

September 07, 2001

**REVENUE REGULATIONS NO. 12-2001**

**SUBJECT :** Amendment to the Pertinent Provisions of Revenue Regulations No. 1-98, as Amended, Revenue Regulations No. 2-98, as Amended, and Revenue Regulations No. 6-2001, Relative to the Revision of Withholding Tax Rates on Certain Income Payments Subject to Withholding Tax, the Deferment of the New Deadline Dates For Filing Selected Tax Returns, the Reporting Requirements for Recipients of Talent Fees, and for Other Purposes.

**TO :** All Internal Revenue Officers and Others Concerned.

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**SECTION 1. Scope.** – Pursuant to Section 244 of the Tax Code of 1997, in relation to Sections 57 and 128(A)(3) of the same Code, these Regulations are hereby promulgated in order to amend pertinent provisions of Revenue Regulations No. 6-2001 (RR 6-2001) relative to the rates of creditable withholding tax, effectivity of the adjustment in the creditable withholding tax rates as well as the new deadline dates for the filing of selected tax returns, compliance or reporting requirements prescribed from recipients of talent fees, and for other purposes.

**SECTION 2. Final Withholding Tax on Income Derived by Alien Individuals Employed by Regional or Area Headquarters and Regional Operating Headquarters of Multinational Companies.** – Sec. 2.57.1(D) of Revenue Regulations No. 2-98 (RR 2-98), as amended, is hereby further amended to read as follows:

***(D) Income Derived by Alien Individuals Employed by Regional or Area Headquarters and Regional Operating Headquarters of Multinational Companies.** -*

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*The same tax treatment is applicable to Filipinos employed and occupying the same positions as those aliens employed by regional or area headquarters and regional operating headquarters of multinational companies, regardless of whether or not there is an alien executive occupying the same position. Provided, that such Filipinos shall have the option to be taxed at either 15% of gross income or at the regular tax rate on their taxable income in accordance with the Tax Code of 1997 if the employer (Regional Operating Headquarters/Regional or Area Headquarters) is governed by Book III of E. O. 226 as amended by R. A. 8756. In case the Filipino opted to be taxed at the regular tax rate under Section 24 of the*

Tax Code of 1997, the provisions of Section 2.79 (A) to (D) of Revenue Regulations No. 2-98 shall apply.

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### **SECTION 3. Creditable Withholding Tax on Talent Fees for Services Rendered by Individuals.** - Pertinent portions of Section 2.57.2(A) of RR 2-98, as amended by RR 6-2001, are hereby further amended to read as follows:

**"Section 2.57.2. Income payment subject to creditable withholding tax and rates prescribed thereon.** - Except as herein otherwise provided, there shall be withheld a creditable income tax at the rates herein specified for each class of payee from the following items of income payments to persons residing in the Philippines:

**(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 -

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(2) Professional entertainers, such as, but not limited to, actors and actresses, singers and emcees – Twenty percent (20%), if the professional entertainer's gross income for the current year exceeds P720,000; and Ten percent (10%), if otherwise;

(3) Professional athletes, including basketball players, pelotaris and jockeys – Twenty percent (20%), if the professional athlete's gross income for the current year exceeds P720,000; and Ten percent (10%), if otherwise;

(4) All directors involved in movies, stage, radio, television and musical productions – Twenty percent (20%), if the director's gross income for the current year exceeds P720,000; and Ten percent (10%), if otherwise;

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(8) Other recipients of talent fees – Twenty percent (20%), if the recipient's gross income for the current year exceeds P720,000; and Ten percent (10%), if otherwise;

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The amounts subject to withholding tax under this paragraph shall include not only fees, but also per diems, allowances and any other form of income payments not subject to withholding tax on compensation.

In the case of professional entertainers, professional athletes, directors involved in movies, stage, radio, television and musical productions and other recipients of talent fees, the amounts subject to withholding tax shall also include amounts paid to them in consideration for the use of their names or pictures in print, broadcast, or other media or for public appearances, for purposes of advertisements or sales promotion.

Furthermore, in order to determine the applicable tax rate (10% or 20%) to be applied/withheld by the withholding agent, every professional entertainer, professional athlete, director involved in movies, stage, radio, television and musical productions and other recipients of talent fees shall annually disclose his gross income for the current year to the Bureau of Internal Revenue (BIR), by submitting a notarized sworn declaration thereof, copy furnished all the current payors of the declaration duly stamped received by the BIR (Withholding Tax Division of the National Office). The disclosure should be filed on June 30 of each year or within fifteen (15) days after the end of the month the talent'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 initial disclosure after the effectivity of these Regulations shall be filed on or before September 30, 2001 or within fifteen (15) days after the effectivity of these Regulations, whichever comes later. In case of failure to submit the annual declaration/disclosure to the BIR, the payor shall withhold the tax at the rate of 20%.

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

#### **SECTION 4. Time of Withholding.** – Section 2.57.4 of RR 2-98, is hereby amended to read as follows:

**"Sec. 2.57.4. Time of withholding.** – The obligation of the payor to deduct and withhold the tax under Section 2.57 of these Regulations arises at the time an income payment is paid or payable, or the income payment is accrued or recorded as an expense or asset, whichever is applicable, in the payor's books, whichever comes first. The term "payable" refers to the date the obligation becomes due, demandable or legally enforceable.

Provided, however, that where income is not yet paid or payable but the same has been recorded as an expense or asset, whichever is applicable, in the payor's books, the obligation to withhold shall arise in the last month of the return period in which the same is claimed as an expense or amortized for tax purposes.

"Example – X Corporation, a domestic corporation which reports income and expenses on a calendar year basis, issues 2-year bonds with face value of P100,000,000 at a discount amounting to P6,000,000 on January 1, 2002 to twenty five (25) investors. It records in its books the amortized portion of the discount as expense in the amount of P250,000/month (P6,000,000 divided by 24 months).

"Since the discount is not yet paid or payable but the aliquot portion of which has already been recorded as expense for tax purposes, the withholding of the 20% final tax shall be done on the last month of the quarter when the same has been claimed as an expense in the quarterly income tax returns/final adjustments returns filed by X Corporation.

"Thus, in the above illustration, the amortized discount to be recorded by X Corporation for the months of January, February and March 2002 amounting to P750,000 shall be subject to 20% final tax of P150,000 come March 2002, which tax shall be remitted within 10 days after the quarter ending March 2002 (that is, on or before April 10, 2002). The said withholding tax shall be reported in its Monthly Remittance Return of Final Income Taxes Withheld required to be filed in April 2002. On the other hand, for the calendar quarter ending December 2002, the withholding of the final tax for the amortized discount pertaining to the months of October, November and December shall be done in December 2002 and the remittance thereof shall be on or before January 15, 2003. The said withholding tax shall be reported in its Monthly Remittance Return of Final Income Taxes Withheld required to be filed in January 2003."

#### **SECTION 5. Issuance of Certificate of Value-Added Tax Withheld and Percentage Tax Withheld.** - (a) Section 4.114(D) of Revenue Regulations 2-98 is hereby amended to read as follows:

**"(D) Certificate of value added tax withheld at source.** - Every withholding agent shall furnish each seller of goods and services from whom taxes has been deducted and withheld, the Certificate of Creditable Tax Withheld at Source (BIR Form 2307) to be accomplished in quadruplicate, the first three copies of which shall be given to the seller/payee not later than the fifth (5<sup>th</sup>) day of the following month. The fourth copy shall be the file copy of the withholding agent."

(b) Section 5.116(C) of Revenue Regulations 2-98 is hereby amended to read as follows:

**"(C) Certificate of percentage tax withheld at source.** - Every withholding agent shall furnish each proprietor, operator, common carrier, franchise holder, bank and non-bank financial intermediaries, finance company, insurance company or agent from whom taxes under these regulations had been deducted and withheld the Certificate of Creditable Tax Withheld at Source (BIR Form 2307) to be accomplished in triplicate, two copies to be given to the payee simultaneously with the money payments not later than the fifth (5<sup>th</sup>) day of the following month. The third copy of the certificate shall be the file copy of the withholding agent."

## **SECTION 6. Time of Filing of Percentage Tax Returns and Payment of Taxes Due Thereon. –**

a) Section 6(a) of Revenue Regulations No. 6-2001 is hereby amended to read as follows:

**"SECTION 6. Time for Filing of Percentage Tax Returns and the Payment of Taxes Due Thereon.** – The time for filing of the percentage tax returns and the payment of the taxes due thereon shall be revised in accordance with the rules and appropriate amendments to existing regulations, as presented below.

a. For non-large taxpayers, percentage tax returns shall be filed within ten (10) days after the end of each month and the tax thereon shall be paid at the same time the aforesaid return is filed, provided, however, that with respect to non-large taxpayers who availed of the electronic filing and payment system (EFPS), the deadline for electronically filing the percentage tax return and paying the tax due thereon via the EFPS shall be five (5) days later than the deadline set above, provided, further, that for percentage tax returns required to be filed under Sections 120, 125, 126 and 127 of the Tax Code of 1997, they shall be filed within the periods stated in those sections."

b) Section 4(3.4) of Revenue Regulations No. 1-98 (RR 1-98), as amended by RR 6-2001, is further amended to read as follows:

### **"Section 4. Filing of Returns and Payment of Taxes. –**

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#### **3. When to File and Pay**

##### **3.4 Other Percentage Taxes**

Large taxpayers who are presently preparing separate percentage tax returns shall file a consolidated return, and pay the aggregate taxes due, within ten (10) days after the end of each month, provided, however, that with respect to Large Taxpayers who availed of the EFPS, the deadline for electronically filing the percentage tax returns and paying the taxes due thereon shall be five (5) days later than the deadline set above, provided, further, that for percentage tax returns required to be filed under Sections 120, 125, 126 and 127 of the Tax Code of 1997, they shall be filed within the periods stated in those sections. The Head Office shall prepare a schedule (Annex C) of all percentage tax returns of the branches/units with the following information:

- a. Period covered;
- b. Head office and branch/unit names and addresses; and
- c. Kind and amount of percentage tax payable."

**SECTION 7. Effectivity of the New Deadline Dates in the Filing of Selected Returns and Payment of Taxes Due Thereon as well as the Adjustment of Creditable Withholding Tax Rates as Prescribed in Revenue Regulations No. 6-2001.** - Section 8 of RR 6-2001 is hereby amended to read as follows:

**"SECTION 8. Effectivity Clause.** These Regulations shall take effect with respect to money/income payments that are paid or payable or accrued/recorderd as expense/asset in the books of accounts in October 2001 the withholding taxes of which are required to be paid/remitted to the Bureau of Internal Revenue within the month of November 2001. The new filing deadline dates shall apply to October 2001 returns which are due for filing in November 2001."

**SECTION 8. Penalty Clause.** - Any violation of the provisions of these Regulations shall be punishable under the pertinent provisions of the Tax Code of 1997.

**SECTION 9. Transitory Provision.** - Considering that employees are being taxed on a calendar year basis, the 15% final withholding tax on the gross income of alien individuals occupying managerial and technical positions in representative offices, as well as of Filipinos occupying the same position as such aliens, shall continue to be imposed until December 31, 2001. Thereafter, the pertinent provisions of the Tax Code of 1997 shall apply to these taxpayers depending upon their classification as taxpayers (Secs. 24, 25(A), 25(B) and 33).

**SECTION 10. Repealing Clause.** - The provisions of RR 6-2001 and any other revenue regulations, revenue memorandum order, revenue memorandum circular or other issuance of the Bureau of Internal Revenue inconsistent with these Regulations are hereby repealed, amended, or modified accordingly.

**SECTION 11. Effectivity Clause.** – These Regulations shall take effect fifteen (15) days after publication in any newspaper of general circulation.

(Original Signed)  
**JOSE ISIDRO N. CAMACHO**  
Secretary of Finance

Recommending Approval:

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

**Annex "A"****Adjustment of the Creditable Withholding Tax Rates**

<b>Income Subject to CWT</b>	<b>From</b>	<b>To</b>
A. Professional fees, talent fees, etc. for services rendered by individuals		
1. Professional entertainers, such as, but not limited to, actors and actresses, singers and emcees	10%	20% - if the current year's gross income exceeds P720,000; 10% - if the current year's gross income does not exceed P720,000
2. Professional athletes, including basketball players, pelotaris and jockeys	10%	20% - if the current year's gross income exceeds P720,000; 10% - if the current year's gross income does not exceed P720,000
3. All directors involved in movies, stage, radio, television and musical productions	10%	20% - if the current year's gross income exceeds P720,000; 10% - if the current year's gross income does not exceed P720,000
4. Other recipients of talent fees	10%	20% - if the current year's gross income exceeds P720,000; 10% - if the current year's gross income does not exceed P720,000
5. 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	10%	20%
B. Professional fees, talent fees, etc. for services of taxable juridical persons	5%	10%
C. Income payments to certain contractors:	1%	2%
1. General engineering contractors 2. General building contractors 3. Specialty contractors 4. Other contractors		
D. Income payments to customs, insurance, real estate and commercial brokers and agents of professional entertainers	5%	10%

E. Gross selling price or fair market value paid to the seller/owner for the sale, exchange or transfer of real property classified as ordinary asset, where the seller is not habitually engaged in the real estate business	7.5%	6%
F. Certain income payments made by credit card companies	1/2% on the gross amounts paid	1% on one-half of the gross amounts paid

**Annex “B”**

**Taxes Affected By The Acceleration of Filing of Returns and Payment of Taxes Due Thereon**

<b>Tax</b>	<b>From</b>	<b>To (Manual)</b>	<b>To (EFPS)</b>
1. Creditable and final withholding tax (excluding the month of December and excluding the final withholding tax on interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements): a. Non-Large Taxpayer b. Large Taxpayer	Within 10 days after the end of each month  Within 25 days after the end of each month	Within 10 days after the end of each month  Within 10 days after the end of each month	Within 15 days after the end of each month  Within 15 days after the end of each month
2. Creditable and final withholding tax for the month of December (excluding the final withholding tax on interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements): a. Non-Large Taxpayer b. Large Taxpayer	On or before January 25 of the following year  On or before January 25 of the following year	On or before January 15 of the following year  On or before January 15 of the following year	On or before January 20 of the following year  On or before January 20 of the following year
3. Final withholding tax on interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements:			

a. Non-Large Taxpayer	Within 25 days from the close of each calendar quarter	For January to November – within 10 days after the end of each month For December – on or before January 15 of the following year	For January to November – within 15 days after the end of each month For December – on or before January 20 of the following year
b. Large Taxpayer	Within 25 days from the close of each calendar quarter	For January to November – within 10 days after the end of each month For December – on or before January 15 of the following year	For January to November – within 15 days after the end of each month For December – on or before January 20 of the following year
4. Withholding tax on compensation (excluding the month of December):			
a. Non-Large Taxpayer	On or before the 10 <sup>th</sup> day of the month following the month in which withholding was made	On or before the 10 <sup>th</sup> day of the month following the month in which withholding was made	On or before the 15 <sup>th</sup> day of the month following the month in which withholding was made
b. Large Taxpayer	On or before the 25 <sup>th</sup> day of the following month	On or before the 10 <sup>th</sup> day of the month following the month in which withholding was made	On or before the 15 <sup>th</sup> day of the month following the month in which withholding was made
5. Withholding tax on compensation for the month of December:			
a. Non-Large Taxpayer	Not later than January 25 of the following year	Not later than January 15 of the following year	Not later than January 20 of the following year
b. Large Taxpayer	On or before the 25 <sup>th</sup> day of the following month	Not later than January 15 of the following year	Not later than January 20 of the following year
6. Value-added tax – monthly VAT declaration:			
a. Non-Large Taxpayer	Within 25 days after the end of each month	Within 10 days after the end of each month	Within 15 days after the end of each month
b. Large Taxpayer	Not later than the 25 <sup>th</sup> day following the end of each month	Not later than the 10 <sup>th</sup> day following the end of each month	Not later than the 15 <sup>th</sup> day following the end of each month
7. Documentary stamp tax:			
a. Non-Large Taxpayer	Within 10 days after the close of the month when the taxable document was made,	Within 5 days after the close of the month when the taxable document was made,	

b. Large Taxpayer	signed, accepted, or transferred  Within 10 days after the close of the month when the taxable document was made, signed, accepted, or transferred	signed, accepted, or transferred  Within 5 days after the close of the month when the taxable document was made, signed, accepted, or transferred	
8. Percentage tax: a. Non-Large Taxpayer	Within 25 days after the end of each taxable quarter	Within 10 days after the end of each month, except those under Sections 120, 125, 126 and 127 of the Tax Code of 1997	Within 15 days after the end of each month, except those under Sections 120, 125, 126 and 127 of the Tax Code of 1997
b. Large Taxpayer	Within 25 days after the end of each taxable quarter	Within 10 days after the end of each month, except those under Sections 120, 125, 126 and 127 of the Tax Code of 1997	Within 15 days after the end of each month, except those under Sections 120, 125, 126 and 127 of the Tax Code of 1997

Notes:

1. Section 120 – Overseas communication tax
2. Section 125 – Amusement tax
3. Section 126 – Tax on winnings
4. Section 127 - Stock transaction tax and IPO tax

## **AFFIDAVIT-DECLARATION OF CURRENT YEAR'S GROSS INCOME**

Republic of the Philippines )  
Province of \_\_\_\_\_) SS  
City/Municipality of \_\_\_\_\_)

I, \_\_\_\_\_, of legal age, single/married, residing at \_\_\_\_\_, after being sworn in accordance with law, depose and say that:

1. I am a/an [state nature of work] for which I receive talent fees;
2. As such, I have received a gross income of \_\_\_\_\_ for the current year as of \_\_\_\_\_, 20\_\_\_\_;
3. I am executing this Affidavit-Declaration as a requirement of Revenue Regulations No. \_\_\_\_\_ of the Bureau of Internal Revenue in the determination of the applicable creditable withholding tax rate (10% or 20%) to be imposed by withholding agent/s.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the City/Municipality of \_\_\_\_\_, Province of \_\_\_\_\_, Philippines.

### **Affiant-Declarant**

SUBSCRIBED and sworn to before me, in the City/Municipality of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ with Community Tax Certificate No. \_\_\_\_\_ issued at \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_.

### **Notary Public**

My commission expires on \_\_\_\_\_

Doc. No. : \_\_\_\_\_

Page No. : \_\_\_\_\_

Book No. : \_\_\_\_\_

Series of 20\_\_\_\_\_.

## **GUIDELINES AND INSTRUCTIONS**

### **WHO WILL EXECUTE**

Every professional entertainer, professional athlete, director involved in movies, stage, radio, television and musical production and other recipients of talent fees shall annually disclose his/her gross income for the current year.

### **WHEN TO EXECUTE**

The Affidavit-Declaration of Current Year's Gross Income shall be filed on **June 30** of each year or within **fifteen (15) days** after the end of the month the talent's income reaches P720,000.00, whichever comes earlier. In case his/her total gross income is less than P720,000.00 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 P720,000.00. In case of failure to submit the annual declaration/disclosure to the BIR, the payor shall withhold the tax at the rate of 20%.

### **WHERE TO FILE**

The duly notarized Affidavit-Declaration of Current Year's Gross Income shall be filed with the Withholding Agents Monitoring Division, Room 207, Bureau of Internal Revenue (BIR), National Office, Diliman, Quezon City.