

Republic of the Philippines
Department of Finance
BUREAU OF INTERNAL REVENUE
Quezon City

November 26, 2013

REVENUE MEMORANDUM CIRCULAR NO. 73-2013

SUBJECT: Amending Revenue Memorandum Circular No. 31-2013 on the tax treatment of those employed by the United Nations and its Specialized Agencies, providing clarifications therefor as well as additional guidelines on the tax filing obligations of individual taxpayers concerned.

TO : All Internal Revenue Officials, Employees and Others Concerned

This Circular is being issued to amend Revenue Memorandum Circular (RMC) No. 31-2013 with respect to the appropriate tax treatment of individuals employed by the United Nations (UN) and its Specialized Agencies. Further amendments were made to provide additional guidelines on the tax filing obligations of individual taxpayers concerned.

SECTION 1. The entirety of Section 2(c) of RMC No. 31-2013 is hereby amended to read as follows:

“SECTION 2. TAX TREATMENT OF COMPENSATION INCOME

XXX

(c) Those Employed by the United Nations and its Specialized Agencies –

1. United Nations

Sections 17 and 18, Article V of the **Convention on the Privileges and Immunities of the United Nations**¹ (UN Privileges Convention) provide:

“ARTICLE V

Officials

SECTION 17. The Secretary-General will specify the categories of officials to which the provisions of this Article and Article VII shall apply. He shall submit these categories to the General Assembly. Thereafter these categories shall be communicated to the

¹ Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946

Governments of all Members. The names of the officials included in these categories shall from time to time be made known to the Governments of Members.

SECTION 18. Officials of the United Nations shall:

xxx

- (b) Be exempt from taxation on the salaries and emoluments paid to them by the United Nations; xxx" (Underscoring supplied)

Based on above provisions of the UN Privileges Convention, officials of the UN **shall be exempt from Philippine income tax, regardless of their nationality or place of residence**². Applying Section 17 of the UN Privileges Convention, only those officials whose names have been communicated to the Philippine government (through the Department of Foreign Affairs) shall be covered by the tax exemption.

The above provisions of the UN Privileges Convention apply to those officials employed by the United Nations, its principal organs,³ and those employed by its agencies, departments, offices, funds, programmes and bodies⁴, excluding its Specialized Agencies.

2. Specialized Agencies of the United Nations

Sections 18 and 19, Article VI of the **Convention on the Privileges and Immunities of the Specialized Agencies** of the United Nations⁵ (SA Convention) provide:

"ARTICLE VI
Officials

SECTION 18

Each specialized agency will specify the categories of officials to which the provisions of this article and of article VIII shall apply. It shall communicate them to the Governments of all States parties to this Convention in respect of that agency and to the Secretary-General of the United Nations. The names of the officials included in these

² The grant of tax immunities under the UN Privileges Convention may, however, be qualified by the execution of supplemental agreements between the Secretary-General of the United Nations and the Philippine Government under Section 36 of the UN Privileges Convention.

³ The General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the Secretariat.

⁴ United Nations Development Programme (UNDP), United Nations Population Fund (UNFPA), Office of the United Nations High Commissioner for Refugees (UNHCR), United Nations Children's Fund (UNICEF), World Food Programme (WFP), Office of the United Nations High Commissioner for Human Rights (OHCHR), and other agencies, departments, offices, funds, programmes and bodies as may be confirmed by the United Nations.

⁵ Convention on the Privileges and Immunities of the Specialized Agencies approved by the General Assembly of the United Nations on 21 November 1947

categories shall from time to time be made known to the above-mentioned Governments.

SECTION 19

Officials of the specialized agencies shall:

xxx

- (b) Enjoy the same exemptions from taxation in respect of the salaries and emoluments paid to them by the specialized agencies and on the same conditions as are enjoyed by officials of the United Nations;"
(Underscoring supplied)

The Specialized Agencies of United Nations are enumerated under Section 1(ii) of Article I of the same Convention as follows:

- 1) International Labour Organization
- 2) The Food and Agriculture Organization of the United Nations
- 3) The United Nations Educational, Scientific and Cultural Organization
- 4) The International Civil Aviation Organization
- 5) The International Monetary Fund
- 6) The International Bank for Reconstruction and Development
- 7) The World Health Organization
- 8) The Universal Postal Union
- 9) The International Telecommunication Union
- 10) Any other agency in relationship with the United Nations in accordance with Articles 57 and 63 of the UN Charter.⁶

Applying Section 19(b) of the SA Convention, in relation to Section 18(b) of the UN Privileges Convention, officials of Specialized Agencies of the United Nations shall be exempt from Philippine income tax, regardless of their nationality or place of residence.

In order that the tax immunities under the SA Convention may be properly invoked, however, the Philippine Government should have acceded to the terms of the SA Convention and indicated in the **instrument of accession** the specialized agencies with respect to which it seeks to apply the provisions of the Convention. Other Specialized Agencies not included in the instrument of accession may be nevertheless be covered by the SA Convention upon the submission of subsequent **written notification** to the Secretary General of the United Nations, as provided under Sections 41 and 43 thereof, to wit:

⁶ International Fund for Agricultural Development (IFAD), International Maritime Organization (IMO), United Nations Industrial Development Organization (UNIDO), World Tourism Organization (UNWTO), World Intellectual Property Organization (WIPO), World Meteorological Organization (WMO), International Centre for Settlement of Investment Disputes (ICSID), International Development Association (IDA), International Finance Corporation (IFC), and Multilateral Investment Guarantee Agency (MIGA).

“SECTION 41

Accession to this Convention by a Member of the United Nations and (subject to section 42) by any State member of a specialized agency shall be effected by deposit with the Secretary-General of the United Nations of an instrument of accession which shall take effect on the date of its deposit.

XXX

SECTION 43

Each State party to this Convention shall indicate in its instrument of accession the specialized agency or agencies in respect of which it undertakes to apply the provisions of this Convention. Each State party to this Convention may by a subsequent written notification to the Secretary-General of the United Nations undertake to apply the provisions of this Convention to one or more further specialized agencies. This notification shall take effect on the date of its receipt by the Secretary-General.” (Underscoring supplied)

Specialized Agencies with instruments of accession

Based on available information, the following Specialized Agencies are covered by proper instruments of accession or written notifications by the Philippine Government:

- 1) International Labour Organization (ILO)
- 2) The Food and Agriculture Organization of the United Nations (FAO)
- 3) The United Nations Educational, Scientific and Cultural Organization (UNESCO)
- 4) The International Civil Aviation Organization (ICAO)
- 5) The International Monetary Fund (IMF)
- 6) The International Bank for Reconstruction and Development (IBRD)
- 7) The World Health Organization (WHO)
- 8) The Universal Postal Union (UPU)
- 9) The International Telecommunication Union (ITU)
- 10) International Finance Corporation (IFC)

By this reason, officials of the above Specialized Agencies of the United Nations **shall be exempt from Philippine income tax, regardless of their nationality or place of residence**⁷. In accordance with the UN General Assembly’s Report on the Co-ordination of the Privileges and Immunities of the United Nations and of the Specialized Agencies⁸, this rule shall apply notwithstanding disparities in the immunities provided in the **constitutional instruments** of the Specialized Agencies

⁷ The Philippine Government and the Specialized Agencies concerned may execute supplemental or headquarters agreements adjusting or modifying the terms of the SA Convention as they deem necessary in accordance with Section 39 of the SA Convention.

⁸ Originally prepared by the Sub-Committee on Privileges and Immunities tasked to submit a draft convention on the privileges and immunities of the specialized agencies. Adopted by the Sixth Committee of the UN General Assembly on November 20, 1947.

(e.g., articles of agreement, charters). Paragraph 41 of the Extracts from the Report of the Sub-Committee on Privileges and Immunities, reads:

“41. The first sentence of Section 40 requires the Agency to amend its constitution if this is necessary to render the constitution consistent with the standard clauses as modified by the final Annex which the Agency itself has adopted. But it is only necessary for such amendment to be made in the case of a conflict between the two instruments. In the opinion of the majority of the Sub-Committee there is no such conflict where this Convention together with its Annex, accords an immunity which is not provided for in the constitution at all, or where it accords privilege and immunities in a certain field in excess of those contained in the constitution of the Agency. xxx” Underscoring supplied.

It should be noted, however, that under Section 18 of the SA Convention, the names of officials of the Specialized Agencies enumerated above must be properly communicated to the Philippine Government (through the Department of Foreign Affairs).

“SECTION 39

The provisions of this Convention shall in no way limit or prejudice the privileges and immunities which have been, or may hereafter be, accorded by any State to any specialized agency by reason of the location in the territory of that State of its headquarters or regional offices. This Convention shall not be deemed to prevent the conclusion between any State party thereto and any specialized agency of supplemental agreements adjusting the provisions of this Convention or extending or curtailing the privileges and immunities thereby granted.”(Underscoring supplied)

Specialized Agencies without instruments of accession

The tax immunities and privileges of Specialized Agencies not covered by proper instruments of accession or written notification shall be taken from their respective constitutional instruments as agreed to by the Philippine Government. Such Specialized Agencies cannot claim tax immunities and privileges beyond those provided in their constitutional instruments notwithstanding the provision of more comprehensive benefits under the SA Convention.

SECTION 2. Section 2(d) of RMC No. 31-2013 is hereby amended to include the tax treatment of the International Committee of the Red Cross:

“(d) Those Employed by Organizations Covered by Separate International Agreements or Specific Provisions of Law-

xxx

15. International Committee of the Red Cross (ICRC)

Paragraphs 2, 3 and 4 of Article 5 of the **Headquarters Agreement between the Government of the Republic of the Philippines and the International Committee of the Red Cross** provide as follows:

“Article 5
ICRC DELEGATES AND ALIEN EMPLOYEES
xxx

2. ICRC Delegates, who by definition are Swiss nationals, and alien employees, their spouses and dependent members of their families shall enjoy a status similar to that accorded to members and employees of missions of international and intergovernmental organizations and shall enjoy the privileges and immunities provided in the present Agreement.
3. The ICRC Delegates and alien employees shall:
 - (a) be immune from the jurisdiction of the judicial or administrative authorities of the Philippines in respect to acts performed in the exercise of their official functions;
 - (b) not be obliged to give evidence as witness in matters relating to their official function;
 - (c) be exempt from taxation in respect of the salaries and emoluments paid to them by the ICR; xxx”
4. It is understood that these privileges and immunities shall not be enjoyed by Filipino nationals working for the ICRC except for paragraphs 3(a) and 3(b).” Underscoring supplied

Thus, only Swiss nationals and alien employees, including their spouses and dependent members of their families, shall be exempt from Philippine income tax.”

SECTION 3. Section 3 of RMC No. 31-2013 is hereby amended to read as follows:

“SECTION 3. FILING OF INCOME TAX RETURNS AND DECLARATION OF COMPENSATION INCOME.—

- A. Philippine nationals and alien individuals who are NOT covered by tax exemptions or immunities under duly recognized international agreements or local laws shall file their annual income tax returns using BIR Form No. 1700 or 1701⁹, as may be applicable,¹⁰on or before the 15th day of April each year as follows:

1. For individual filing –

⁹ BIR Form No. 1700 for individuals earning purely compensation income and BIR Form No. 1701 for individuals earning both business and compensation income

¹⁰ *Ibid.*

- a. Fill out the annual income tax returns in triplicate declaring therein the amount of their respective income for the preceding taxable year for services rendered or performed for, among others, foreign government embassy/diplomatic mission, agency or international organization;
- b. Proceed to the Revenue District Office (RDO) where registered;
- c. File the duly accomplished annual income tax returns with the respective RDO, Authorized Agent Bank, or other proper office which has jurisdiction over the employee's legal residence or principal place of business. It may also be filed with the RDO or Authorized Agent Bank where the principal office of his employer is situated; and
- d. Receive copy of the duly stamped and validated annual income tax returns from the concerned RDO or Authorized Agent Bank.

2. Option to be Constituted as Withholding Agent/ Substituted Filing –

Foreign governments/embassies/diplomatic missions and international organizations acting as employers of Philippine nationals and alien individuals who are not exempt from the payment of income tax under international agreements, may, **at its option**, act as withholding agent for the Philippine Government and file the income tax returns of their respective employees through substituted filing.

Foreign governments/embassies/diplomatic missions and international organizations exercising this option shall register with the RDO having jurisdiction of the place where the principal office of such foreign government/embassy/diplomatic mission and international organization is located. The same procedure and requirements on withholding of taxes and substituted filing of income tax returns provided under Section 72 (A), Chapter X, Title II of the Tax Code, as implemented by Revenue Regulations No. 02-98, as amended¹¹, shall be followed.

- B. Philippine nationals and alien individuals who are covered by tax exemptions or immunities under duly recognized international agreements are enjoined to file their annual income tax returns (BIR Form No. 1700 or 1701, as may be applicable) as follows:

1. For individual filing –

- a. Fill out the annual income tax returns in triplicate indicating the tax exemption pursuant to the **specific international agreement** (e.g., UN Privileges Convention, SA Convention, etc.) in item no. 67(A) or 122(A) of BIR Form No. 1700 or 1701, respectively;
- b. Proceed to the Revenue District Office (RDO) where registered;

¹¹ amended by Revenue Regulation Nos. 11-2013, 10-2008, 19-2002 and 03-2002.

- c. File the duly accomplished annual income tax returns on or before the 15th day of April of each year covering compensation income for the preceding taxable year, together with the **Certificate of Compensation Received/Statement of Earnings** for the taxable year indicating the amount of monthly income received; and
 - d. Receive copy of the duly stamped and validated annual income tax returns from the concerned RDO.
2. Alternative filing (Optional) –
- a. Duly authorized/designated personnel of the international organization may, through the International Tax Affairs Division (ITAD), in coordination with the Department of Foreign Affairs, inform the RDO where the international organization is registered of the latter's willingness to file its employees' income tax returns in order to ensure systematic filing;
 - b. The concerned employees shall fill out their annual income tax returns in triplicate indicating the tax exemption pursuant to the **specific international agreement** (e.g., UN Privileges Convention, SA Convention, etc.) in item no. 67(A) or 122(A) of BIR Form No. 1700 or 1701, respectively;
 - c. Duly authorized/designated personnel shall proceed to the designated filing center as identified by the concerned RDO;
 - d. Duly authorized/designated personnel shall file the duly accomplished annual income tax returns on or before the 15th day of April of each year covering compensation income of the employees for the preceding taxable year, together with the **Certificate of Compensation Received/Statement of Earnings** for the taxable year indicating the amount of monthly income received; and
 - e. Duly authorized/designated personnel shall receive copy of the duly stamped and validated annual income tax returns from the concerned RDO and provide the same to the concerned employees.

SECTION 4. Section 5 of RMC No. 31-2013 is hereby amended to read as follows:

“SECTION 5. CONFIRMATION OF TAX EXEMPTION/TAX TREATMENT.— International organizations maintaining offices, headquarters or operation in the Philippines and/or their respective employees claiming exemptions pursuant to the terms and provisions of international agreements or laws granting privileges to employees of international organizations shall file an application for confirmation of tax exemption/tax treatment with the International Tax Affairs Division (ITAD) of the Bureau of Internal Revenue.

The foregoing shall not apply to international organizations and their employees already covered by this Circular.

SECTION 5. REPEALING CLAUSE. Any revenue issuance which is inconsistent with this Circular is deemed revoked, repealed, or modified accordingly.

SECTION 6. EFFECTIVITY. This Circular shall take effect immediately.

All concerned are hereby enjoined to be guided accordingly and give this Circular a wide publicity as possible.

(Original Signed)
KIM S. JACINTO-HENARES
Commissioner of Internal Revenue