

SECTION 8. EFFECTIVITY. – These regulations shall take effect on January 1, 2004.

(Original Signed)
JUANITA T. AMATONG
Secretary of Finance

Recommending Approval:

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue