

March 22, 2002

REVENUE REGULATIONS NO. 3-2002

SUBJECT: Amending Section 2.58 and Further Amending Section 2.83 of Revenue Regulations No. 2-98 as Amended, Relative to the Submission of the Alphabetical Lists of Employees/Payees in Diskette Form and the Substituted Filing of Income Tax Returns of Payees/ Employees Receiving Purely Compensation Income from Only One Employer for One Taxable Year Whose Tax Due is Equal to Tax Withheld and Individual-Payees Whose Compensation Income is Subject to Final Withholding Tax.

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

Pursuant to the provisions of Section 244 in relation to Sections 58 (B) & (C), 83 and 51(A)(2)(b) of the National Internal Revenue Code of 1997, these Regulations are hereby promulgated to further amend pertinent provisions of Revenue Regulations No. 2-98 as amended.

SECTION 1. Section 2.58(B) and (C) of Revenue Regulations No. 2-98, is hereby amended to read as follows:

“Section 2.58. RETURNS AND PAYMENT OF TAXES WITHHELD AT SOURCE.

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(B) *Withholding tax statement for taxes withheld.* – Every payor required to deduct and withhold taxes under these regulations shall furnish, in triplicate, each payee, whether individual or corporate, with a withholding tax statement, using the prescribed form (BIR Form No. 2307) showing the income payments made and the amount of taxes withheld therefrom, for every month of the quarter, within twenty (20) days following the close of the taxable quarter employed by the payee in filing his/its quarterly income tax return. The payor, nonetheless, should always retain a copy of duly issued BIR Form No. 2307. Failure to furnish the same shall be a ground for the mandatory audit of payor's income tax liabilities (including withholding tax) upon verified complaint of the payee.

For final withholding taxes, the statement should be given to the payee on or before January 31 of the succeeding year.

Upon request of the payee, however, the payor must furnish such certificate simultaneously with the income payment.

(C) Annual information return for income tax withheld at source. – The payor is required to file with the BIR-Large Taxpayers Assistance Division, Large Taxpayers District Office or the Excise Taxpayers Assistance Division, or the Revenue District Office where the payor/employer is registered as Withholding Agent, on or before March 1 of the following year in which payments were made, an Annual Information Return of Creditable Income Taxes Withheld (Expanded)/Income Payments Exempt from Withholding Tax (BIR Form No. 1604-E) and on or before January 31 of the said year an Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (BIR Form No. 1604-CF), showing among others, the following information:

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An individual whose sole income has been subjected to final withholding tax provided under Section 57(A) shall not be required to file an income tax return pursuant to Section 51(A)(2)(c) of the Tax Code. For purposes of documentation, as may be required by other agencies in the government (including, but not limited to, the Bureau of Immigration) as well as for purposes of establishing financial capacity for bank loans or credit card application in private and public entities and other purposes, BIR Form No. 2306 duly signed by the employer and the employee shall suffice. The term “an individual whose compensation income has been subjected to final withholding tax” shall include aliens or Filipino citizens occupying the same positions as the alien employees, as the case may be, who are employed by regional operating headquarters, regional or area headquarters, offshore banking units, petroleum service contractors and sub-contractors, pursuant to pertinent provisions of Sections 25(C), (D), (E) and 57(A) of the Tax Code of 1997, Republic Act No. 8756, Presidential Decree No. 1354, and other pertinent laws.”

SECTION 2. Section 2.83.1 of Revenue Regulations 2-98 is hereby amended to read as follows:

“Section 2.83.1. Employees Withholding Statements (BIR Form No. 2316). - In general, every employer or other person who is required to deduct and withhold the tax on compensation including fringe benefits given to rank and file employees, shall furnish every employee from whose compensation taxes have been withheld the Certificate of Income Tax Withheld on Compensation (BIR Form No. 2316) on or before January 31 of the succeeding calendar year, or if employment is terminated before the close of such calendar year, on the day on which the last payment of compensation is made. Failure to furnish the same shall be a ground for the mandatory audit of payor's income tax liabilities (including withholding tax) upon verified complaint of the payee.

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The employee who is qualified for substituted filing of income tax return under these regulations, and the employer, shall issue a joint certification (Annex “A”) to the

effect that the employer's filing of BIR Form No. 1604-CF shall be considered a substituted filing of the employee's income tax return to the extent that the amount of compensation and tax withheld appearing in BIR Form No. 1604-CF, as filed with the BIR, is consistent with the corresponding amounts indicated in BIR Form No. 2316 and the certification. The parties shall likewise certify, under oath, that the information stated in such certification is true and correct to the best of their knowledge. Such employee shall no longer be required to file income tax return (BIR Form No. 1700) since BIR Form No. 1604-CF shall be considered a substituted return filed by the employer with the consent of such employee.

The joint certification shall serve the same purpose as if a BIR Form No. 1700 had been filed, such as proof of financial capacity for purposes of loan, credit card, or other applications, or for the purpose of availing tax credit in the employee's home country and for other purposes with various government agencies. This may also be used for purposes of securing travel tax exemption, when necessary. ”

SECTION 3. Section 2.83.3 of Revenue Regulations No. 2-98, as amended by Revenue Regulations No. 7-2000, is hereby further amended to read as follows:

“Section 2.83.3. Requirement for list of payees. – In addition to the manually prepared alphabetical list of employees and list of payees who are recipients of income payments subjected to creditable and final withholding taxes which form part of the Annual Information Returns (BIR Form Nos. 1604-CF/1604-E), the withholding agent may, at his option, submit 3.5 inch floppy diskettes, containing the said list.

However, taxpayers whose number of employees or income payees are ten (10) or more, are mandatorily required to submit the said lists in a 3.5 inch floppy diskettes, using the existing CSV data file format, together with the manually prepared alphabetical list. In order to comply with this format, the withholding agents shall have the option to use any of the following:

1. the Excel format provided under Revenue Regulations No. 7-2000 with technical specifications to be prescribed in a Revenue Memorandum Circular (RMC) to be issued by the BIR;
2. their own extract program that shall meet the requirements specified in the above-mentioned RMC; or
3. the Data Entry Module using Visual Foxpro that will be available upon request or by downloading from the BIR's web site at <http://www.bir.gov.ph>, with the corresponding job aid to be provided in the above-mentioned RMC.

For those who would choose either option 1 or 2, such taxpayers shall use a validation module developed by the BIR, which can be downloaded from the BIR website.

In any case, the withholding agents are required to save the same to a secondary storage as back up for a period of three (3) years from submission of the diskette, as aforementioned, for future reference.

For withholding agents classified as large taxpayers and excise taxpayers falling within the jurisdiction of the Large Taxpayers Service and/or Large Taxpayers District Office, the Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (BIR Form No. 1604-CF) and the Annual Information Return of Creditable Income Taxes Withheld (Expanded)/Income Payments Exempt from Withholding Tax (BIR Form No. 1604-E) shall be submitted to the Large Taxpayers Assistance Division, Large Taxpayers District Offices or Excise Taxpayers Assistance Division, as the case may be. For other withholding agents, the aforesaid annual returns shall be submitted to their respective Revenue District Offices. BIR Form No. 1604-CF shall be submitted on or before January 31 of the succeeding year while BIR Form No. 1604-E shall be filed on or before March 1 of the following year. Only diskettes readable upon submission shall be considered as duly filed “Alphabetical List of Employees/Payees” by the employer. Violation hereof, shall be a ground for the mandatory audit of violator’s income tax liabilities (including withholding tax).

The manually prepared (hard copy) alphabetical list of employee shall be filed in triplicate copies (two copies for the BIR) to be stamped “received” by the BIR-Large Taxpayers Assistance Division, Large Taxpayers District Office or the Excise Taxpayers Assistance Division, or the Revenue District Office where the payor/employer is registered as Withholding Agent.

Except for the submission of the manually prepared alphabetical list of employees, all other requirements aforestated above shall apply to taxable year 2002.”

SECTION 4. Section 2.83.4 of Revenue Regulations No. 2-98 is hereby amended to read as follows:

“Section 2.83.4. Substituted Filing of Income Tax Returns by Employees Receiving Purely Compensation Income. – Individual taxpayers receiving purely compensation income, regardless of amount, from only one employer in the Philippines for the calendar year, the income tax of which has been withheld correctly by the said employer (tax due equals tax withheld), shall not be required to file BIR Form No. 1700. In lieu of BIR Form No. 1700, the Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (BIR Form No. 1604-CF) (hard copy) filed by their respective employers, duly stamped “received” by the BIR, shall be tantamount to the substituted filing of income tax returns by said employees.

The following individuals, however, are not qualified for substituted filing and therefore, still required to file BIR Form No. 1700 in accordance with existing regulations:

(A) Individuals deriving compensation from two or more employers concurrently or successively at anytime during the taxable year.

(B) Employees deriving compensation income, regardless of the amount, whether from a single or several employers during the calendar year, the income tax of which has not been withheld correctly (i.e. tax due is not equal to the tax withheld) resulting to collectible or refundable return.

(C) Employees whose monthly gross compensation income does not exceed Five Thousand Pesos (P5,000.00) or the statutory minimum wage, whichever is higher, and opted for non-withholding of tax on said income.

(D) Individuals deriving other non-business, non-profession-related income in addition to compensation income not otherwise subject to a final tax.

(E) Individuals receiving purely compensation income from a single employer, although the income tax of which has been correctly withheld, but whose spouse falls under Section 2.83.4(A), (B), (C) and (D) of these Regulations.

(F) Non-resident aliens engaged in trade or business in the Philippines deriving purely compensation income, or compensation income and other non-business, non-profession-related income.

In case of married individuals who are still required to file returns under existing provisions of the law, i. e., in those instances not covered by the substituted filing of returns, only one return for the taxable year shall be filed by either spouse to cover the income of the spouses, which return shall be signed by the husband and wife unless it is physically impossible to do so, in which case signature of one of the spouses would suffice.”

SECTION 5. Transitory Provisions. Non-filing of BIR Form No. 1700, for employees who are qualified for the substituted filing shall be optional for the taxable year 2001, the returns for which are required to be filed on or before April 15, 2002. Thereafter, substituted filing where applicable shall be mandatory.

For qualified employees who opted to avail of the substituted filing for taxable year 2001, the joint certification of the employer and employee shall be executed on or before April 15, 2002, copies of which should be retained by both parties. For subsequent years, the said joint certification shall be executed on or before January 31 of the following year, together with BIR Form No. 2316. Both parties shall always retain copies of the joint certification.

SECTION 6. Repealing Clause. All rules and regulations and parts thereof inconsistent with the provisions of these Regulations are hereby amended accordingly.

SECTION 7. Effectivity. These Regulations shall take effect immediately and shall cover taxable year 2002 and succeeding years, subject to the provisions of Section 5 and last sentence of Section 3 hereof.

(Original Signed)

JOSE ISIDRO N. CAMACHO
Secretary of Finance

Recommending Approval:

(Original Signed)
RENÉ G. BAÑEZ
Commissioner of Internal Revenue

Annex “A”

JOINT CERTIFICATION

WE, [state the name of certifying officer of the employer], married/single, Philippine/other nationality citizen, in my capacity as the [state position – Note: Certifying officer should occupy a rank of not lower than head of Personnel or Head of Human Resources Department or equivalent office] of [state name of employer], with business address at [state address of employer], hereinafter referred to as "EMPLOYER",

- and –

[state name of employee], married/single, Philippine/other nationality citizen, in my capacity as employee of [state name of employer], with address at [state address of employee], hereinafter referred to as "EMPLOYEE",

hereby certify that:

I. Matters Certified to Jointly by EMPLOYER and EMPLOYEE

1. EMPLOYEE has been employed with the EMPLOYER from [state earliest date of calendar year in question – e.g., January 1] to [state latest date of calendar year in question – e.g., December 31], [state calendar year].

2. EMPLOYEE's total compensation income, exclusive of fringe benefits subject to fringe benefits tax, received for the above-mentioned period, as well as the amount of tax withheld, are, respectively, as follows:

Total compensation income: _____
Amount of tax withheld: _____

3. The EMPLOYER and EMPLOYEE declare, under the penalty of perjury, that the statements made herein by them, respectively, are true and correct based on their knowledge and information.

II. Matters Certified to by EMPLOYER

4. The amounts appearing in no. 2, above, are true and correct, and are reported in BIR Form No. 1604-CF, copies of which have been filed with the Bureau of Internal Revenue pursuant to the provisions of Revenue Regulations No. 2-98, as amended, for the year [state calendar year], and the information therein regarding the EMPLOYEE are consistent with the information contained in BIR Form No. 2316 issued to the EMPLOYEE.

III. Matters Certified to by EMPLOYEE

5. The amounts appearing in no. 2, above, are true and correct, and are consistent with the information contained in BIR Form No. 2316, a copy of which, signed by EMPLOYER and EMPLOYEE, forms part of this Joint Certification as Annex "1".

6. I consent and agree that the EMPLOYER's filing of BIR Form No. 1604-CF shall be considered a substitute filing of my income tax return to the extent that the information contained therein is consistent with the information stated in no. 2, above, and in BIR Form No. 2316 (Annex "1").

Issued on [state date] at [state place].

Name & Signature of Employer
T.I.N. _____

Name & Signature of Employee
T.I.N. _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, _____, at _____, affiants exhibiting to me their Community Tax Certificate Nos. as follows:

Name	Community Tax Certificate No.	Date/Place of Issue
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Note:

1. This Joint Certification is issued pursuant to Revenue Regulations No. 2-98, as amended by Revenue Regulations No. 3-2002, which permits employees qualified under said regulations not to file BIR Form No. 1700.
2. The Joint Certification serves the same purpose as if a BIR Form No. 1700 had been filed, such as, proof of financial capacity for purposes of loan, credit card, or other applications, proof of payment of tax or for the purpose of availing tax credits in foreign countries and other purposes with various government agencies. This may also be used for purposes of securing travel tax exemption, when necessary.
3. This Joint Certification does not require filing with the Bureau of Internal Revenue, the same having been made under oath and under the penalty of perjury.

Annex “C”

**MATRIX OF AMENDED PROCEDURES
FOR SUBSTITUTED FILING OF ITR**

Deadline	Requirement	BIR Form	Person Responsible
Jan. 31	Filing of duly accomplished Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes Execution of a sworn joint certification by the employer and the employee Distribution of copies of BIR Form No. 2316 and the joint certification to the employee (employer should always retain a copy of the joint certification)	1604-CF joint certification 2316 joint certification	Employer Employer Employee Employer

Annex “D”

EFFECTIVITY AND COVERAGE

Subject	Taxable Year Covered	Effectivity
1. Joint certification	Optional - 2001 Mandatory - 2002	Immediately
2. Non-filing of BIR Form 1700	Optional - 2001 Mandatory - 2002	Immediately
3. Substituted filing of ITR thru BIR Form No. 1604-CF (hard copy)	Optional - 2001 Mandatory - 2002	Immediately
4. Filing of alphalist in diskette form (for taxpayers having ten (10) or more employees)	2002	2003
5. BIR Form No. 1700 to be signed by both husband and wife, if physically possible	2002	2003