November 15, 2018

BIR RULING NO. 1350-18

Section 32 (B) (7) (e) (iv) of the Tax Code of 1997, as amended; BIR Ruling No. 001-2007

Department of Labor and Employment Employees Union (DOLE-EU-Courage)
Ground Floor, DOLE Executive Bldg.
San Jose St., Intramuros, Manila

Attention: *AAA*

Gentlemen :

This refers to your letter dated January 25, 2012 requesting for clarification on whether the Productivity Enhancement Incentive is taxable income and, therefore, subject to withholding tax.

As represented, in pursuit of the provision of DBM Circular No. 2011-4 dated December 5, 2011, government employees were given Productivity Enhancement Incentive in recognition of the accomplishments being achieved through the unwavering support and commitment and collaborative efforts of all government employees last December 2011.

In reply, please be informed that pursuant to Section 2.78.1 (B) (11) (b) of Revenue Regulations (RR) No. 2-98, as amended by RR No. 8-2000, as further amended by RR No. 3-15 [1] implementing Section 32 (B) (7) (e) of the Tax Code of 1997, as amended, productivity incentive bonus given to officials and employees of both government and private offices is exempt from withholding tax, *viz.*:

> *"(B) Exemptions from withholding tax on compensation. — The following income payments are exempted from the requirement of withholding tax on compensation:*
>
> xxx xxx xxx
>
> *(11) Thirteenth (13th) month pay and other benefits. —*
>
> xxx xxx xxx

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(b) Other benefits such as Christmas bonus, productivity incentive bonus, loyalty award, gifts in cash or in kind and other benefits of similar nature actually received by officials and employees of both government and private offices.

The above stated exclusions (a) and (b) shall cover benefits paid or accrued during the year provided that the total amount shall not exceed thirty thousand (P30,000.00) which may be increased through rules and regulations issued by the Secretary of Finance, upon recommendation of the Commissioner, after considering, among others, the effect on the same of the inflation rate at the end of the taxable year."

Relative to the above law and regulations, this Office had occasion to rule in BIR Ruling No. 001-2007 dated January 10, 2007 that performance bonus can be equated to productivity incentive bonus which may be considered as "other benefits," *viz.*:

"In view of the foregoing, the performance bonus given by PLDT to its rank and file employees as well as to supervisory employees can be equated to a productivity incentive bonus which may be considered as falling within the contemplation of 'other benefits' provided for under Section 32(B)(7)(e)(iv) of the Tax Code of 1997, and therefore, need not form part of the employees' taxable compensation income subject to withholding tax on wages under Section 79 in relation to Section 24(A) both of the Tax Code of 1997, provided, however that such 'other benefits,' inclusive of the above allowances/benefits, shall not, in aggregate exceed P30,000.00 when added to the 13th month pay.

Any amount in excess of the P30,000 ceiling shall be taxable to the employee receiving the benefits. Provided, further, that any amount given by the employer as benefits to its employees, whether classified as 'de minimis' benefits or fringe benefits, shall constitute as deductible expense upon such employer pursuant to Section 2.78.1(A)(3) of Rev. Regs. No. 8-2000, as amended.

xxx xxx xxx"

A reading of the aforementioned Circular shows that the Productivity Enhancement Incentive qualifies as "other benefits." Thus, the value of the "other benefits" when added to the thirteenth month pay and other benefits must not exceed the threshold of PhP82,000 [2] in order that it may be exempt from income tax and consequently from the withholding tax. If the value exceeds the PhP82,000 ceiling, then the excess of the "other benefits" and the thirteenth month pay is considered as part of compensation subject to income tax and consequently to the withholding tax.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

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(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Footnotes

1. Implementing the Provisions of Republic Act No. 10653, More Particularly on the Increase of the Total Amount of Exclusion to P82,000.00 for 13th Month Pay and Other Benefits from Gross Income Effectively Further Amending the Pertinent Provisions of Revenue Regulations No. 2-98.
2. The amount of P82,000.00 shall apply to the 13th month pay and other benefits paid or accrued beginning January 1, 2015.

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