March 14, 2018

BIR RULING NO. 494-18

Sec. 36, RR 2; Sec. 2.78, RR 2-98; BIR Ruling No. 599-12

Commission on Elections
Intramuros, Manila

Attention: *Atty. Maria Norina S. Tangaro-Casingal*
Director IV

Gentlemen :

This refers to your letter dated February 12, 2018 requesting for legal opinion on whether or not honoraria and allowances are subject to withholding tax.

You stated that in anticipation of the first implementation by the Commission of Republic Act No. 10756, otherwise known as "AN ACT RENDERING ELECTION SERVICE NON-COMPULSORY FOR PUBLIC SCHOOL TEACHERS, AUTHORIZING THE APPOINTMENT OF OTHER QUALIFIED CITIZENS, PROVIDING FOR COMPENSATION AND OTHER BENEFITS," this coming May 14, 2018 Barangay and Sangguniang Kabataan Elections, Section 4 thereof provides:

> "SECTION 4. *Honoraria and Allowances*. — Persons rendering election service shall be entitled to honoraria, travel allowance, and such other benefits as may be granted by the Commission.
>
> *For the first implementation of this Act*, the following shall be entitled to the corresponding honoraria:

Chairperson of Electoral Boards	P6,000.00
Members of Electoral Boards	P5,000.00
DESO	P4,000.00
Support Staff	P2,000.00

> All the foregoing shall be entitled to an additional travel allowance of One thousand pesos (P1,000.00) each.
>
> Such honoraria and allowances shall be paid within fifteen (15) days from

Copyright 2020 CD Technologies Asia, Inc.

the date of election.

> Such amounts shall be reviewed by the Commission in consultation with the DepEd every three (3) years from the effectivity of this Act, but in no case, shall the revised amounts be lower than herein provided."

In reply, please be informed that it is a well settled principle of taxation that income, in the broad sense, means all wealth which flows into the taxpayer other than mere return of capital (Section 36, Revenue Regulations (RR) No. 2, "The Income Tax Regulations").

Based on the above principle, it is without argument that "honoraria" and "allowances," no matter how negligible the amount, are wealth that flow into the hands of the recipient, hence, subject to income tax and, consequently, to withholding tax on compensation.

In BIR Ruling No. 003-08 dated April 14, 2008, this office had the occasion to rule that —

> *"the name by which the remuneration for services is designated is immaterial. Thus, salaries wages, emoluments and* ***honoraria****, bonuses,* ***allowances*** *(such as transportation, representation, entertainment and the like), fringe benefits (monetary and non-monetary), fees, including director's fees, taxable pensions and retirement pay and other income of a similar nature constitute compensation income."* (Emphasis provided.)

In connection therewith, Section 2.78 of RR No. 2-98, as amended, provides that "the withholding of tax on compensation income is a method of collecting the income tax at source upon receipt of the income. It applies to all employed individuals whether citizens or aliens, deriving income from compensation for services rendered in the Philippines. The employer is constituted as the withholding agent."

Further, Section 2.78.3 of the same regulations, defines an employee as "an individual performing services under an employer-employee relationship. The term covers all employees, including officers and employees, whether elected or appointed, of the government of the Philippines, or any political subdivision thereof or any agency or instrumentality."

In view of the foregoing honoraria and allowances are subject to income tax and, consequently, to withholding tax.

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

Copyright 2020 CD Technologies Asia, Inc.

Very truly yours,

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

Copyright 2020 CD Technologies Asia, Inc.