

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Date : April 12, 2013

REVENUE MEMORANDUM CIRCULAR NO. 31-2013

SUBJECT: Guidelines on the Taxation of Compensation Income of Philippine Nationals and Alien Individuals Employed by Foreign Governments/Embassies/Diplomatic Missions and International Organizations Situated in the Philippines

TO : All Internal Revenue Officers, Employees and Others Concerned

SECTION 1. BACKGROUND.—

Foreign governments/embassies/diplomatic missions and international organizations situated in the Philippines acting as employers enjoy immunity from collecting taxes on salaries and emoluments of their employees, whether they are foreigners or Philippine nationals. This immunity from being constituted as withholding agents of the Philippine Government is accorded to these entities on the basis of international comity as embodied in several international agreements to which the Philippines is a signatory, such as, the Vienna Convention for International Relations (for embassies and diplomatic missions), Convention on the Privileges and Immunities of the United Nations, Convention on the Privileges and Immunities of Specialized Agencies (for the various agencies of the United Nations), Asian Development Bank Headquarters Agreement (for ADB), Articles of Agreement of the International Finance Corporation, among others.

In recognition of this immunity, the Withholding Tax Regulations (Revenue Regulations No. 2-98, as amended), clearly reiterate the exemption from the withholding tax system of the remunerations being paid by foreign governments and international organizations to their employees who are residents or nationals of the Philippines. Section 2.78.1(B)(5) provides thus:

“Sec. 2.78. WITHHOLDING TAX ON COMPENSATION. — . . .

Sec. 2.78.1. Withholding of Income Tax on Compensation Income. —

xxx

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

xxx

(5) Compensation for services by a citizen or resident of the Philippines for a foreign government or an international organization. — Remuneration paid for services performed as an employee of a foreign government or an international organization is exempted. The exemption includes not only remuneration paid for services performed by ambassadors, ministers and other diplomatic officers and employees but also remuneration paid for services performed as consular or other officer or employee of a foreign government or as a non-diplomatic representative of such government.”

However, it has been observed that the foregoing provisions have been a source of confusion on the correct tax treatment of the compensation income earned by Philippine nationals and alien individuals employed by foreign governments/embassies/diplomatic missions and international organizations. To clarify, the **exemption from withholding taxes** on the compensation of officials and employees applies to foreign governments/embassies/diplomatic missions and international organizations. Since the withholding of tax is merely a method of tax collection, the exemption from withholding taxes does not equate to the exemption from paying the income tax itself.

Section 23 of the National Internal Revenue Code (Tax Code) lays down the general principles in the taxations of citizens and alien individuals, to wit:

"SECTION 23. General Principles of Income Taxation in the Philippines.—
Except when otherwise provided in this Code:

(A) A citizen of the Philippines residing therein is taxable on all income derived from sources within and without the Philippines;

xxx

(D) An alien individual, whether a resident or not of the Philippines, is taxable only on income derived from sources within the Philippines;
xxx”

As an exemption to the general rule, it is noted that most international agreements which grant withholding tax immunity to foreign governments/embassies/diplomatic missions and international organizations also provide exemption to their officials and employees who are foreign nationals and/or non-Philippine residents from paying income taxes on their salaries and other emoluments.

The tax consequence of compensation income received by those employed by foreign governments/embassies/ diplomatic missions situated in the Philippines hinges on the provisions of the duly recognized international agreements or local laws granting tax privileges to employees of said institutions. It bears to emphasize that the exemption should only cover those individuals who were expressly and unequivocally identified in said international agreements or laws. Those not covered shall be subject to the general rule on taxability of Philippine nationals and alien individuals. Thus with respect to those not exempted by the provisions of applicable international agreements or laws, although their compensation income is exempt from withholding tax under the international agreements or the Withholding Tax Regulations, they are not relieved of their duty to report their

compensation income to the Bureau and pay the taxes due thereon pursuant to Section 24 of the National Internal Revenue Code of 1997, as amended (“Tax Code”).

This Circular is being issued to evoke compliance by Philippine nationals and individual aliens who are liable to Philippine income tax under the provisions of the Tax Code and who were not given exemption under the terms of duly recognized international agreements or other Philippine laws.

SECTION 2. TAX TREATMENT OF COMPENSATION INCOME

The tax treatment of Philippine nationals and alien individuals on compensation income received by them from foreign governments/embassies and missions and international organizations shall be as follows:

(a) Those employed by Foreign Embassies/Diplomatic Missions

Articles 34 and 37 of the **Vienna Convention on Diplomatic Relations** cover the tax exemption of diplomatic agents, and the technical, administrative and service staff of diplomatic mission, to wit:

“ARTICLE 34

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except: xxx”

ARTICLE 37

1. The members of the family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in articles 29 to 36.

2. Members of the administrative and technical staff of the mission, together with members of their families forming part of their respective households, shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in articles 29 to 35, except that the immunity from civil and administrative jurisdiction of the receiving State specified in paragraph 1 of article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges specified in article 36, paragraph 1, in respect of articles imported at the time of first installation.

3. Members of the service staff of the mission who are not nationals of or permanently resident in the receiving State shall enjoy immunity in respect of acts performed in the course of their duties, exemption from dues and taxes on the emoluments they receive by reason of their employment and the exemption contained in article 33.

4. Private servants of members of the mission shall, if they are not nationals of or permanently resident in the receiving State, be exempt from dues and taxes on the emoluments they receive by reason of their employment. In other respects, they may enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to

interfere unduly with the performance of the functions of the mission.”
Underscoring supplied

Moreover, Article 38 of the Convention states:

“ARTICLE 38

1. Except insofar as additional privileges and immunities may be granted by the receiving State, a diplomatic agent who is a national of or permanent resident in that State shall enjoy only immunity from jurisdiction, and inviolability, in respect of official acts performed in the exercise of his functions. xxx” Underscoring supplied

Thus, from the above provisions, only the following shall be exempt from Philippine income tax:

- (1) Diplomatic agents who are not nationals or permanent residents of the Philippines;
- (2) Members of family of the diplomatic agent forming part of his/her household who are not Philippine nationals;
- (3) Members of the administrative and technical staff of the mission together with members of their families forming part of their respective households who are not nationals or permanent residents of the Philippines;
- (4) Members of the service staff of the mission who are not nationals or permanent residents of the Philippines; and
- (5) Private servants of members of the mission who are not nationals or permanent residents of the Philippines.

(b) Those Employed by Aid Agencies of Foreign Governments

1. Japan International Cooperation Agency (JICA)

Paragraphs 1 and 2, Article XI of the **Agreement on Technical Cooperation between the Government of Japan and the Government of the Republic of the Philippines** provide:

“Article XI

1. It is confirmed that JICA may maintain its overseas office in the Republic of the Philippines (hereinafter referred to as the “Office”) with a resident representative and his/her staff to be dispatched from Japan (hereinafter referred to as the “Representative” and the “Staff” respectively) who perform the duties to be assigned to them by JICA relative to the technical cooperation programs under this Agreement in the Republic of the Philippines. Underscoring supplied

2. The Government of the Republic of the Philippines shall:

- (1) (a) exempt the Representative and the Staff from taxes including income tax and fiscal charges imposed on or in connection with salaries

and any allowances remitted to them from abroad concerning the performance of their duties under this Agreement;" Underscoring supplied

Accordingly, only JICA resident representatives and his/her staff who were "dispatched from Japan" shall not be subject to Philippine income tax.

2. Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)

Paragraph 2, Article 5 of the **Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of the Philippines concerning Technical Co-operation** states:

"Article 5

The Government of the Republic of the Philippines shall:

xxx

- (1) Levy no taxes or other fiscal charges on any emoluments paid from German public funds to German specialists of German construction and consulting firms for services rendered within the framework of the present Agreement." Underscoring supplied

Based on above provisions, therefore, only German specialists of German construction and consulting firms shall be exempt from Philippine income tax.

3. Australian Agency for International Development (AUSAID)

Section 13 of the **Memorandum of Subsidiary Arrangement between the Government of the Republic of the Philippines and the Government of Australia Relating to the Philippines-Australia Governance Facility** provides:

"13. TAXES ON INCOME

The [Government of the Philippines] will exempt payment of income taxes and other similar taxes on fees, salaries, wages and other similar remuneration paid for by the [Government of Australia] and incurred by the Australian personnel, firms, institutions and organizations derived from work performed under this Memorandum in the Philippines. Furthermore, Australian personnel and Australian firms, institutions and organizations shall be exempt from these taxes on income derived from work performed outside the Philippines which income is not transferred in the Philippines." Underscoring supplied

Based on the foregoing, salaries, wages and other similar remuneration paid by the Government of Australia or by Australian personnel, firms, institutions and organizations to any person performing work under the Memorandum shall be exempt from Philippine income tax.

4. Canadian International Development Agency (CIDA)

Article VIII of the **Resolution Concurring in the General Agreement on Development Cooperation between the Government of the Republic of the Philippines and the Government of Canada** provides:

“Article VIII

The Government of the Republic of the Philippines shall exempt Canadian firms and Canadian personnel and their dependents from taxes imposed on income, provided such income arises from sources outside of the Philippines or from Canadian aid funds as provided for in any subsidiary arrangement. In addition, the Government of the Republic of the Philippines shall exempt Canadian firms and Canadian personnel, including their dependents, from any obligations to present written declarations in relation to these exemptions.”
Underscoring supplied

Item (b) of Article VI of the same Agreement provides for the definition of Canadian personnel as follows:

“Article VI

For the purposes of this Agreement:

xxx

(b) “Canadian personnel” means Canadians or non-Philippine citizens, who are working in the Philippines on any project established under a subsidiary arrangement;” Underscoring supplied

Accordingly, only “Canadian personnel” as defined therein who derive income from Canadian aid funds as may be provided under a subsidiary agreement shall be exempt from Philippine income tax.

5. Advisory Committee on Voluntary Foreign AID - USA

The agreement between the Philippines and the United States of America covered by the Exchange of Notes between the two countries (Note No. 1071 and Note No. 3001¹) entitles eligible agencies registered with the Advisory Committee on Voluntary Foreign Aid to duty-free privileges and internal tax revenue exemptions on certain relief items and other supplies and equipment meant to carry out the operations of said agencies in the country. It is noted, however, that the exemption does not cover salaries and emoluments paid to employees of said agencies which are situated in the Philippines. In regard to the latter, any exemption from Philippine income tax must be granted under the terms of other international agreements or particular provisions of existing law covering the same. Some of these agencies are as follows:

¹ Dated 29 April 1954 and 18 October 1956, respectively.

a. Cooperative for American Relief Everywhere (CARE)

Paragraph 3(b)(2) of the **Agreement Between the Government of the Philippines and Cooperative for American Everywhere, Inc.** provides:

“3. The Government will:

xxx

(b) Levy no taxes:

xxx

(2) On CARE, its assets, property, receipts, operations, or the salaries or other remuneration for personnel services paid by CARE to its personnel of non-Philippine nationality.” Underscoring supplied

As stated in the Agreement, only CARE employees who are not Philippine nationals are exempt from Philippine income tax.

b. Foster Parents Plan International, Inc. (FPPI or PLAN)

Paragraph Nos. 3 & 5, Article III of the **Memorandum of Agreement between Foster Parents Plan International, Inc. and the Government of the Republic of the Philippines**² provides:

“Article III
OFFICIALS AND ALIEN EMPLOYEES

xxx

3. That non-Filipino citizens serving as the staff of PLAN, shall be exempted from payment of income tax on salaries and stipends in dollars received solely and by reason of services rendered under the PLAN, programs.

xxx

5. These privileges shall not be enjoyed by locally hired Filipino nationals or resident aliens working with PLAN.” Underscoring supplied

Under the aforesaid provisions, only non-Filipino staff members of the PLAN who receive salaries and stipends in U.S. dollars shall be exempt from Philippine income tax. In addition, however, it is provided that the privilege shall not apply to locally-hired Filipino nationals and resident aliens working with the PLAN.

² 01 August 1990

6. Aid Agencies and Other Organizations Exempt Under Philippines Laws

a. Ford Foundation, Rockefeller Foundation, Agricultural Development Council, Inc. and Asia Foundation

Section 2 of **Republic Act (RA) No. 3538**, as amended by Presidential Decree (PD) No. 1127³, provides:

“Sec. 2 Non-Filipino citizens serving on the staff of the Ford Foundation, the Rockefeller Foundation, the Agricultural Development Council, Inc., the Foster Parents Plan, Inc., or the Asia Foundation grants shall be exempted from the payment of income tax on salaries and stipends in dollars received solely and by reason of service rendered under the Ford Foundation, the Rockefeller Foundation, the Agricultural Development Council, Inc. [or] the Foster parents Plan, Inc. or the Asia Foundation programs.” Underscoring supplied

As provided, therefore, only non-Filipino staff members of the foregoing organizations, receiving salaries and stipends in U.S. dollars, shall be exempt from Philippine income tax. In regard to the staff members of the Foster Parents Plan, Inc., the terms of the aforementioned Memorandum of Agreement between Foster Parents Plan International, Inc. and the Government of the Republic of the Philippines which was executed after the promulgation of PD 1127 shall govern.

b. International Institute of Rural Reconstruction (IIRR)

Section 2 of **PD No. 728⁴**, which also amended RA No. 3538 (as amended by PD No. 1127) but was not incorporated in the said PD No. 1127, provided tax exemptions and other privileges to the IIRR, as follows:

“Section 2. Section 2 of the same Act is hereby amended to include non-Filipino citizens serving on the staff of the International Institute of Rural Reconstruction as beneficiaries of the exemptions and privileges provided in said section.” Underscoring supplied

Applying the said Section in relation to the provisions of RA 3538, only non-Filipino staff members of the IIRR, receiving salaries and stipends in U.S. dollars, are exempt from Philippine income tax.

³ 22 April 1977

⁴ 05 June 1975

c. Catholic Relief Services – NCWC and Tools for Freedom Foundation

Section 2 of **RA No. 4481**, entitled An Act Exempting the Catholic Relief Services – NCWC and the Tools for Freedom Foundation from the Payment of Certain Taxes, states:

“Sec. 2 Non-Filipino citizens serving on the staff of Catholic Relief Services – NCWC and the Tools for Freedom Foundation shall be exempt from the payment of taxes on salaries and stipends in dollars received solely and by reason of service rendered under Catholic Relief Service – NCWC and the Tools for Freedom Foundation programs.” Underscoring supplied

Accordingly, only non-Filipino staff members of the Catholic Relief Services – NCWC and the Tools for Freedom Foundation who receive salaries and stipends in U.S. dollars shall be exempt from Philippine income tax.

(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**⁵ 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 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) e exempt from taxation on the salaries and emoluments paid to them by the United Nations; xxx” Underscoring supplied B

Based on above provisions, officials of the United Nations shall be exempt from Philippine income tax, regardless of their nationality or place of residence.

⁵ Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946

Applying Section 17 of the Convention, however, 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.

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 Nations⁶ 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 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 Development⁷
- 7) The World Health Organization
- 8) The Universal Postal Union
- 9) The International Telecommunication Union
- 10) Any other agency in relationship with the United Nations⁸

⁶ Convention on the Privileges and Immunities of the Specialized Agencies approved by the General Assembly of the United Nations on 21 November 1947

⁷ Or the World Bank

⁸For example: United Nations International Children's Emergency Fund (UNICEF), United Nations Development Program (UNDP), United Nations High Commissioner for Refugees (UNHCR), United Nations Industrial

Applying Section 19(b) of the above Convention, in relation to Section 18(b) of the Convention on the Privileges and Immunities of the United Nations, officials of Specialized Agencies of the United Nations shall be exempt from Philippine income tax, regardless of their nationality or place of residence. This serves as the general rule on the tax treatment of officials of the Specialized Agencies. **Regardless of such rule, however, Specialized Agencies with separate host agreements, charters or articles of agreement shall be governed by the provisions of said agreements or charters.**

In accordance with Section 18 of the Convention on the Privileges and Immunities of the Specialized Agencies, it shall be understood that the names of officials of the enumerated Specialized Agencies must be properly communicated to the Philippine Government (through the Department of Foreign Affairs). This shall apply notwithstanding the absence of similar provisions in their respective host agreements, charters or articles of agreement.

3. Food and Agriculture Organization (FAO)

Paragraph 4 of the Exchange of Letters⁹ agreed upon between the FAO and the Government of the Republic of the Philippines, reads as follows:

“4. To the extent that it is not already bound to do so, the Government agrees to apply to the Organization, its staff, funds, property and assets, the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies. The FAO Representative shall be accorded the treatment provided for in Section 21 of the said Convention. The Government also agrees to grant FAO, and to the FAO Representative and his staff, privileges, and immunities not less favourable than those granted to a representative of any other specialized agency or similar United Nations body in the Philippines.”
Underscoring supplied

Based on the above, the FAO representative and his staff are granted privileges and immunities not less favorable than those enjoyed by other Specialized Agencies of the United Nations. Thus, according to Section 19(b) of the Convention on the Privileges and Immunities of the Specialized Agencies and with further reference to Section 18(b) of the Convention on the Privileges and Immunities of the United Nations, the FAO representative and his staff, regardless of nationality or place of residence, shall be exempt from Philippine income tax.

4. International Monetary Fund (IMF)

Section 9(b) of the **Articles of Agreement of the International Monetary Fund** provides:

“Article IX
Status, Immunities, and Privileges

Development Organization (UNIDO), United Nations Population Fund (UNFPA), World Food Program (WFP), International Committee of the Red Cross (ICRC) and the United Nations Information Centre (UNIC)

⁹ Exchange of Letters dated 02 November 1977 and 14 November 1977

Section 9. Immunities from Taxation

xxx

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Fund to Executive Directors, Alternates, officers, or employees of the Fund who are not local citizens, local subjects, or other local nationals. Underscoring supplied

Based on the foregoing, only executive directors, alternates, officers or employees of the IMF who are not local citizens, local subjects or local nationals are exempt from Philippine income tax.

5. International Bank for Reconstruction and Development (IBRD)

Section 9(b), Article VII of the **Articles of Agreement of the International Bank for Reconstruction and Development** provides:

“ARTICLE VII
Status, Immunities and Privileges

SECTION 9. Immunities from Taxation

xxx

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to executive directors, alternates, officials or employees of the Bank who are not local citizens, local subjects, or other local nationals.” Underscoring supplied

Accordingly, only IBRD executive directors, alternates, officials or employees who are not local citizens, local subjects or local nationals shall be exempt from Philippine income tax.

6. World Health Organization (WHO)

Section 22 of Article VIII of the **Agreement between the World Health Organization and the Government of the Republic of the Philippines** pertinently provides:

“Article VIII
Officials

xxx

Section 22: Officials of the Organization shall: xxx (b) be exempt from taxation in respect of the salaries and emoluments paid to them by the Organization. Underscoring supplied

Under the Agreement, officials of the WHO are exempt from Philippine income tax, regardless of their nationality or residence.

7. United Nations International Children's Emergency Fund (UNICEF)

Paragraph (b), Article VI of the **Agreement between the UNICEF and the Government of the Philippines Concerning the Activities of the UNICEF in the Philippines** states:

"ARTICLE VI
IMMUNITY FROM TAXATION

xxx

(b) No tax, fee, toll or duty shall be levied by the Government or any political sub-division thereof or any other public authority on or in respect of salaries or remuneration for personal services paid by the Fund to its officers, employees, or other Fund personnel who are not subjects of the Republic of the Philippines or permanent residents thereof." Underscoring supplied

From the above provisions, only officers, employees or other UNICEF personnel who are not nationals or permanent residents of the Philippines are exempt from income tax.

8. United Nations Development Programme (UNDP)

Under paragraphs 1, 2 and 3, Article IX of the **Agreement between the Government of the Philippines and the United Nations Development Programme**, it is provided that:

"Article IX
Privileges and Immunities

- "1. The Government shall apply to the United Nations and its organs, including the UNDP and U.N. subsidiary organs acting as UNDP Executing Agencies, their property, funds and assets, and to their officials, including the resident representative and other members of the UNDP mission in the country, the provisions of the Convention on the Privileges and Immunities of the United Nations.
2. The Government shall apply to each Specialized Agency acting as an Executing Agency, its property, funds and assets, and to its officials, the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies, including any Annex to the Convention applicable to such Specialized Agency. In case the International Atomic Energy Agency (IAEA) acts as an Executing Agency, the Government shall apply to its property, funds and assets, and to its officials and experts, the Agreement on the Privileges and Immunities of the IAEA.

xxx

4. (a) Except as the Parties may otherwise agree in Project Documents relating to specific projects, the Government shall grant all persons, other than Government nationals employed locally, performing services on behalf of the UNDP, a Specialized Agency, or the IAEA who are not covered by paragraphs 1 and 2 above the same privileges and immunities as officials of the United Nations, the Specialized Agency concerned or the IAEA under Sections 18, 19 or 18 respectively of the Conventions on the Privileges and Immunities of the United Nations or of the Specialized Agencies, or of the Agreement on the Privileges and Immunities of the IAEA." Underscoring supplied

From the above provisions, the following officials shall not be subject to Philippine income tax:

- (1) Officials, including resident representatives and other member of the missions, of the UNDP and UN subsidiary organs acting as UNDP executing agencies, regardless of nationality or residence;
- (2) Officials of the Specialized Agencies, acting as executing agency of UNDP projects, regardless of nationality or residence;
- (3) Officials and experts of the IAEA, acting as executing agency of UNDP projects, regardless of nationality or residence; and
- (4) Other persons performing services on behalf of the UNDP and the Specialized Agency or IAEA, acting as executing agencies, who are not Philippine nationals employed locally.

9. United Nations Population Fund (UNFPA)

Based on the Exchange of Letters between the UNFPA and the Government of the Republic of the Philippines, as confirmed in the letter signed by then Acting Secretary of the Department of Foreign Affairs Federico M. Macaranas dated 21 October 1996, the provisions of the aforementioned agreement between the Philippines and the UNDP shall apply to the UNFPA. The pertinent portion of the said letter reads:

"It is my honor to inform you that the Philippine government agrees with your proposal to have the Philippines-UNDP Agreement apply to the UNFPA, mutatis mutandi, and that this reply and its enclosures, together with your abovementioned letter, shall be regarded as constituting an agreement on the matter." Underscoring supplied

In accordance with the said agreement, officials of the UNFPA or of any UN subsidiary organs/specialized agencies acting as executing agencies of the UNFPA, shall be exempt from Philippine income tax. The exemption shall apply also to other persons performing services on behalf of the UNFPA and its executing agencies who are not Philippine nationals employed locally.

10. 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** provides 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 ICRC; 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.

11. International Finance Corporation (IFC)

Section 9(b), Article VI of the **Articles of Agreement of the International Finance Corporation** provides:

“ARTICLE VI
Status, Immunities and Privileges

SECTION 9. Immunities from Taxation

xxx

- (b) No tax shall be levied on or in respect of salaries and emoluments paid by the Corporation to Directors, Alternates, officials or employees of the Corporation who are not local citizens, local subjects, or other local nationals. Underscoring supplied

As above, only directors, alternates, officials or employees of the IFC who are not local citizens, local subjects, or other local nationals shall be exempt from Philippine income tax.

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

1. Asian Development Bank (ADB)

Section 45(b), Article XII of the **Agreement between the Asian Development Bank and the Government of the Republic of the Philippines regarding the Headquarters of the Asian Development Bank** provides:

“ARTICLE XII

xxx

Section 45

Officers and staff of the Bank, including for the purposes of this Article experts and consultants performing missions for the Bank, shall enjoy the following privileges and immunities:

xxx

(b) Exemption from taxation on or in respect of the salaries and emoluments paid by the Bank subject to the power of the Government to tax its nationals;”
Underscoring supplied

From the above, only officers and staff of the ADB who are not Philippine nationals shall be exempt from Philippine income tax.

2. ASEAN Centre For Biodiversity (ACB)

Article VIII (D)(1) and (3) of the **Host Country Agreement between the Government of the Republic of the Philippines and the ASEAN Centre for Biodiversity** pertinently provides that:

“Article VIII

IMMUNITIES AND PRIVILEGES

D. Taxation and Customs

1. xxx ACB shall also be exempt from the duty to withhold taxes on its income payments to other entities, including payments of compensation to its Filipino staff and/or employees. However, its Filipino staff and/or employees are still required to file their income tax returns and to pay the corresponding income tax due thereon as required under existing laws and regulations. xxx
3. Non-Filipino citizens serving on the staff of the ACB shall be exempt from the payment of income tax on salaries and stipends in foreign currency received by them solely and by reason of services rendered to ACB.”
Underscoring supplied

As stated, only non-Filipino citizens serving as staff of the ACB who receive salaries and stipends in foreign currency shall be exempt from Philippine income tax.

3. International Rice Research Institute (IRRI)

Section 4.5.3, Article IV of the **Headquarters Agreement between the Government of the Republic of the Philippines and the International Research Institute** provides:

“5. Taxation, Customs and Quarantine

xxx

Section 4.5.3. Non-Filipino members of the staff of the Institute shall be exempt from the payment of income tax on salaries and stipends in U.S. dollars or other foreign currency received by them solely by reason of service rendered to the Institute.” Underscoring supplied

Accordingly, only non-Filipino members of the staff of IRRI who receive salaries and stipends in U.S. dollars or other foreign currency are exempt from Philippine income tax.

4. Southeast Asian Regional Center for Graduate Study and Research in Agriculture (SEARCA)

Section 1 of **Presidential Decree No. 1171**¹⁰ dated 12 July 1977 provides as follows:

“Section 1. Tax Exemption. – xxx Provided, finally, That non-Filipino citizens or non-resident aliens who are experts in their respective fields and are serving in the staff of the Regional Center shall be exempt from the payment of Philippines income tax on all salaries and stipends, wages or other income derived solely and by reason of service under SEARCA.” Underscoring supplied

Under the said Presidential Decree, only non-Filipino citizens or non-resident aliens serving as expert staff members of the SEARCA shall be exempt from Philippine income tax.

5. Southeast Asian Ministers of Education Organization (SEAMEO)

Paragraphs (3)(d) and (4), Article XI of the **Agreement between the Government of the Republic of the Philippines and the Southeast Asian Ministers of Education Organization Regarding the Temporary Operation of the SEAMEC Regional Centre for Educational Innovation and Technology (INNOTECH)** provides:

¹⁰ Providing Certain Tax Exemptions to the Southeast Asian Regional Center for Graduate Study and Research in Agriculture and For Other Purposes

“Article XI
Immunities and Privileges

xxx

“3. Officers of the Regional Centre shall enjoy, within or with respect to the Philippines, the following privileges and immunities:

xxx

d. exemption from income tax on the salaries of Officers of the Organization excluding citizens of the Philippines and those technical persons who are contracted by the Regional Centre or by other international organizations to work for the Regional Centre, xxx.”

“4. The names of the Officers of the Organization on duty in the Philippines shall be communicated to the appropriated Philippine authorities within a reasonable time. xxx” Underscoring supplied

Based on the above Agreement, only officers Regional Centre who are not Philippine nationals shall be exempt from Philippine income tax. As a condition for the tax exemption, however, the names of the aforementioned officers must be communicated to the Philippine government (through the Department of Foreign Affairs).

6. Southeast Asian Fisheries Development Center Aquaculture Department (SEAFDEC)

Section 3 of **Presidential Decree No. 292¹¹** dated September 13, 1973 provides:

“SECTION 3. Non-Filipino citizens serving on the technical and scientific staff of the SEAFDEC Aquaculture Department shall be exempted from the payment of income tax salaries and stipends received solely and by reason of service rendered to the Department.” Underscoring supplied

Under the said Section, only non-Filipino citizens who are employed as technical and scientific staff of the SEAFDEC Aquaculture Department are exempt from Philippine income tax.

7. International Organization for Migration (IOM)

Article 4 of the **Cooperation Agreement between the Government of the Republic of the Philippines and the International Organization for Migration** provides:

“Article 4

¹¹ Defining the Status of, and Authorizing the Grant of Tax Exemption and Other Privileges to, the Aquaculture Department of the Southeast Asian Fisheries Development Center in the Philippines

The Director and the Deputy Director General of the Organization, on the one hand, and, on the other hand, the staff of the Organization shall enjoy in the Republic of the Philippines the same privileges and immunities as those granted to executive heads and to the staff respectively, of specialized agencies of the United Nations by virtue of the Convention on the privileges and immunities of the specialized agencies of 21 November 1947.” Underscoring supplied

Applying the said Article 4 in relation to Section 19(b) of the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nation, the Director General, the Deputy Director General and the staff of the IOM shall be exempt from Philippine income tax, regardless of their nationality or place of residence.

8. International Seabed Authority (ISBA)

Article 8(2)(c) and Article 9(1)(e) of **the Protocol on the Privileges and Immunities of the International Seabed Authority (ISBA)** provide:

“Article 8. Officials

1. The Secretary-General will specify the categories of officials to which the provisions of paragraph 2 of this article shall apply. The Secretary-General shall submit these categories to the Assembly. Thereafter, these categories shall be communicated to the Governments of all members of the Authority. The names of officials included in these categories shall from time to time be made known to the Governments of members of the Authority.

2. Officials of the Authority, regardless of nationality, shall:

xxx

(c) be exempt from tax in respect of salaries and emoluments paid or any other form of payment made by the Authority;”

“Article 9. Experts on mission for the Authority

xxx

1. Experts (other than officials coming within the scope of Article 8) performing missions for the Authority shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular, they shall be accorded:

xxx

(e) exemption from tax in respect of salaries and emoluments paid or any other form of payment made by the Authority. This provision is not applicable as between an expert and the member of the Authority of which he or she is a national;” Underscoring supplied

Under the above provisions, officials of the ISBA, whether Philippine nationals or not, are exempt from Philippine income tax. The names of these

officials must be communicated to the Philippine Government, through the Department of Foreign Affairs. With respect to experts and members of the ISBA which are not considered officials thereof, only foreign nationals shall be entitled to tax exemption.

9. Partnerships in Environmental Management for the Seas of East Asia (PEMSEA)

Section 1 of Article VI(D) of the **Agreement between the Government of the Republic of the Philippines and the Partnerships in Environmental Management for the Seas of East Asia (PEMSEA) Establishing the PEMSEA Resource Facility Center** provides:

“ARTICLE VI
PRIVILEGES AND IMMUNITIES OF REPRESENTATIVE OF PEMSEA PARTNERS,
MEMBERS OF THE EXECUTIVE COMMITTEE, EXECUTIVE DIRECTOR,
CONSULTANTS, AND PEMSEA STAFF

xxx

D. Taxation and Customs

Section 1. The non-Filipino PEMSEA Officials, Officers and Staff, shall be exempt from taxation in respect of the salaries, emoluments and indemnities paid to them in US Dollars or other foreign currency by PEMSEA. Benefits in US dollars or other foreign currency in any circumstances by a pension fund or provident scheme shall likewise be exempt from taxation in the Philippines at the time their payment as well as all benefits paid in US dollars or other foreign currency for sickness, accidents and so forth.” Underscoring supplied

Under the said Article, only non-Filipino officials, officers and staff of PEMSEA who receive salaries, emoluments, indemnities and pension/provident benefits in U.S. dollars or other foreign currency are exempt from Philippine income tax.

10. Press Foundation of Asia, Inc. (PFA)

Section 1 of Republic Act No. 5469 **An Act Exempting the Trustees of the Press Foundation of Asia, Inc., and its Grants from the Payment of Income, Gift, Compensating and Real Property Taxes, Duties and Fees** provides:

“SECTION 1. xxx Provided, finally, That non-Filipino citizens or non-resident aliens who are experts in their respective fields and who are serving in the staff of said Foundation shall be exempted from the payment of income tax on all salaries, wages or other income derived by reason of their services with said Foundation.” Underscoring supplied

Under the said Section, only non-Filipino and non-resident experts who are serving in the staff of PFA are exempt from Philippine income tax.

11. International Development Law Institute (IDLI)

Section 22, Article 4 of the **Agreement between the Government of the Republic of the Philippines and the International Development Law Institute Relating to the IDLI/Asia Regional Training Office** provides:

“Article IV
IMMUNITIES AND PRIVILEGES

xxx

D. Freedom from Taxation

xxx

Section 22. Officials of the IDLI/ARTO who are not Filipino citizens shall be exempt from the payment of income tax on salaries and stipends, whether in local or in foreign currency, received solely and by reason of services rendered to the IDLI/ARTO. xxx” Underscoring supplied

From the foregoing Section, only non-Filipino citizens who are officials of the IDLI/ARTO are exempt from Philippine income tax.

12. World Organization of Scout Movement (WOSM)

Paragraph Nos. 3 and 5 of Article IV of the **Memorandum of Agreement between the Government of the Philippines and the World Organization of Scout Movement** pertinently provide:

“Article IV
Officials and Alien Employees

xxx

3. Non-Filipino citizens serving as the staff of the SCOUT MOVEMENT shall be exempted from the payment of income tax on salaries and stipends in U.S. dollars received solely and by reason of services rendered under the SCOUT MOVEMENT.

xxx

5. These privileges shall not be enjoyed by Filipino citizens or locally hired resident aliens who are officials of or who are working with the SCOUT MOVEMENT.” Underscoring supplied

Based on the above, non-Filipino staff members of WOSM who receive salaries and stipends in U.S. dollars are exempt from Philippine income tax. In addition, however, the Article stated that the privilege shall not apply to locally-hired resident aliens.

13. International Center for Living Aquatic Resources Management (ICLARM)

Section 33 Article IV of the **Agreement between the Government of the Republic of the Philippines and International Center for Living Aquatic Resources**

Management to establish and office of the Worldfish Center in the Philippines states:

“Article IV
Immunities and Privileges

xxx

I. Immunities and Facilities Accorded to Officials and Staff of the Office

Section 33. The non-Filipino members of the Staff of the Office shall be exempt from taxation in respect of the salaries, emoluments and indemnities paid to them in U.S. dollars or other foreign currency by the Office. Benefits paid in U.S. dollars or other foreign currency in any circumstances by a pension fund or provident scheme shall also be exempt in the Philippines from taxation at the time of their payment, as shall all benefits paid in U.S. dollars or other foreign currency for sickness, accidents and so forth.” Underscoring supplied

Thus, only non-Filipino members of the staff of the ILCLARM office in the Philippines are exempt from Philippine income tax on their salaries, emoluments, indemnities and pension/provident benefits which are received in U.S. dollars or other foreign currency.

14. Colombo Plan Staff College (CPSC)

No. 2 (c) & (e) and No. 3 of Article VII of the **Memorandum of Agreement between the Government of the Republic of the Philippines and the Colombo Plan Staff College Regarding the Operation of the College in the Philippines** provides:

“Article VII
IMMUNITIES AND PRIVILEGES

xxx

2. Officers, faculty and staff of the College except Filipino nationals shall enjoy, within or with respect to the Philippines, the following privileges and immunities:

xxx

c. Exemption from income tax on the salaries of the Officers, Faculty members, consultants and such senior professional and administrative staff designated by the Director and approved by the Minister of Education, Culture and Sports and the privilege to convert foreign currencies authorized by the Central Bank of the Philippines into pesos which may be re-converted into other foreign currencies authorized by the Central Bank and which may be taken out of the Philippines in accordance with the rules and regulations of the Central Bank;

xxx

3. The names of the Officers and Faculty members of the College on duty in the Philippines shall be communicated to the appropriate Philippine authorities within one month from assuming duties." Underscoring supplied

As provided under the above Memorandum, only officers, faculty members, consultants, senior and administrative staff of CPSC who are not Philippine nationals shall be exempt from Philippine income tax. However, it is also provided that the names of said officers and faculty members must be approved by the Department of Education, Culture and Sports and must be communicated to the Philippine Government (through the Department of Foreign Affairs).

(e) Employees of Other Aid Agencies or International Organizations

The taxation of salaries and emoluments received by employees of aid agencies or international organizations not discussed under this Circular shall be evaluated based on the terms of existing articles of agreement, charters or host agreements or on the provisions of existing laws granting tax exemptions or privileges to said agencies or organizations.

SECTION 3. FILING OF INCOME TAX RETURNS AND DECLARATION OF COMPENSATION INCOME.— Philippine nationals and alien individuals who were not granted tax exemption or immunities under duly recognized international agreements or local laws shall file their annual income tax returns on or before the 15th day of April each year using BIR Form No. 1700 or 1701, as may be applicable¹², declaring therein the amount of their respective compensation income for the preceding taxable year for services rendered or performed for such foreign government embassy/diplomatic mission, agency or international organization.

The annual income tax return shall be filed with the Revenue District Office, 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 Revenue District Office or Authorized Agent Bank where the principal office of his/her employer is situated.

SECTION 4. CONSEQUENCES OF THE NON-FILING AND/OR NON-PAYMENT OF TAX RETURNS BY COVERED INDIVIDUALS.— Failure of the covered taxpayers to file the annual income tax returns and to pay the income tax due thereon constitutes a violation of Sections 254¹³ and 255¹⁴ of the Tax Code of 1997. Consequently, the concerned BIR office shall issue the corresponding tax assessments, inclusive of surcharges and penalties; and in proper cases, initiate the pertinent criminal actions.

¹² BIR Form No. 1700 for individuals earning purely compensation income and BIR Form No. 1701 for individuals earning both business and compensation income

¹³ Attempt to Evade or Defeat Tax

¹⁴ Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.

SECTION 5. CONFIRMATION OF TAX EXEMPTION.— Philippine nationals claiming exemption from income tax under the terms and provisions of international agreements or under laws granting privileges to employees of international organizations shall file an application for confirmation of tax exemption with the International Tax Affairs Division (ITAD) of the Bureau of Internal Revenue.

SECTION 6. REPEALING CLAUSE. — Any revenue issuance which is inconsistent with this Circular is deemed revoked, repealed, or modified accordingly.

SECTION 7. 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